



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

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:

I am responding to your inquiry dated April 20, 2010, on behalf of \_\_\_\_\_ and his wife are purchasing a new home. \_\_\_\_\_ has lived in the same house for five consecutive years out of the past eight years but his wife has not.

Certain first-time homebuyers and long-time residents are eligible to claim a refundable income tax credit for the purchase of a principal residence (section 36 of the Internal Revenue Code (Code)). For purchases completed after April 30, 2010, a taxpayer generally must enter into a binding purchase contract before May 1, 2010, and complete the purchase before July 1, 2010, to qualify for the credit (section 36(h) of the Code).

A taxpayer is eligible to claim the \$6,500 long-time resident homebuyer credit if the taxpayer (and the taxpayer's spouse, if married) has owned and used the same home as a principal residence for any five-consecutive-year period during the eight-year period ending on the purchase date of the new residence (section 36(c)(6) of the Code).

Both \_\_\_\_\_ and his wife must be long-time residents of the same previous principal residence to qualify for the \$6,500 long-time resident homebuyer credit. Because \_\_\_\_\_'s wife is not a long-time resident of \_\_\_\_\_'s previous home, neither nor his spouse qualifies for the \$6,500 credit.

The law does not provide any exceptions to this requirement and does not grant the Internal Revenue Service authority to grant exceptions. Only Congress can change this rule.

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)