



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Mike Johanns
United States Senator
115 Railway Street, Suite C102
Scottsbluff, NE 69361

Attention: Hilary Strom

Dear Senator Johanns:

I am responding to your letter dated February 24, 2010, on behalf of your constituent, . asked to keep the first-time homebuyer credit that she received for the purchase of her home in October 2008, or delay the repayment of the credit for one year.

Section 3011 of the Housing and Economic Recovery Act of 2008 (Pub. L. No. 110-289, 122 Stat. 2654) enacted section 36 of the Internal Revenue Code (the Code) to provide a credit for first-time homebuyers who purchased a home between April 9, 2008, and December 31, 2008. However, section 36 of the Code required first-time homebuyers to repay the credit over a 15-year period starting with the second taxable year following the taxable year of the home purchase.

The Congress amended section 36 of the Code to provide different rules for first-time homebuyers who purchased a home between January 1, 2009, and April 30, 2010 (section 1006 of the American Recovery and Reinvestment Tax Act of 2009 (Pub. L. No. 111-5, 123 Stat. 115); section 11 of the Worker, Homeownership, and Business Assistance Act of 2009 (Pub. L. No. 111-92, 123 Stat. 2984)). The amended Code does not require first-time homebuyers to repay the credit if they do not sell or move out of the home within three years after the purchase of the home. The amendments did not eliminate the requirement to repay the credit for homes purchased in 2008.

said she purchased her home in October 2008. Consequently, she must

repay the first-time homebuyer credit. Unfortunately, the law does not grant us administrative authority to disregard the repayment requirement or to delay the repayment of the credit.

I am sorry my response is not more favorable, but hope this information is helpful. If you have any questions on the first-time homebuyer credit, please contact me or at .

Sincerely,

William A. Jackson
Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)