



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Stephanie Herseth Sandlin  
Member, U.S. House of Representatives  
121 Fourth Avenue SW, Suite 1  
Aberdeen, SD 57401

Attention:

Dear Congresswoman Herseth Sandlin:

I am responding to your letter dated April 28, 2010, on behalf of a constituent who asked about qualifying for the first-time homebuyer credit for a house she is having built off-site. Due to recent floods, however, she cannot place the house on her land before the June 30, 2010 deadline to qualify for the first-time homebuyer tax credit. She asked if an exception to this deadline is available if, due to the floods, the county in which her land is located were a Presidentially-declared disaster area.

First-time homebuyers and long-time residents of the same principal residence may qualify for a refundable tax credit for the purchase of a principal residence (section 36 of the Internal Revenue Code (the Code)). To qualify for the credit, a taxpayer must complete the purchase of a home (1) before May 1, 2010, or (2) before July 1, 2010, if the taxpayer enters into a binding contract before May 1, 2010, to purchase the home before July 1, 2010 (section 36(h) of the Code). If the taxpayer constructs the residence, the date that the taxpayer first occupies the residence is treated as the purchase date (section 36(c)(3)(B) of the Code). These deadlines apply regardless of whether the home is located in a Presidentially-declared disaster area.

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)