



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

OFFICE OF THE CHIEF COUNSEL

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UIL: 25C.00-00

Dear _____ :

I am replying to your fax dated November 24, 2010, on the tax credit for nonbusiness energy property under section 25C of the Internal Revenue Code (the Code). This letter describes well-established interpretations and principles of tax law without applying them to a specific set of facts. This letter is advisory only and has no binding effect with the Internal Revenue Service. This letter only provides general guidance for determining how to comply with applicable law.

Section 25C provides a tax credit for qualified energy efficiency improvements and for residential energy property expenditures. Qualified energy efficiency improvements include property such as qualifying exterior windows and doors and residential energy property expenditures include property such as qualifying electric heat pumps and air conditioners. The credit is available for qualified property placed in service before January 1, 2010. Recently enacted legislation, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, extended the placed in service date until January 1, 2011 and made other changes to the credit that are not relevant to this letter. To be eligible for the credit, the property must meet the efficiency standards required by the law. In previous correspondence with you, I provided you with information about the energy efficiency standards for energy efficient exterior windows and doors.

In my previous letters, I explained that generally tenant-stockholders in cooperative housing corporations are eligible for these credits. In this letter, I am responding to your request for clarification about the availability of these credits for cooperative housing corporations.

A cooperative housing corporation is not eligible for these tax credits for new fenestration or other products that benefit all of the individual tenant-stockholders. This credit is a personal, individual credit for individual taxpayers, and the law specifically allows tenant-stockholders in their individual and personal capacity to claim these tax

credits. The law deems a tenant-stockholder as making his or her proportionate share of the expenditures of the corporation. Generally, the term “tenant-stockholder’s proportionate share” means the proportion that the stock of the cooperative housing corporation owned by the particular tenant-stockholder is of the total outstanding stock of the corporation (including any stock held by the corporation).

Thus, if property installed in a common area of the cooperative meets the efficiency standards in the law and qualifies for the tax credit, each tenant-stockholder is eligible to claim a tax credit on the tenant-stockholder’s proportionate share of the expenditures of the corporation. In addition to the requirement that the property must meet the mandatory efficiency standards, however, only the proportionate share of the expenditures attributable to the unit that the taxpayer that owns and uses as a principal residence within the meaning of section 121 of the Code is eligible for the credit. Eligible tenant-stockholders should not adjust their proportionate share to take into account the share of the expenditures attributable to tenant-stockholders who cannot take the credit because they do not meet the principal residence requirement.

As discussed, the law treats a tenant-stockholder in a cooperative housing corporation as having made his or her proportionate share of any expenditures of the corporation. This means that a tenant-stockholder that owns and uses his or her unit as a principal residence within the meaning of section 121 will be eligible for the credit based on his or her proportionate share of the qualifying expenses of the corporation. A taxpayer residing in a unit with qualifying property only receives a tax credit based upon that tenant-stockholder’s proportionate share of the cooperative’s expenses regardless of the cost of the qualifying property installed in that tenant-stockholder’s individual unit.

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

Sincerely,

Charles B. Ramsey
Chief, Branch 6
Office of Associate Chief Counsel
(Passthroughs & Special Industries)