



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable George LeMieux  
United States Senator  
201 South Orange Avenue, Suite 350  
Orlando, FL 32801

Attention:

Dear Senator LeMieux:

I am responding to your inquiry dated March 23, 2010, on behalf of . has never owned a home, but his wife has owned and lived in her current home since 2004. married his wife and moved into her home in 2007. asks whether he and his wife qualify for the \$8,000 first-time homebuyer credit and the \$6,500 long-time resident homebuyer credit.

A taxpayer is eligible to claim the \$8,000 first-time homebuyer credit if the taxpayer (and the taxpayer's spouse, if married) has not owned an interest in a principal residence for the three years ending on the date of purchase of the residence (section 36(c)(1) of the Internal Revenue Code (Code)).

A taxpayer is eligible to claim the \$6,500 long-time resident homebuyer credit if the taxpayer (and the taxpayer's spouse, if married) has owned and used the same home as a principal residence for any five-consecutive-year period during the eight-year period ending on the purchase date of the new residence (section 36(c)(6) of the Code).

For married taxpayers to qualify for the \$8,000 first-time homebuyer credit, both spouses must be first-time homebuyers. Because wife would have an ownership interest in a principal residence during the three-year period ending on the date of purchase of a new residence, neither nor his wife qualifies for the \$8,000 credit.

Similarly, both and his wife must be long-time residents of the same previous principal residence to qualify for the \$6,500 long-time resident homebuyer

credit. Because \_\_\_\_\_ is not a long-time resident of his wife's home, neither  
nor his spouse qualifies for the \$6,500 credit.

The law does not provide any exception to these requirements and does not grant the Internal Revenue Service authority to grant exceptions to them. Any changes to these rules 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)