

Legal Division Guidance 2010-06-03

(New Home Credit - Military Deployment)

Q: Is there a suspension of new home credit rules applicable to deployed California resident military personnel who purchase a new home, but who do not occupy the home due to military deployment?

A: RTC section 17059(b)(3) (2009) and RTC section 17059.1(d) (2010) each provide that "[i]f the taxpayer does not occupy the qualified principal residence as his or her principal residence for at least two years immediately following the purchase. . . ." the credit/remaining credit is canceled. While RTC section 18571, which conforms to IRC section 7508, does extend the time within which to perform certain acts for members of the armed forces serving in a combat zone or contingency operation and those serving in support of those members, it does not apply to things like the two-year requirement to occupy a qualified principal residence under RTC section 17059.1. (See IRS Revenue Procedure 2004-04 (http://www.irs.gov/irb/2004-04_IRB/ar13.html) for a list of acts that are postponed because of service in a combat zone.)