



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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OFFICE OF THE CHIEF COUNSEL

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The Honorable David Scott  
Member, U.S. House of Representatives  
173 North Main Street  
Jonesboro, GA 30236

Dear Congressman Scott:

I am responding to your letter dated February 17, 2011, on behalf of your constituent, . asked about the homebuyer tax credit for long-time residents who are military personnel and who do not satisfy the 5-consecutive-year home ownership requirement. She and her husband purchased a new home in in . She previously resided in homes that she owned in and .

Eligible first-time homebuyers and long-time residents who purchase a principal residence can take a refundable tax credit (section 36 of the Internal Revenue Code (the Code)). In general, the individual had to purchase the principal residence after April 8, 2008, and before May 1, 2010, to qualify for the credit (section 36(h) of the Code).

Long-time residents qualify for a credit of up to \$6,500 only if, on the purchase date of the new residence, the individual (and the individual's spouse, if married) has owned and used the same home as a principal residence for any 5-consecutive-year period during the 8-year period ending on the purchase date of the new home (section 36(c)(6) of the Code).

Congress did not provide any exceptions to the 5-consecutive-year ownership requirement, including for members of the military. In addition, the statute does not grant the Internal Revenue Service the authority to waive this requirement. Any changes to this rule would require legislative action by Congress.

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)