



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Robert C. Byrd
United States Senator
217 West King Street, Suite 238
Martinsburg, WV 25401

Dear Senator Byrd:

This letter responds to your enquiry dated September 17, 2009, submitted on behalf of your constituent . has never owned a home, but his wife owned a home for approximately four years before their marriage in 2008. asked whether he is disqualified for the \$8,000 first-time homebuyer credit because his wife previously owned another home.

Generally, section 36 of the Internal Revenue Code allows a refundable tax credit to certain first-time homebuyers and long-time residents for the purchase of a principal residence. The amount of the credit is 10 percent of the purchase price of the residence, up to a maximum credit of \$8,000 for first-time homebuyers or \$6,500 for long-time residents.

Section 36(c)(1) denies the \$8,000 first-time homebuyer credit to married taxpayers if either spouse owned another principal residence at any time during the three years ending on the date of purchase of the home.

Because wife owned another home during the last three years, neither nor his wife qualify for the \$8,000 first-time homebuyer credit. The law does not give the Internal Revenue Service administrative authority to change the statutory eligibility requirements.

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

Sincerely,

George Blaine
Associate Chief Counsel
(Income Tax & Accounting)