

Part III - Administrative, Procedural, and Miscellaneous

Certification of Energy Efficient Home Credit

Notice 2006-27

SECTION 1. PURPOSE

This notice sets forth a process under which an eligible contractor who constructs a dwelling unit (other than a manufactured home) may obtain a certification that the dwelling unit is an energy efficient home that satisfies the requirements of § 45L(c)(1)(A) and (B) of the Internal Revenue Code. This notice also provides for a public list of software programs that may be used in calculating energy consumption for purposes of obtaining a certification that satisfies the requirements of § 45L(d). Guidance relating to manufactured homes will be provided in a separate notice.

SECTION 2. BACKGROUND

.01 In General. Section 45L provides a credit to an eligible contractor who constructs a qualified new energy efficient home. For qualified new energy efficient homes (other than manufactured homes), the amount of the credit is \$2,000. A dwelling unit qualifies for the credit if--

- (1) It is located in the United States;

(2) Its construction is substantially completed after August 8, 2005;

(3) It meets the energy saving requirements of § 45L(c)(1); and

(4) It is acquired from the eligible contractor after December 31, 2005,

and before January 1, 2008, for use as a residence.

.02 Energy Saving Requirements. To meet the energy saving requirements of § 45L(c)(1), a dwelling unit must be certified to provide a level of heating and cooling energy consumption that is at least 50 percent below that of a comparable dwelling unit constructed in accordance with the standards of section 404 of the 2004 Supplement to the 2003 International Energy Conservation Code (2004 IECC Supplement), and to have building envelope component improvements that provide for a level of heating and cooling energy consumption that is at least 10 percent below that of a comparable dwelling unit. For this purpose, heating and cooling energy and cost savings must be calculated in accordance with the procedures prescribed in Residential Energy Services Network (RESNET) Publication No. 05-001 (Nov. 17, 2005).

SECTION 3. CERTIFICATION

A contractor must obtain the certification required under § 45L(c)(1) with respect to a dwelling unit (other than a manufactured home) from an eligible certifier before claiming the energy efficient home credit with respect to the dwelling unit. A contractor is not required to file the certification with the return on which the credit is claimed. However, § 1.6001-1(a) of the Income Tax Regulations requires that taxpayers maintain such books and records as are sufficient to establish the entitlement to, and amount of, any credit claimed by the taxpayer. Accordingly, an eligible contractor

claiming a \$2,000 credit under § 45L should retain the certification as part of the eligible contractor's records to satisfy this requirement. The certification will be treated as satisfying the requirements of § 45L(c)(1) if all construction has been performed in a manner consistent with the design specifications provided to the eligible certifier and the certification contains all of the following:

.01 The name, address, and telephone number of the eligible certifier.

.02 The address of the dwelling unit.

.03 A statement by the eligible certifier that--

(1) The dwelling unit has a projected level of annual heating and cooling energy consumption that is at least 50 percent below the annual level of heating and cooling energy consumption of a reference dwelling unit in the same climate zone;

(2) Building envelope component improvements alone account for a level of annual heating and cooling energy consumption that is at least 10 percent below the annual level of heating and cooling energy consumption of a reference dwelling unit in the same climate zone; and

(3) Heating and cooling energy and cost savings have been calculated in the manner prescribed in section 2.02 of this notice.

.04 A statement by the eligible certifier that field inspections of the dwelling unit (or of other dwelling units under the sampling protocol described below) performed by the eligible certifier during and after the completion of construction have confirmed that all features of the home affecting such heating and cooling energy consumption comply with the design specifications provided to the eligible certifier. With respect to builders

who build at least 85 homes a year or build subdivisions with the same floor plan using the same subcontractors, the eligible certifier may use the sampling protocol found in the current ENERGY STAR[®] for Homes Sampling Protocol Guidelines instead of inspecting all of the homes. The sampling protocols can be found at the following web address:

http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.pt_homes_policies#SamplingProtocol

.05 A list identifying--

(1) The dwelling unit's energy efficient building envelope components and their respective energy performance rating as required by section 401.3 of the 2004 IECC Supplement; and

(2) The energy efficient heating and cooling equipment installed in the dwelling unit and the energy efficiency performance of such equipment as rated under applicable Department of Energy Appliance Standards test procedures.

.06 Identification of the listed software program used to calculate energy consumption (see section 5 of this notice).

.07 A declaration, applicable to the certification and any accompanying documents, signed by a person currently authorized to bind the eligible certifier in these matters, in the following form:

“Under penalties of perjury, I declare that I have examined this certification, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this certification are true, correct, and complete.”

