



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

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

This letter responds to your inquiry, dated February 3, 2010, regarding the homebuyer tax credits. You ask whether you can take a credit for your 2009 purchase of a condominium in _____ that you live in for five months of the year. The remainder of the year you live in a cooperative apartment in New York that you have owned since _____.

Generally, section 36 of the Internal Revenue Code provides a refundable credit for a first-time homebuyer of a principal residence. A first-time homebuyer is defined as any individual (and, if married, the individual's spouse) 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. For purposes of section 36, the term "principal residence" is defined by section 121 (section 36(c)(2)). The regulations under section 121 provide that the term "principal residence" includes a house or apartment that a taxpayer is entitled to occupy as a tenant-stockholder in a cooperative housing corporation (§ 1.121-1(b)(1) of the Income Tax Regulations). Because you previously owned a principal residence, you do not qualify for the first-time homebuyer credit.

Section 36(c)(6) provides a refundable credit for certain individuals who bought a new principal residence after November 6, 2009, and who owned a principal residence in the recent past. 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 during the eight years preceding the purchase of the new home. A taxpayer does not have to sell the old principal residence to qualify for the long-term homeowner credit, but the new home must be the taxpayer's principal residence. Which of two properties a taxpayer uses as a residence is the taxpayer's principal residence depends on all the facts and circumstances. However, the property the taxpayer uses the majority of the time generally is the taxpayer's principal residence (§ 1.121-1(b)(2) of the Income Tax Regulations).

I hope this information is helpful. If you have any further questions, please contact
, Identification Number , at .

Sincerely,

Amy J. Pfalzgraf
Senior Counsel
Office of Associate Chief Counsel
Income Tax & Accounting