



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

OFFICE OF
CHIEF COUNSEL

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Dear _____ :

I am responding to your letter to the President of the United States in which you ask why you must repay the first-time homebuyer credit for the home your and your husband purchased in 2008, when taxpayers who purchased their homes after 2008 do not have to repay the credit.

The law on whether taxpayers must repay the first-time homebuyer credit is different based on when a taxpayer purchases a home.

Rules for home purchases during 2008. The law requires taxpayers who purchased a home on or after April 9, 2008, and on or before December 31, 2008 to repay the credit over a 15 year period. See section 3011 of the Economic and Housing Recovery Act of 2008 (Pub. L. No. 110-289, 122 Stat. 2654 at 2888-2890) and section 36(f)(1) of the Internal Revenue Code (Code).

Rules for home purchases after 2008. Congress amended section 36 of the Code to provide different rules for purchases after December 31, 2008. The amended law does not require a taxpayer who purchases a home after December 31, 2008, 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. 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) of the Code.

Because you purchased your home during 2008, you must repay the first-time homebuyer credit. The law does not grant the Internal Revenue Service authority to disregard the repayment requirement for purchases during 2008. Only Congress can change this requirement.

I hope this information is helpful. If you have any questions regarding this matter please contact _____ at _____.

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax and Accounting)