



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

OFFICE OF THE CHIEF COUNSEL

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Dear \_\_\_\_\_ :

This letter responds to your request for information in a letter dated September 30, 2009. You stated that your company, \_\_\_\_\_, manufactures portable renewable energy generators. You requested information concerning the residential energy efficient property credit and the Treasury grant under section 1603 of the American Recovery and Reinvestment Act of 2009. This letter describes well-established interpretations and principles of tax law without applying them to a specific set of facts. It is advisory only and has no binding effect with the Internal Revenue Service. This letter is intended only to provide general guidance for determining how to comply with applicable law.

The law provides a personal tax credit under section 25D of the Internal Revenue Code (Code) for purchasing and installing certain qualified residential energy efficient property. (See enclosed section 25D.) Qualified residential energy efficient property includes, among others, qualified solar electric property and qualified solar water heating property. A qualified solar electric property is a property which uses solar energy to generate electricity for use in a home located in the United States and used as a residence by the taxpayer. A qualified solar water heating property is a property to heat water for use in a home located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun. Additionally, qualified solar water heating property must be certified for performance by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the state where the property is installed. If a product qualifies for the credit, a manufacturer has the option of providing a certification statement to customers in which the manufacturer certifies that its product meets the requirements of section 25D. (See enclosed Notice 2009-41 for certification process procedures.)

The residential energy efficient property tax credit is equal to 30 percent of the qualified expenditures made by the taxpayer during a taxable year. There is not a cap on the

amount of credit available. The credit does not apply to property placed in service after December 31, 2016.

Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 (section 1603) provides grants for specified energy property in lieu of tax credits. Under section 1603, the Department of the Treasury makes payments to eligible persons who place in service specified energy property during 2009 or 2010 or after 2010 if construction began on the property during 2009 or 2010 and the property is placed in service by a certain date. Eligible property under this program includes only property used in a trade or business or held for the production of income. Specified energy property includes, among others, solar property described in section 48(a)(3)(A)(i) or (ii) of the Code: (i) equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in a structure, or to provide solar process heat, excepting property used to generate energy for the purposes of heating a swimming pool, and (ii) equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight but only with respect to periods ending before January 1, 2017.

Eligible persons must submit applications to the Department of the Treasury for section 1603 payments. By receiving the section 1603 payments, taxpayer agrees to forego any tax credits under sections 45 and 48 for the taxable year in which the payment is made or for any subsequent taxable year. Applicants must agree to the terms and conditions applicable to the section 1603 program. See [www.treas.gov/recovery/1603.shtml](http://www.treas.gov/recovery/1603.shtml) for more information about the program, eligibility requirements, and the application process.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2009-1, §2.04, 2009-1 I.R.B. 1 (Jan. 5, 2009). If you have any additional questions, please contact me or \_\_\_\_\_ at \_\_\_\_\_.

Sincerely,

Jaime C. Park  
Senior Technician Reviewer, Branch 6  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2)