



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

OFFICE OF  
CHIEF COUNSEL

November 13, 2009

Number: **INFO 2009-0228**  
Release Date: 12/31/2009

CC:ITA:B04  
CONEX-147152-09

UIL: 36.00-00

The Honorable Robert E. Byrd  
United States Senate  
Washington, DC 20510

Dear Senator Byrd:

This letter responds to your enquiry dated October 13, 2009, submitted on behalf of your constituent, . He asked why he must repay the first-time homebuyer credit for the purchase of his home in 2008 but taxpayers who purchase their homes after 2008 do not have to repay the credit.

The law provides taxpayers with a credit for home purchases during different timeframes. The rules for the credit differ between the different timeframes. The first timeframe was between April 9, 2008, and December 31, 2008, and the law requires taxpayers to repay the credit over a 15 year period for home purchases during that timeframe. See section 3011 of the Economic and Housing Recovery Act of 2008 (Pub. L. No. 110-289, 122 Stat. 2654 at 2888) and section 36(f)(1) of the Internal Revenue Code (Code)).

Congress amended section 36 of the Code to provide different rules for purchases between January 1, 2009, and April 30, 2010. See section 1006 of the American Reinvestment and Recovery Tax Act of 2009 (Pub. L. No. 111-5, 123 Stat. 115 at 316); section 11 of the Worker, Homeownership, and Business Assistance Act of 2009 (Pub. L. No. 111-92, 123 Stat. 2984 at 2989); and section 36(f)(4)(D). The amended law does not require a taxpayer to repay the credit if the taxpayer does not sell or move out of the residence within three years after the date of purchase of the residence. The amendments did not eliminate the requirement to repay the credit for homes purchased in 2008.

indicates that he purchased his home during the first timeframe (between April 9, 2008, and December 31, 2008). Consequently, must repay the first-time homebuyer credit. Unfortunately, the law does not grant the Internal Revenue Service administrative authority to disregard the repayment requirement for purchases

during the first timeframe.

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

Sincerely,

George J. Blaine  
Associate Chief Counsel  
(Income Tax and Accounting)