



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF
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The Honorable Gabrielle Giffords
Member, U.S. House of Representatives
1661 North Swan, Suite 112
Tucson, AZ 85712

Attention:

Dear Congresswoman Giffords:

I am responding to your letter dated May 13, 2009, on behalf of your constituent, _____ wants to know whether a taxpayer who purchases a residential solar electric system may claim a credit under section 25D of the Internal Revenue Code (the Code) for that part of the purchase price paid for by a utility.

Generally under section 25D of the Code, individuals may claim a credit against tax for the taxable year equal to 30 percent of the qualified solar electric property expenditures that the taxpayer makes during that year.

Section 136(a) of the Code excludes from gross income the value of any subsidy a public utility provides (directly or indirectly) to a customer for the purchase or installation of any energy conservation measure. An "energy conservation measure" is any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (section 136(c)(1) of the Code).

Taxpayers, however, may not claim a deduction or credit for any expenditure to the extent that section 136(a) of the Code excludes from income any subsidy related to that expenditure (section 136(b) of the Code).

Thus, Congress precludes taxpayers from receiving a double benefit for energy conservation measures that they purchase or install. A taxpayer receives a benefit by excluding from income the utility subsidy or rebate that helps pay for the energy conservation measure. A taxpayer, however, cannot receive another benefit by taking a credit under section 25D of the Code for the portion of the energy conservation measure paid for that subsidy or rebate. For example, assume a taxpayer purchases for

\$30,000 qualified solar electric property that is also an energy conservation measure under section 136(a) of the Code. In addition, the taxpayer receives a \$14,000 subsidy from a utility toward its purchase that section 136(a) of the Code excludes from gross income. In these circumstances, the maximum credit is \$4,800 (30 percent x \$16,000, the purchase price excluding the nontaxable subsidy).

I hope this information is helpful to you. If you have any questions, please contact me or _____ at _____.

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)