



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

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

I am responding to your letter of January 27, 2010, to Senator Jeanne Shaheen in which you asked about the federal tax treatment of state incentives for individuals who install alternative energy systems at their residences.

Generally, gross income means all income from whatever source derived, unless specifically excluded by law. There is no specific income tax exclusion for State-provided energy related incentive payments. Thus, if a State provides energy related incentives to residents, the recipients must generally include these amounts in gross income. (Certain state payments made primarily to lower income individuals to assist in energy expense management may qualify for exclusion from gross income under *general welfare* principles.)

Note that section 136 of the Internal Revenue Code (the Code) allows an individual taxpayer to exclude from his or her gross income the value of any subsidy provided by a public utility for the purchase or installation of a residential energy conservation measure. However, this exclusion from gross income does not apply to State-provided incentives.

The law provides a tax credit for qualified residential energy efficient property expenditures under section 25D of the Code. Generally, a taxpayer is not allowed an income tax credit for an amount that is excluded from the taxpayer's gross income on receipt. Allowing both an exclusion from income and a tax credit for the same item would result in a double benefit.

Because the State-provided incentives are includable in gross income, a taxpayer is not required to reduce the amount of his or her qualified expenditures qualifying for the section 25D tax credit.

I thank you for your interest in this matter, and hope this information is helpful. If we can assist you further, please contact me or _____ at _____ .

Sincerely,

/s/ William A. Jackson

William A. Jackson
Chief, Branch 5
Associate Chief Counsel
(Income Tax & Accounting)