



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

OFFICE OF THE CHIEF COUNSEL

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CONEX-152266-10

UIL: 25D.00-00

The Honorable Debbie Stabenow  
United States Senator  
221 West Lake Lansing Road, Suite 100  
East Lansing, MI 48823

Attention:

Dear Senator Stabenow:

I am responding to your inquiry dated December 20, 2010, on behalf of your constituent, . He asked about the tax credit for qualified geothermal heat pump property under section 25D of the Internal Revenue Code.

wrote that Energy Star raised the efficiency requirements for certain geothermal heat pump properties on January 1, 2011, and will raise them again on January 1, 2012. He further noted that the IRS Form 5695, Residential Energy Efficient Property Credit, states that geothermal units must be Energy Star rated at the time of purchase. He said this language on the form will make existing inventories of geothermal equipment that companies manufactured prior to January 1, 2011 virtually unsalable because they would no longer meet the requirements of the Energy Star program when consumers purchase the equipment.

The language found in the form originates from the language in the law, which requires the property to meet the Energy Star program requirements that are in effect at the time a taxpayer purchases the equipment. The law does not allow the property to meet the requirements of the Energy Star program that are in effect at the time of the manufacture. Therefore, if a taxpayer purchases geothermal equipment in 2011 that does not meet the requirements of the Energy Star program in effect in 2011, the taxpayer is not eligible to claim the section 25D credit.

On April 22, 2009, we issued Notice 2009-41 to provide procedures that manufacturers of residential energy efficient property including geothermal heat pump property can follow to certify that their product meets certain requirements in the law. The notice also provides guidance on the conditions under which taxpayers seeking to claim the section 25D credit can rely on a manufacturer's certification.

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I am sorry my response is not more favorable, but I hope this information is helpful. If you have any questions, please contact \_\_\_\_\_ at \_\_\_\_\_ or me at \_\_\_\_\_ for further assistance.

Sincerely,

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