



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

OFFICE OF  
CHIEF COUNSEL

March 23, 2006

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The Honorable Herb Kohl  
United States Senate  
Washington, DC 20510

Dear Senator Kohl:

I am responding to your February 8, 2006, inquiry on behalf of your constituent, . requested information on whether a municipal library that pays no taxes can use the solar energy credit created in the Energy Tax Incentives Act of 2005. As you requested, I responded directly to . I am enclosing a copy of that response.

I hope the information we provided is helpful. If you have any questions, please contact me at or of my staff at .

Sincerely,

Heather C. Maloy  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosure



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DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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Dear \_\_\_\_\_ :

I am responding to your letter to Senator Kohl asking whether a municipal library that pays no federal taxes can take advantage of the solar credit under the Energy Tax Incentives Act of 2005 (Energy Act). Senator Kohl asked us to respond to you directly.

In general, an organization that has no federal tax obligation cannot take advantage of the solar credit because it is a general business credit against tax and is not refundable. I hope the following information is helpful. An energy credit is available for taxpayers that place in service certain defined "energy property" during a taxable year [Section 48 of the Internal Revenue Code (the Code)]. Prior to the Energy Act, businesses placing in service certain property generating solar energy could take a 10 percent credit. The Energy Act increased the credit amount to 30 percent and made several other changes to that provision.

The Code provides for certain credits that a taxpayer may claim against the tax imposed by the Code [Section 38 of the Code]. Among those credits is the investment credit [Section 46 of the Code]. The investment credit includes the energy credit described above. Thus, the solar energy credit is one part of the general business credit [Section 38 of the Code]. The general business credit is available only as a credit against tax imposed by the Code and is not refundable. Again, I hope this information is helpful. If you have any questions, please contact \_\_\_\_\_, identification number \_\_\_\_\_, of my staff at \_\_\_\_\_.

Sincerely,

Heather Maloy  
Associate Chief Counsel  
(Passthroughs and Special Industries)