



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

OFFICE OF THE CHIEF COUNSEL

August 19, 2009

Number: **INFO 2009-0171**
Release Date: 9/25/2009

CONEX-135772-09

UIL: 36.00-00

The Honorable Mark Schauer
Member, U.S. House of Representatives
800 West Ganson
Jackson, MI 49202

Attention:

Dear Congressman Schauer:

I am responding to your inquiry dated July 30, 2009, on behalf of your constituent who intends to purchase a home with his brother. Your message indicated that your constituent, but not his brother, is eligible for the first-time homebuyer credit. He asked if he will qualify for the first-time homebuyer credit if his brother co-signs the loan and is listed on the deed to the home.

A first-time homebuyer is allowed a refundable tax credit upon the purchase of a principal residence if all applicable requirements are met (section 36 of the Internal Revenue Code (the Code)). For example, the credit applies only if the taxpayer completes the purchase of a home on or after April 9, 2008, and before December 1, 2009 (section 36(h) of the Code).

The credit equals 10 percent of the purchase price of the home, but not more than \$8,000. The credit is reduced if the taxpayer's modified adjusted gross income (MAGI) exceeds \$75,000 and is reduced to \$0 if the taxpayer's MAGI is \$95,000 or greater (section 36(b) of the Code).

If two or more taxpayers who are not married purchase a principal residence and otherwise satisfy the requirements of the first-time homebuyer credit, they can allocate the credit between them using any reasonable method. A reasonable method is any method that does not allocate any portion of the credit to a taxpayer not eligible to claim the credit (Notice 2009-12, 2009-6 I.R.B. 446). Your constituent, if unmarried, will be eligible to claim the credit equal to 10 percent of the purchase price of the home (but not more than \$8,000) if he meets all of the requirements for the credit. The fact that his

brother, who is not eligible for the credit, co-signs the loan and is listed on the deed to the home does not change this result.

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

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)