

Incentive Provisions for Improving the Energy Efficiency of Residential and Commercial Buildings

IGAP Request for Comments Snapshot

October 13, 2022

<u>Department:</u> Treasury and the Internal Revenue Service (IRS)	<u>Agency:</u> N/A
<u>Application Deadline:</u> November 4, 2022	<u>Docket Number:</u> IRS-2022-0048

Summary

The Inflation Reduction Act is a historic investment in clean energy and climate action. Of the Inflation Reduction Act's \$369 billion investment in addressing climate change, \$270 billion will be delivered through tax incentives. These include incentives to improve the energy efficiency of residential and commercial buildings.

Background

The Inflation Reduction Act includes the following incentives for residential and commercial building energy:

1. Energy Efficient Home Improvement Credit: Non-refundable tax credit for 30% of the costs of certain home efficiency investments
2. Residential Clean Energy Credit: Non-refundable tax credit for 30% of the costs of home installations of clean energy
3. New Energy Efficient Home Credit: Incentives for residential homebuilders and multifamily developers to reduce energy consumption in newly constructed residences by offering a per dwelling unit tax credit (\$5,000/unit)
4. Energy Efficient Commercial Buildings Deduction: A deduction of an amount equal to the cost of energy-efficient commercial building property (EECBP)

These provisions are covered under §§ 25C, 25D, 45L, and 179D of the Internal Revenue Code, which are outlined in the Request for Comments.

Comments received in response to this notice will help to inform the development of guidance for implementation.

Who Should Respond

The Request for Comments is open to all members of the public.

Response Guidelines

There are no specific formatting requirements for submitted comments. Responses submitted are public record; stakeholders submitting comment should not include sensitive information. You do not have to answer all questions in order to submit comments.

Key Questions

The Request for Comments provides specific questions for each provision of the IRS Code.

Energy Efficient Home Improvement Credit

- Section 25C(e)(2) directs the Secretary to prescribe “certification or other requirements” for home energy auditors for credit eligibility. What criteria should the Treasury Department and the IRS consider requiring for certification or other requirements for home energy auditors?
- Is guidance needed regarding the definition of “qualified energy property” in 25C(d)(2) as amended by the IRA, such as definitions for the terms “panelboard” or “feeders”? Specifically, § 25C(d)(2)(B) defines “qualified energy property” to include biomass stoves or boilers, but only those that have “a thermal efficiency rating of at least 75 percent (measured by the higher heating value of the fuel).” Is guidance needed to define the term “thermal efficiency rating”? If so, what testing procedures should the Treasury Department and the IRS consider requiring or permitting to be used by manufacturers to measure thermal efficiency and demonstrate ratings that are valid for purposes of the § 25C credit?
- Section 25C(h) requires qualified manufacturers to provide unique product identification numbers to each item of specified property and make periodic written reports to the Secretary of the product identification numbers assigned. What should the Treasury Department and the IRS consider (1) in determining the manner of agreements between the IRS and the qualified manufacturer; (2) in developing a methodology to ensure that each product identification number is unique to each item of specified property; (3) in prescribing the manner by which such specified property must be labeled with unique product identification numbers; and (4) in developing the requirements for the qualified manufacturers’ periodic written reports?
- Please provide comments on any other topics relating to the § 25C credit that may require guidance.

Residential Clean Energy Credit

- Is guidance needed regarding the definition of “qualified battery storage technology expenditure” in § 25D(d)(6)?
- Section 25D(b)(2) provides that no credit is allowed under § 25D for an item of property described in § 25D(d)(1) unless such property is certified for performance by the non-profit Solar Rating Certification Corporation, or a comparable entity endorsed by the government of the State in which such property is installed. What information should the Treasury Department and the IRS consider in determining what constitutes a “comparable entity”?
- Please provide comments on any other topics relating to the § 25D credit that may require guidance.

New Energy Efficient Home Credit

- Section 45L(b)(3) provides that for purposes of § 45L, the term “construction” includes “substantial reconstruction and rehabilitation.” Is guidance defining the term “substantial reconstruction and rehabilitation” needed? If so, how should the term be defined? If needed, should the definition align with requirements or standards used in the qualified Energy Star and Zero Energy Ready Home Programs?
- Please provide comments on any other topics relating to the § 45L credit that may require guidance.

Energy Efficient Commercial Buildings Deduction

- Section 179D(d)(3)(A) provides that in the case of EECBP installed on or in property owned by a specified tax-exempt entity, the Secretary is to promulgate regulations or guidance to allow the allocation of the deduction “to the person primarily responsible for designing the property in lieu of the owner of such property.” What criteria should the Treasury Department and the IRS consider in providing rules to determine the person that is “primarily responsible for designing the property” under § 179D(3)(A)?
- Section 179D(f)(7)(A) provides that for purposes of § 179D(f), the term “energy use intensity” means the annualized, measured site energy use intensity determined in accordance with such regulations or other guidance as the Secretary provides and measured in British thermal units.
 - What criteria should the Treasury Department and the IRS consider in developing regulations or other guidance addressing this determination?

- How should the instruction in § 179D(h)(1) requiring that new technologies regarding renewable energy be taken into account in determining energy efficiency and savings be taken into account in determining energy use intensity?
 - Section 179D(f)(2) provides detail on a “qualified retrofit plan.” Is guidance providing additional definitions or other guidance regarding qualified retrofit plans needed?
 - Section 179D(f)(7)(B) provides that the term “qualified professional” means an individual who is a licensed architect or a licensed engineer and meets such other requirements as the Secretary provides. Is any guidance providing other requirements that licensed architects or licensed engineers must satisfy needed?
 - Please provide comments on any other topics relating to the § 179D deduction that may require guidance.
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How to Submit

Comments should be submitted by Friday, November 4, 2022 in one of two ways:

1. Electronically via the Federal eRulemaking Portal at www.regulations.gov (using the document number IRS-2022-0048).
 2. Alternatively, by mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2022-48), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, D.C., 20044.
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Resources

- [Request for Comments on Regulations.gov](http://www.regulations.gov)