SECTION 4. DEFINITIONS

The following definitions apply for purposes of this notice:

(1) Building envelope components are basement walls, exterior walls, floor, roof, and any other building element that encloses conditioned space, including any boundary between conditioned space and unconditioned space.

(2) A climate zone is a geographical area within which all locations have similar long-term climate conditions as defined in Chapter 3 of the 2004 IECC Supplement.

(3) A dwelling unit is a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, within a building that is not more than three stories above grade in height.

(4) An eligible certifier is a person that is not related (within the meaning of § 45(e)(4)) to the eligible contractor and has been accredited or otherwise authorized by RESNET (or an equivalent rating network) to use energy performance measurement methods approved by RESNET (or the equivalent rating network). An employee or other representative of a utility or local building regulatory authority may qualify as an eligible certifier if the employee or representative has been accredited or otherwise authorized by RESNET (or an equivalent rating network) to use the approved energy performance measurement methods.

(5) An eligible contractor is the person that constructed a qualified new energy efficient home.

(6) A manufactured home is a dwelling unit constructed in accordance with the

Federal Manufactured Home Construction and Safety Standards (24 C.F.R § 3280).

(7) A reference dwelling unit is a dwelling unit that is comparable to the dwelling unit constructed by the eligible contractor except that--

(a) The comparable dwelling unit is constructed in accordance with the minimum standards of Chapter 4 of the 2004 IECC Supplement;

(b) The comparable dwelling unit's air conditioners have a Seasonal Energy Efficiency Ratio (SEER) of 13, measured in accordance with 10 C.F.R. 430.23(m); and

(c) The comparable dwelling unit's heat pumps have a SEER of 13 and a Heating Seasonal Performance Factor (HSPF) of 7.7, measured in accordance with 10 C.F.R. 430.23(m).

SECTION 5. SOFTWARE PROGRAMS

.01 In General. The Internal Revenue Service will create and maintain a public list of software programs that may be used to calculate energy consumption for purposes of providing a certification under section 3 of this notice. A software program will be included on the original list if the software developer submits the following information to the Service and RESNET:

- (1) The name, address, and telephone number of the software developer;
- (2) The name or other identifier of the program as it will appear on the list;
- (3) The test results, test runs, and the software program with which the test was conducted; and
- (4) A declaration by the developer of the software program, made under

penalties of perjury, that the software program has satisfied all tests required to conform to the software accreditation process prescribed in RESNET Publication No. 05-001 (Nov. 17, 2005).

.02 Addresses. Submissions under this section must be addressed as follows:

Submissions to the Service submitted by U. S. mail:

Internal Revenue Service
Attn: Program Administrator
CC:PSI:7, Room 4315
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Submissions to the Service submitted by a private delivery service:

Internal Revenue Service
Attn: Program Administrator
CC:PSI:7, Room 4315
1111 Constitution Ave., N.W.
Washington, DC 20224

Submissions to RESNET:

Residential Energy Services Network
P.O. Box 4561
Oceanside, CA 92052-4561

.03 Original and Updated Lists. A software program will be included on the original list if the software developer's submission is received before March 1, 2006. The list will be updated as necessary to reflect submissions received after February 28, 2006.

.04 Removal from Published List. The Service may, upon examination (and after appropriate consultation with the Department of Energy), determine that a software program is not sufficiently accurate to justify its use in calculating energy consumption for purposes of providing a certification under section 3 of this notice and remove the

software program from the published list. The Service may undertake an examination on its own initiative or in response to a public request supported by appropriate analysis of the software program's deficiencies.

.05 Effect of Removal from Published List. A software program may not be used to calculate energy consumption for purposes of providing a certification that satisfies the requirements of § 45L after the date on which the software is removed from the published list. The removal will not affect the validity of any certification provided with respect to a dwelling unit on or before the date on which the software is removed from the published list.

.06 Public Availability of Information. RESNET may make available for public review any information provided to it under section 5.01 of this notice.

SECTION 6. PAPERWORK REDUCTION ACT

The collections of information contained in this notice have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545 -1995.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in sections 3 and 5. This information is required to be collected and retained in order to ensure that a dwelling unit (other than a manufactured home) meets the requirements for the energy efficient home credit under § 45L. This information will be used to determine whether property

for which certifications are provided is property that qualifies for the credit. The collection of information is required to obtain a benefit. The likely respondents are corporations and partnerships.

The estimated total annual reporting burden is 180 hours.

The estimated annual burden per respondent varies from 2.5 hours to 4 hours, depending on individual circumstances, with an estimated average burden of 3 hours to complete the certification required under this notice. The estimated number of respondents is 45.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 7. DRAFTING INFORMATION

The principal author of this notice is Jennifer C. Bernardini of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Jennifer C. Bernardini at (202) 622-3120 (not a toll-free call).