



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Gus Bilirakis
Member, U.S. House of Representatives
10941 North 56th Street
Tampa, FL 33617

Attention:

Dear Congressman Bilirakis:

I am responding to your inquiry dated April 7, 2010, on behalf of [redacted]. In 2005, [redacted] moved from [redacted] to a condominium in Florida. She was dissatisfied with the condominium, moved out of it in 2007, and sold it at a loss. [redacted] then moved to [redacted] and lived in a rental home until earlier this year. She asked if she qualifies for the first-time homebuyer credit for the home she purchased in Florida on [redacted], 2010.

First-time homebuyers who purchased a home before May 1, 2010, are eligible for a credit against income tax (section 36(a) and (h) of the Internal Revenue Code (the Code)). A first-time homebuyer is an individual if the individual (and if married, the individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of the purchase of the principal residence (section 36(c)(1) of the Code).

Because [redacted] owned a principal residence during the three-year period ending on [redacted], the purchase date of her current home, she does not qualify for the first-time homebuyer credit.

The statute does not contain any exceptions or grant the Internal Revenue Service the authority to make exceptions to this rule. Any changes to this rule would require legislative action by Congress.

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

Sincerely,

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