



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

OFFICE OF THE CHIEF COUNSEL

July 15, 2009

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CC:ITA:B04:  
CONEX-127319-10

UIL: 36.00-00

The Honorable John McCain  
United States Senator  
407 West Congress Street  
Suite 103  
Tucson, AZ 85701

Dear Senator McCain:

This letter responds to your inquiry, dated June 10, 2010, submitted on behalf of your constituents, . They requested information about the first-time homebuyer credit.

As you requested, I responded directly to . I am enclosing a copy of my response. I hope this information is helpful. If you have any further questions, please call me or at .

Sincerely,

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

Enclosure



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INTERNAL REVENUE SERVICE  
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Dear \_\_\_\_\_ :

This letter responds to your letter, dated June 5, 2010, to Senator John McCain about the first-time homebuyer credit. Senator McCain wrote to us on your behalf and asked us to reply directly to you. You asked whether you can take a homebuyer credit for the home you purchased on November 23, 2009. You indicated that \_\_\_\_\_ never owned a home prior to the purchase but \_\_\_\_\_ owned and used another principal residence for at least five consecutive years out of the eight years prior to the purchase.

Section 36 of the Internal Revenue Code (Code) provides two types of credits for homebuyers. A married taxpayer qualifies for a homebuyer credit only if that taxpayer and the taxpayer's spouse both meet the statutory requirements for the type of credit claimed.

*First-Time Homebuyer Credit*

Section 36 creates a credit for certain taxpayers purchasing their first principal residence. The credit equals ten percent of the purchase price of the residence, up to a maximum credit of \$8,000. A taxpayer can take the first-time homebuyer credit if the taxpayer (and the taxpayer's spouse, if married) has not owned an interest in another principal residence for the three years ending on the purchase date of the residence. (See section 36(a), (b), and (c) of the Code.) You do not qualify for this credit because \_\_\_\_\_ had a prior ownership interest in another principal residence during the three years prior to the purchase of the new home on November 23, 2009.

*Long-Time Residents Homebuyer Credit*

Section 36 also creates a credit for certain long-time homeowners purchasing a replacement residence. The credit equals ten percent of the purchase price of the residence, up to a maximum credit of \$6,500. A taxpayer can take the long-time

residents 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. (See section 36(b) and (c) of the Code, as amended.) You do not qualify for the credit because [redacted] did not own and use the same home as her principal residence for the statutory five-consecutive-year period prior to purchasing the new home on November 23, 2009.

Unfortunately, you do not meet the requirements to qualify for the homebuyer credit under section 36 of the Code. The law does not grant the Internal Revenue Service administrative authority to expand the statutory scope of the credit.

I hope this information is helpful. More on the first-time homebuyer credit is available at: <http://www.irs.gov/newsroom/article/0,,id=204671,00.html>.

If you have any further questions, please contact me or  
Identification Number [redacted], at [redacted].

Sincerely,

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

cc: The Honorable John McCain