



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Roland W. Burris
United States Senator
607 East Adams
Suite 1520
Springfield, IL 62701

Attention:

Dear Senator Burris:

This letter responds to your inquiry dated February 11, 2010, on behalf of your constituent, . 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).

To qualify for the first-time homebuyer credit, an individual must meet the three-year period requirement. We do not have the administrative authority to modify the statutory requirements for taking the credit.

included a letter from the IRS that proposed to disallow his 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 three-year requirement of section 36 of the Code.

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

Sincerely,

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