



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Bill Nelson
United States Senator
Landmark Two
225 East Robinson Street, Suite 410
Orlando, FL 32801

Dear Senator Nelson:

This letter responds to your inquiry dated December 4, 2009, on behalf of your constituents, . asked about the three-year period requirement for the first-time homebuyer credit.

First-time homebuyers can take a refundable credit for the purchase of a principal residence (section 36(a) of the Internal Revenue Code (the Code)). The law defines a first-time homebuyer as an 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 the home. If married, both spouses must be first-time homebuyers as of the date of the purchase (section 36(c)(1) of the Code).

Based on the information provided, . cannot take the first-time homebuyer credit because . owned a primary residence in the three-year period before the purchase of their current residence. The law conditions qualification for the first-time homebuyer credit on meeting the three-year period requirement. We do not have the administrative authority to modify the statutory requirements for taking the credit.

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

Sincerely,

William A. Jackson
Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)