

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

December 30, 2009

CC:ITA:Br05//

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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:

I am responding to your letter dated December 8, 2009, on behalf of your constituent, . asked why he must repay a first-time homebuyer credit for the purchase of his home in 2008, while taxpayers who purchase their homes after 2008 do not have to repay the credit.

The law provides taxpayers with a credit for home purchases during different timeframes. The rules for the credit differ between the different timeframes. The first timeframe was between April 9, 2008, and December 31, 2008, and the law requires taxpayers to repay the credit over a 15 year period for home purchases during that timeframe. See section 3011 of the Economic and Housing Recovery Act of 2008 (Public Law Number 110-289, 122 Stat. 2654 at 2888) and section 36(f)(1) of the Internal Revenue Code (the Code).

The Congress amended section 36 of the Code to provide different rules for purchases between January 1, 2009, and April 30, 2010. See section 1006 of the American Reinvestment and Recovery Tax Act of 2009 (Pub. L. No. 111-5, 123 Stat. 115 at 316); section 11 of the Worker, Homeownership, and Business Assistance Act of 2009 (Pub. L. No. 111-92, 123 Stat. 2984 at 2989); and section 36(f)(4)(D). The amended law does not require a taxpayer to repay the credit if the taxpayer does not sell or move out of the residence within three years after the date of purchase of the residence. The amendments did not eliminate the requirement to repay the credit for homes purchased in 2008.

said that he purchased his home during the first timeframe (between April 9, 2008, and December 31, 2008). Consequently, he must repay the first-time homebuyer credit. Unfortunately, the law does not grant us administrative authority to disregard the repayment requirement for purchases during the first timeframe.

I hope this information is helpful. If I can assist you further, please contact me or
at .

Sincerely,

/s/ William A. Jackson

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