



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Zach Wamp
Member, U.S. House of Representatives
Federal Courthouse
900 Georgia Avenue, Suite 126
Chattanooga, TN 37402

Attention:

Dear Congressman Wamp:

This letter responds to your inquiry dated March 24, 2010, on behalf of your constituents, _____ and _____ . _____ asked whether they can claim the first-time homebuyer credit or the long-term homeowner credit for the residence they purchased in December 2009. Between December 2001 and July 2007, _____ owned a home individually. The couple married in May 2008. Prior to the 2009 purchase, _____ had never owned a home.

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-year period, neither qualifies for the 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.

_____ may not claim the first-time homebuyer credit, because _____ owned a principal residence in the three-year period preceding the 2009 purchase. _____ may not claim the long-term homeowner credit, because _____ did not own a

principal residence before December 2009. The statute provides no administrative exceptions. The Internal Revenue Service has no authority to modify the statutory requirements.

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

Sincerely,

George J. Blaine
Associate Chief Counsel
Income Tax & Accounting