



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Ginny Brown-Waite
Member, U.S. House of Representatives
16224 Spring Hill Drive
Brooksville, FL 34604

Attn:

Dear Congresswoman Brown-Waite:

This letter responds to your enquiry dated August 14, 2009, submitted on behalf of your constituent, . He purchased a home in July 2008 and claimed the first-time homebuyer credit available in 2008 on his 2008 tax return. asks whether he can file an amended 2008 tax return to claim the more generous credit allowed for purchases in 2009 and avoid the repayment requirement for purchases in 2008.

Section 36 of the Internal Revenue Code allows qualifying taxpayers to take credits for purchasing certain homes. The section allows different credits for first-time home purchases occurring in different years.

2008 Purchases

A first-time homebuyer who purchased a home on or after April 9, 2008, and before January 1, 2009, can take a section 36 credit equal to 10 percent of the purchase price of the residence, up to a maximum of \$7,500. Taxpayers who take the credit for purchases made in 2008 generally must repay the credit in equal installments over 15 years.

2009 Purchases

Section 1006 of the American Recovery and Reinvestment Tax Act of 2009 amended section 36 to provide a different credit for purchases made on or after January 1, 2009, and before December 1, 2009. The maximum credit increased from \$7,500 to \$8,000. The statute also eliminated the repayment requirement for the 2009 credit.

Because [redacted] bought his residence in July 2008, the rules for 2008 purchases apply. Those rules limit [redacted] to the \$7,500 repayable credit. The statute explicitly limits the type of credit available for purchases in 2008. The law does not give the Internal Revenue Service administrative authority to relax the statutory requirements.

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

Sincerely,

George Blaine
Associate Chief Counsel
(Income Tax & Accounting)