



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF THE CHIEF COUNSEL

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The Honorable Keith Ellison
Member, U.S. House of Representatives
2100 Plymouth Avenue North
Minneapolis, MN 55411

Attention:

Dear Congressman Ellison:

This letter responds to your inquiry dated March 31, 2010, on behalf of your constituent, . asked whether he and his wife would qualify for the homebuyer tax credit for long-term homeowners.

The law provides a refundable credit for certain individuals who bought a new principal residence and who owned a principal residence in the recent past (section 36(c)(6) of the Internal Revenue Code). These long-term homeowners generally qualify for the credit if, on the purchase date of the new home, the individual (and, if married, the individual's spouse) has owned and used the same principal residence for a consecutive five-year period within the eight years preceding purchase of the new home.

and his wife purchased a new home in December 2009, and did not own and did not use their previous home for a consecutive five-year period. Accordingly, because she cannot meet the five-year requirement for the credit, the do not qualify for the homebuyer tax credit for long-term homeowners. The five-year requirement is statutory and a change in the rule would require congressional action.

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

Sincerely,

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