



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

OFFICE OF THE CHIEF COUNSEL

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UIL: 25C.00-00

The Honorable Frank R. Wolf
Member, U.S. House of Representatives
13873 Park Center Road, Suite 130
Herndon, VA 20171

Attention:

Dear Congressman Wolf:

I am responding to your inquiry dated July 22, 2010, on behalf of your constituent, asked about the tax credit available for eligible building envelope components including exterior windows. (See enclosed section 25C of the Internal Revenue Code (the Code).) asked that we issue an interpretation of this provision that would allow taxpayers who purchase eligible building envelope components additional time to install the component and qualify for the tax credit.

The law provides a tax credit for amounts paid for qualifying building envelope components including exterior windows and skylights. The credit may not exceed \$1,500 for the total of expenditures for qualifying property for taxable years beginning in 2009 and 2010. The credit is available for improvements to an existing home or an addition or renovation to an existing home.

The credit is 30 percent of the expenditures for qualifying property that a taxpayer pays or incurs during a taxable year. For this credit, the law uses a rule from section 25D(e)(8) of the Code to determine when a taxpayer pays or incurs an expenditure. Under this rule, a taxpayer treats an expenditure as made when the original installation of an item is completed or, if the expenditure is for a renovation, when the taxpayer begins the original use of the renovated property. Thus, the law does not treat a taxpayer as making an expenditure for qualifying property until installation is complete or, for a renovation, until the taxpayer begins original use of the renovated property.

The law also provides that the credit is not available for any property placed in service after December 31, 2010 (section 25C(g) of the Code). The phrase “placed in service” is an often used phrase in tax law that has been defined as when the property is in a condition or state of readiness and availability for a specifically assigned function. Windows and skylights are not ready and available for use until installed in the taxpayer’s principal residence. Thus, a taxpayer must install windows and skylights by December 31, 2010, to qualify for the tax credit.

asked that you urge the Internal Revenue Service (the IRS) to issue an interpretation of section 25C that would allow the credit for qualifying property purchased by December 31, 2010, even if the taxpayer has not installed the property. Because the Congress expressly stated that taxpayers may not claim the credit for property placed in service (i.e., installed) after December 31, 2010, the IRS has no authority to interpret the statute in the manner recommended by . The Congress would have to change the law to extend the credit to property installed after December 31, 2010.

I hope this information is helpful. If or you have further questions on this matter, please contact at or me at .

Sincerely,

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

Enclosure