



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

OFFICE OF THE CHIEF COUNSEL

April 14, 2010

Number: **INFO 2010-0074**

Release Date: 6/25/2010

CONEX-109607-10

UIL: 36.00-00

The Honorable Paul E. Kanjorski
Member, U.S. House of Representatives
2188 Rayburn House Office Building
Washington, DC 20515-3811

Dear Congressman Kanjorski:

This letter responds to your inquiry dated March 3, 2010, on behalf of your constituent, _____, asked whether he may claim the first-time homebuyer credit for the residence he purchased after transferring to _____, in August 2009. Before the purchase, _____ had never owned a house. However, his wife owned a principal residence and occupied it until moving into the house that _____ purchased.

Generally, section 36 of the Internal Revenue Code (the Code) provides a refundable credit to first-time homebuyers for the purchase 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 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). If either spouse owned a principal residence during the three years prior to purchase, then neither spouse qualifies for the first-time homebuyer credit.

Section 36(c)(6) of the Code provides a credit for certain long-term homeowners who bought a new principal residence, and who owned and used their former principal residence for five of the eight years preceding purchase of the new home. If married, both spouses must have owned and used the same residence.

_____ cannot take the first-time homebuyer credit if his wife owned a principal residence in the three-year period before the purchase of their current residence. _____ cannot take the long-term homeowner credit if he did not own a principal residence prior to the 2009 purchase.

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