



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

OFFICE OF
CHIEF COUNSEL

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The Honorable Joseph R. Pitts
Member, U.S. House of Representatives
150 North Queen Street, Suite 716
Lancaster, PA 17603

Attention:

Dear Congressman Pitts:

I am responding to your inquiry dated October 30, 2009, on behalf of your constituent who asked why she cannot take the first-time homebuyer credit for a home that she purchased from her mother's estate.

Eligible first-time homebuyers may claim a credit against income tax for the purchase of a principal residence (section 36 of the Internal Revenue Code (the Code)). The credit is not allowed, however, for acquisitions from certain related persons. Related persons include an executor of an estate and a beneficiary of the estate, except for a sale or exchange that satisfies a pecuniary bequest (sections 36(c) and 267(b)(13) of the Code).

If your constituent is a beneficiary of her mother's estate, she will not qualify for the first-time homebuyer credit for purchasing a home from the executor of the estate unless the sale of the home satisfies a pecuniary bequest. The statute does not contain any exceptions or grant the Internal Revenue Service the authority to make exceptions to this rule. Any changes to this rule would require legislative action by Congress.

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

Sincerely,

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