



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable F. Allen Boyd, Jr.
Member, U.S. House of Representatives
1650 Summit Lake Drive
Suite 103
Tallahassee, FL 32317

Attention:

Dear Congressman Boyd:

This letter responds to your inquiry, dated December 15, 2009, submitted on behalf of your constituent, . asked whether she can take the first-time homebuyer credit for assuming the mortgage on her mother's home.

Generally, section 36 of the Internal Revenue Code (the Code) provides a refundable credit for a first-time homebuyer of a principal residence. To qualify for the credit, the taxpayer must purchase the residence in a bona fide sale and may not acquire the residence by gift or inheritance. Also, the taxpayer cannot acquire the residence from a related person no matter what the means of acquisition. A taxpayer's mother is a related person for purposes of the first-time homebuyer credit (section 36(c)(3)(A) of the Code).

does not qualify for the first-time homebuyer credit for acquiring a home from her mother, a related person for purposes of section 36. The Internal Revenue Service lacks the administrative authority to modify the statutory, related person requirement.

I am sorry my response is not more favorable. If you have any further questions, please contact . at .

Sincerely,

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