



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

OFFICE OF THE CHIEF COUNSEL

February 24, 2010

Number: **INFO 2010-0011**
Release Date: 3/26/2010

CONEX-104199-10

UIL 36.00-00

The Honorable Tom Latham
Member, U.S. House of Representatives
1421 South Bell Avenue, Suite 108A
Ames, Iowa 50010

Attention:

Dear Congressman Latham:

This letter responds to your inquiry, dated January 27, 2010, on behalf of your constituent, . She asked whether she and her husband could qualify for the first-time homebuyer credit on a jointly purchased house, if either she or her husband owned and resided in a mobile home during the three year period before the purchase of the house.

Generally, section 36 of the Internal Revenue Code (the Code) provides a refundable credit for a first-time homebuyer of a principal residence. A first-time homebuyer is defined as any individual who has not had an ownership interest in a principal residence at any time during the three-year period before the date of the purchase of another principal residence. If a married couple purchases a home, to obtain the credit both spouses must qualify as first-time homebuyers on the date of purchase (section 36(c)(1)). If either spouse had an ownership interest in a principal residence during the three year period before purchase, neither spouse may claim the first-time homebuyer credit for the purchase of the subsequent residence.

For purposes of the first-time homebuyer tax credit, the term "principal residence" has the same meaning as in section 121 of the Code (section 36(c)(2)). A principal residence may be a house, a houseboat, a house trailer, a mobile home, a cooperative apartment, or a condominium. See section 1.121-1(b)(1) of the Income Tax Regulations; page 3 of Publication 523, *Selling Your Home* (enclosed).

indicated that the IRS is reviewing her and her husband's pending claim for a first-time homebuyer credit. Please note that we are not addressing that administrative action in this letter. This letter provides only a general explanation of the requirements of section 36.

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

Sincerely,

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

Enclosure