



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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The Honorable Susan Collins  
United States Senate  
Washington, DC 20510

Attention:

Dear Senator Collins:

I am responding to your letter dated June 17, 2009, on behalf of your constituent, \_\_\_\_\_, and her husband purchased a new home on \_\_\_\_\_, 2009. \_\_\_\_\_ asks whether she and her husband failed to qualify for the first-time homebuyer credit, because she previously owned a home.

Section 36(c) of the Internal Revenue Code (the Code) permits a married individual to claim the first-time homebuyer credit only if neither spouse owned a principal residence at any time during the three years ending on the date of purchase of the new home. If either \_\_\_\_\_ or her husband owned a principal residence during the three year period ending on \_\_\_\_\_, 2009 (the purchase date of their current home), then neither \_\_\_\_\_ nor her husband qualify for the first-time homebuyer credit.

\_\_\_\_\_ states that her husband did not own another principal residence before purchasing their current home. However, \_\_\_\_\_ bought a home and resided in it while in college. \_\_\_\_\_ does not state whether she continued to own and use that home as a residence during the three-year period ending on \_\_\_\_\_, 2009. Whether \_\_\_\_\_'s prior home was her *principal* residence depends upon all the facts and circumstances. Publication 523, *Selling Your Home* (enclosed), describes the factors for determining whether a taxpayer owned and used a property as a principal residence. The major factors include where the taxpayer lived most of the time, place of employment, the location of family members' main home, mailing address for bills and correspondence, the address listed on tax returns and licenses and registrations, the

location of the banks used, and the location of recreational clubs and religious organizations of which the taxpayer was a member.

I hope this information is helpful. If you have any questions, please contact  
at .

Sincerely,

George J. Blaine  
Associate Chief Counsel  
(Income Tax and Accounting)

Enclosure