



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF THE CHIEF COUNSEL

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The Honorable Tom Latham
Member, U.S. House of Representatives
1421 South Bell Avenue, Suite 108A
Ames, Iowa 50010

Attention:

Dear Congressman Latham:

I am responding to your inquiry dated April 29, 2011, on behalf of your constituents, . The asked about the tax credit for qualified solar electric property.

The plan to replace the HVAC system on their home with a new system that uses solar power. The system will include solar panels and an electric heat pump or A/C condenser that the manufacturer modified to operate with solar power. The requested an explanation on whether the costs incurred to purchase the modified air source heat pump or A/C condenser could qualify for the solar electric property credit.

Taxpayers can take a personal tax credit under section 25D of the Internal Revenue Code for purchasing and installing certain qualified residential energy efficient property. (See enclosed section 25D.) Qualified residential energy efficient property includes qualified solar electric property. The tax credit is 30 percent of the cost of qualified solar electric property and the labor costs properly allocable to the onsite preparation, assembly, and original installation of the qualifying property and for piping or wiring to interconnect the qualifying property to the home.

Qualified solar electric property uses solar energy to generate electricity for use in a home in the United States that the taxpayer uses as a residence. Therefore, to qualify for the credit, a property must use solar energy to generate electricity. If the manufacturer specially modified the HVAC system to use solar energy to generate electricity, the modified portion of the HVAC system may be eligible for this tax credit. However, only the portion of the property that meets the definition in the law qualifies, and a taxpayer can only calculate the credit on the costs allocable to the qualified

portion of the property. Similarly, if a portion of the HVAC system meets the definition in the law, only the labor costs attributable to the qualified portion are eligible for the credit.

To qualify for this credit, a taxpayer must also use the home on which he or she installed the solar electric property as a residence. A second home or vacation home may be eligible for this tax credit. The law, however, provides an allocation rule that requires a taxpayer to take a reduced credit if he or she uses more than 20 percent of qualified solar electric property for business purposes. In this case, the taxpayer can only take the portion of the expenditures that is properly allocable to use for nonbusiness purposes.

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 procedures. If the manufacturer has provided a certification statement to the , they can rely on this certification statement that the property will meet the definition in the law. Additionally, the can ask their dealer or contractor to help them determine the costs attributable to the specially modified portion of the HVAC system that uses solar energy to generate electricity.

The said the credit for a qualified geothermal heat pump property includes the geothermal heat pump, but the solar electric property credit does not include a heat pump. Because the law provides the definitions for the qualified properties, the Congress would have to amend the law to change the definition of the properties that qualify for a tax credit.

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

Sincerely,

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

Enclosures (2)