



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

OFFICE OF
CHIEF COUNSEL

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Dear _____ :

This letter responds to your request for information dated November 22, 2005, regarding the income tax credit under section 45 of the Internal Revenue Code for electricity produced from wind.

Section 2.04 of Rev. Proc. 2005-1, 2005-1 I.R.B. 1, 7, provides that the Service may issue an "information letter," the purpose of which is to call attention to a well-established interpretation or principle of tax law, without applying it to a specific set of facts. Accordingly, the following discussion is provided for general information purposes only and does not constitute a ruling.

Section 45 provides, for purposes of section 38 (General Business Credit), an income tax credit for the production and sale of electricity from wind. To qualify for the credit, the wind facility must be originally placed in service after December 31, 1993, and before January 1, 2008. The credit applies to electricity sold to an unrelated person during the 10-year period beginning on the placed-in-service date. For calendar year 2005, the amount of the credit is equal to 1.9 cents per kilowatt hour. The amount of the credit is adjusted annually for inflation. See, for example, Notice 2005-37, 2005-20 I.R.B. 1049, a copy of which is enclosed.

Unlike section 42 (Low-Income Housing Credit), there is no requirement that a wind facility obtain an allocation of the section 45 credit from a state or federal government agency. Also, there are no special rules under section 45 regarding depreciation and partnership allocations.

This letter has called attention to certain general principles of tax law. It is intended for

informational purposes only and does not constitute a ruling. If you have any additional questions, please contact our office at .

Sincerely,

SUSAN J. REAMAN
Branch Chief, Branch 5
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure (1):
Notice 2005-37