



High Performance Building Coalition

Where building professionals from communities across the country come together with policymakers to consider and advocate for national policies that advanced high performance buildings

Support and Renew Three Energy-Efficient Building Tax Provisions: Residential Energy-Efficiency Tax Credit (IRC Sec. 25C); Energy-Efficient New Home Tax Credit (IRC Sec. 45L); Commercial Building Tax Deduction (IRC Sec. 179D)

Include Biomass, Geothermal and Fuel Cell Energy Technologies in the Investment Tax Credit (IRC Sec. 48) and Residential Energy Property Tax Credit (IRC Sec. 25D)

November 14, 2016

The Honorable Orrin Hatch
Chairman
Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hatch and Ranking Member Wyden, Chairman Brady and Ranking Member Levin:

The High-Performance Building Coalition (HPBC) is comprised of more than 200 manufacturers, trade associations, and other stakeholders who support policies and legislation that advance the next generation of buildings. The HPBC is proud to support the High-Performance Building Congressional Caucus, chaired by Rep. David McKinley (R-WV) and Rep. Peter Welch (D-VT).

We are writing to urge that you renew three energy-efficient building tax provisions that expire at the end of 2016: the Residential Energy-Efficient Tax Credit (IRC Sec. 25C); the Energy-Efficient New Home Tax Credit (IRC Sec. 45L); and the Commercial Building Tax Deduction (IRC Sec. 179D). All are market-driven incentives that have promoted and improved building energy efficiency.

The 25C tax credit was established in the Energy Policy Act of 2005 and has promoted energy efficiency by helping homeowners purchase better performing windows, doors, HVAC systems, hot water heaters, insulation, and roofing. In addition, it has preserved and created American jobs, with the National Association of Home Builders finding 278,610 full-time jobs were supported by 25C-related projects based on 2009 IRS data. The \$1,500 cap for qualified improvements in 2009 - 2010 reverted back to \$500 through 2016, but there is no doubt that 25C continues to benefit manufacturers, distributors, contractors, and, most importantly, consumers. In fact, IRS data showed that 25C benefits the middle class in particular, with over two-thirds of households that claimed the credit having adjusted gross incomes of \$100,000 or less.

The 45L tax credit was established by the Energy Policy Act of 2005, too, and has proven to be very

impactful at a modest cost. This incentive provides a \$2,000 tax credit for builders of homes that use 50 percent less energy for space heating and cooling, per chapter 4 of the 2006 International Energy Conservation Code (IECC), and a tax credit of \$1,000 to manufacturers of ENERGY STAR-qualified manufactured homes. This performance-based tax credit has transformed the new homes market, as the number of homes eligible for the 45L tax credit rose to 11 percent of new homes sold in 2011 and continues its upward trajectory.

The Commercial Building Tax Deduction (CBTD) also was enacted in the Energy Policy Act of 2005 (IRC Sec. 179D) and provides a building owner with a deduction of \$1.80 per square foot of floor area for buildings achieving 50 percent annual energy savings beyond ASHRAE 90.1-2001 (which was the baseline through 2015). For buildings below 50 percent placed in service Jan. 1, 2006 – Dec. 31, 2008, the deduction was pro-rated to 60 cents per square foot of floor area for each of three subsystems meeting a 16.66 percent annual energy savings target:

- 1) Energy Efficient Lighting Property
- 2) Energy Efficient Heating, Cooling, Ventilation and Hot Water Property
- 3) Energy Efficient Building Envelope Property

IRS Notice 2008-40 established new subsystem percentages of 20 percent for lighting, 20 percent for HVAC and 10 percent for the envelope for property placed in service from Jan. 1, 2006 – Dec. 31, 2013. These percentages could be used in lieu of the 16.66 percent formula which expired Dec. 31, 2008.

On Feb. 23, 2012, the IRS issued a modification to Notice 2008-40 (Notice 2012-22) to provide energy-saving percentages for subsystems of 25 percent for lighting, 15 percent for HVAC and 10 percent for the envelope. These percentages are available for property placed in service from March 12, 2012 through Dec. 31, 2016.

The CBTD has leveraged private-sector investment capital into building systems, as it rewards more energy-efficient outcomes with an alternative to the 39-year depreciation schedule for building components. It has become integral to newly-designed buildings, and the pro-rated deductions have made the CBTD more usable for building retrofits.

On Dec. 18, 2015, Congress passed the omnibus Consolidated Appropriations Act, 2016, which included the Protecting Americans from Tax Hikes (PATH) Act extending over 50 tax breaks for businesses and individuals. As part of this package, 25C, 45L and 179D were renewed retroactively for 2015 - 2016 with minor changes (e.g., the baseline for 179D was updated to ASHRAE 90.1-2007).

Renewing 25C, 45L and 179D beyond 2016 is a priority of the High Performance Building Coalition (HPBC). We urge that Congress do so before they expire at the end of this year and also make any technical corrections that are needed.

The Coalition also urges support for including biomass thermal energy technologies as part of any extension of the Section 48 and Section 25D investment tax credits that are now available for all other renewable energy pathways. Omission of biomass thermal energy technologies was an oversight when these credits were originally crafted. Affording ultra-clean, high efficiency wood biomass home and business heating investments with the same credit that has spurred huge growth in solar (PV and thermal), geothermal and wind would allow consumers and businesses to overcome the initial cost hurdle associated with converting to biomass. These credits will be particularly impactful in areas of the country with heavy reliance on imported and price volatile fossil heating fuels like oil and gas. Heating with biomass represents the most efficient use of the natural resource, with some units achieving efficiency levels of 90 percent and higher.

Geothermal and fuel cell energy sources were also inadvertently omitted from 48 and 25D in the PATH Act, too. Therefore, we urge the inclusion of biomass, geothermal and fuel cell energy as part of any extension of 48 and 25D.

Thank you for your consideration of our requests and we stand ready to work with you and your staff on these and related matters.

Sincerely,

The High Performance Building Coalition
Air Conditioning Contractors of America
American Council of Engineering Companies
American Institute of Architects
American Society of Civil Engineers
Armstrong Filtration
Asphalt Roofing Manufacturers Association
Associated General Contractors of America
Biomass Thermal Energy Council
Building Performance Institute, Inc. (BPI)
Copper Development Association
Daikin US Corporation
Energy Management Association
Environmental and Energy Study Institute
Green Building Initiative
Hearth, Patio and Barbecue Association
Illuminating Engineering Society of North America
Independent Electrical Contractors
Ingersoll Rand
Institute for Market Transformation
International Association of Plumbing and Mechanical Officials
International Facility Management Association
Malachite LLC
National Apartment Association
National Association of Home Builders
National Association of the Remodeling Industry
National Electrical Contractors Association
National Electrical Manufacturers Association
National Lumber and Building Material Dealers Association
National Multifamily Housing Council
National Roofing Contractors Association
Pellet Fuels Institute
Polyisocyanurate Insulation Manufacturers Association
Roof Coatings Manufacturers Association
Sheet Metal and Air Conditioning Contractors National Association
Spray Polyurethane Foam Alliance
The Stella Group, Ltd.
Tile Roofing Institute
UL LLC
Western States Roofing Contractors Association
Window & Door Manufacturers Association