



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Tiberi:

Thank you for your letter dated November 18, 2009, on the tax credit for nonbusiness energy property under section 25C of the Internal Revenue Code (the Code). You asked if we intend to reevaluate our decision disqualifying insulated vinyl siding from eligibility for a tax credit under section 25C.

Homeowners can take a 30 percent tax credit for expenditures for an energy efficient building envelope component (Section 25C of the Code). A building envelope component includes an insulation material or system that is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit and that meets certain energy efficiency requirements in the 2009 International Energy Conservation Code (IECC). To qualify for the credit, a homeowner must install the insulation material or system in or on a dwelling unit that he or she owns and uses as a principal residence. The total amount of the credit a homeowner can claim for taxable years beginning in 2009 and 2010 is limited to \$1,500.

You expect that the International Code Council will update the IECC to include insulated vinyl siding with a minimum thermal resistance of R-2. By meeting the prescriptive criteria of the IECC, an insulation material or system satisfies one of the requirements for this credit. We have concluded, however, that because insulated vinyl siding provides structural support or a finished surface, it fails the statutory requirement that an insulation material or system must be specifically and primarily designed to reduce heat loss or gain of a dwelling unit. We published this conclusion in section 4.03 of Notice 2009-53, 2009-25 Internal Revenue Bulletin 1095, on June 22, 2009. We also published it in Notice 2006-26 (March 13, 2006), Notice 2006-53 (June 26, 2006), and Notice 2006-71 (August 21, 2006).

The statutory requirement that the insulation material or system must be specifically and primarily designed to reduce heat loss or gain applies to the component the homeowner purchased. This component is the vinyl siding, not a portion of the cost of the siding that serves an insulation function. Separate insulation that a homeowner installs with vinyl siding satisfies the specifically and primarily designed requirement.

We reached our conclusion about insulated vinyl siding based on the language in section 25C. To make the credit available to taxpayers who purchase insulated vinyl siding, the Congress would have to modify or remove the statutory design requirement.

I am sorry I do not have a more favorable response. If you have further questions about this matter, please contact _____ at _____ or me at _____.

Sincerely,

Curt G. Wilson
Associate Chief Counsel
(Passthroughs & Special Industries)