



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

OFFICE OF THE CHIEF COUNSEL

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UIL: 25C.00-00, 25D.00-00

The Honorable Betty McCollum
Member, U.S. House of Representatives
165 Western Avenue, North, Suite 17
St. Paul, MN 55102

Attention:

Dear Congresswoman McCollum:

I am responding to your inquiry dated March 24, 2010, on behalf of your constituents who have questions about tax credits for nonbusiness energy property. One constituent asked if the credits are nonrefundable, and the other wanted information on the timing of eligibility for the credits.

The tax law provides two different tax credits for individual homeowners making energy-related purchases for their homes. A taxpayer may take a credit in the amount of 30 percent of the qualified expenditures for certain energy-efficiency improvements such as windows and doors and also for certain energy property such as furnaces and air conditioners. (See enclosed section 25C of the Internal Revenue Code (the Code).) The law caps the credit at \$1,500 for the combined 2009 and 2010 tax years. The credit is available for improvements to an existing home or an addition or renovation to an existing home.

The law also allows a taxpayer a credit in the amount of 30 percent of qualified expenditures for certain renewable energy property such as qualified solar electric property, solar water heating property, small wind energy property, geothermal heat pump property, and fuel cell property. (See enclosed section 25D of the Code.) No cap exists on the amount of this credit except in the case of fuel cell property. Purchases for both newly constructed homes and existing homes are eligible for this credit.

The Congress provided that both of these tax credits are nonrefundable. A nonrefundable tax credit can only decrease or eliminate a tax liability. A taxpayer will not receive a refund for any amount that exceeds his or her tax liability for the year. In contrast, when a tax credit is refundable, a taxpayer will receive a tax refund even if his or her tax liability is already reduced to zero or the taxpayer pays no tax at all. Thus,

your constituent who does not have an income tax liability will not be eligible for a tax credit for the purchase of energy-related property.

The timing rules are the same for both of these tax credits. According to the law, for the purpose of determining the taxable year in which a taxpayer may take these credits, generally, the taxpayer has made an expenditure for an item when he or she completes the original installation of the item. In the case of an expenditure related to the construction or reconstruction of a structure, the taxpayer has made the expenditure when he or she begins using the structure. Thus, your constituent who installed windows will take the credit in the year when the installation was completed.

I hope this information is helpful. If you or your constituents have any questions on these matters, please contact _____ at _____ or me at _____ for further assistance.

Sincerely,

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

Enclosures (2)