



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

OFFICE OF THE CHIEF COUNSEL

December 8, 2009

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CC:ITA:B04:
CONEX-148708-09

UIL: 36.00-00

The Honorable Sherrod Brown
United States Senate
Washington, DC 20510

Attention:

Dear Senator Brown:

This letter responds to your inquiry, dated October 26, 2009, submitted on behalf of your constituent, . He requested information about the first-time homebuyer credit.

As you requested, I responded directly to . I am enclosing a copy of my response. I hope this information is helpful.

If you have any further questions, please call me or at

Sincerely,

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

Enclosure



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Dear _____ :

I am responding to your letter to Senator Sherrod Brown about the first-time homebuyer credit. Since 2007, you have lived in a home that your wife's parents bought for you and your wife, to which they have title. You and your wife, however, pay the mortgage. You asked whether you would qualify for the first-time homebuyer credit if your wife's parents title the house in your and your wife's names.

On July 30, 2008, Congress provided a first-time homebuyer credit to certain taxpayers who purchase a principal residence. A taxpayer is eligible to claim the first-time homebuyer credit if the taxpayer (and the taxpayer's spouse, if married) has not owned an interest in a principal residence for the three years ending on the purchase date of the residence. The credit equals ten percent of the purchase price of the residence, up to a maximum credit of \$8,000. A taxpayer is not eligible for the credit if the taxpayer purchases the residence from a related person, including the taxpayer's spouse, the taxpayer's ancestors (e.g., parents and grandparents), and the taxpayer's lineal descendants (e.g., children and grandchildren) (section 36(a), (b) and (c) of the Internal Revenue Code (Code)).

On November 6, 2009, Congress changed some of the rules and expanded the credit to include a reduced credit for long-time residents of the same principal residence. A taxpayer is eligible to claim the reduced homebuyer credit if the taxpayer (and the taxpayer's spouse, if married) has owned and used the same home as a principal residence for any five-consecutive-year period during the eight-year period ending on the purchase date of the new residence. This reduced credit equals ten percent of the purchase price of the residence, up to a maximum credit of \$6,500. Further, for purchases after November 6, 2009, in addition to the related persons listed above, a taxpayer is not eligible for either credit if the taxpayer acquires the residence from the his spouse's ancestors or lineal descendants (section 36(b) and (c) of the Code, as amended).

For purposes of this letter, we have assumed that your wife's parents have the burdens and benefits of ownership of the home and thus own the home for federal income tax

purposes. You will not qualify for the first-time homebuyer credit or the long-time resident homebuyer credit if your wife's parents title the house in your and your wife's names after November 6, 2009, because you would be acquiring the home from your wife's parents.

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

Sincerely,

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

cc: The Honorable Sherrod Brown
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