



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

OFFICE OF
CHIEF COUNSEL

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The Honorable Denny Rehberg
Member, U.S. House of Representatives
1201 Grand Avenue #1
Billings, Montana 59102

Attention:

Dear Congressman Rehberg:

This letter responds to your enquiry dated March 26, 2009, submitted on behalf of your constituent, . He asked whether the repayment of the first-time homebuyer credit for taxpayers who purchased homes in November and December of 2008 may be waived.

Congress added section 36 to the Internal Revenue Code (the Code) in section 3011 of the Economic and Housing Recovery Act of 2008 (Public Law Number 110-289 (122 Stat. 2654, 2888)) to provide a credit to first-time homebuyers for purchases made in 2008. Congress amended section 36 in section 1006 of the American Reinvestment and Recovery Tax Act of 2009 (Public Law Number 111-5 (123 Stat. 115, 316)) to provide different rules for purchases made in 2009.

Rules for Home Purchases on or After April 9, 2008, and Before January 1, 2009

A first time homebuyer who purchased a home on or after April 9, 2008, and before January 1, 2009, can take a credit on his or her federal income tax return equal to 10 percent of the purchase price of the residence, up to a maximum of \$7,500. Taxpayers who take this credit for purchases made in 2008 must repay the credit in equal installments over fifteen years (See former sections 36(b), 36(f), and 36(h) of the Code).

Rules for Home Purchases on or After January 1, 2009, and Before December 1, 2009

For taxpayers who purchased their home on or after January 1, 2009, and before December 1, 2009, the law increases the maximum credit to \$8,000. Taxpayers who take the credit for purchases made in 2009 and use the residence as their principal residence for at least three years beginning on the date of purchase are not required to repay the credit (See sections 36(b), 36(f), and 36(h) of the Code, as amended).

Because bought his residence on December 18, 2008, the rules for 2008 home purchases apply, and he must repay the credit. Unfortunately, the statute does not grant the Internal Revenue Service the authority to waive the repayment requirement for purchases made in 2008.

I hope this information is helpful. If you have any questions, please contact
at .

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)