

March 26, 2014

The Honorable Ron Wyden
Chairman
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Wyden:

Thank you for your leadership in taking up the issue of the expired tax provisions collectively known as tax extenders. We are writing you in support of renewing the Section 45L New Energy Efficient Home Tax Credit and urge you to include it in any extenders package the committee may consider.

The Section 45L tax credit provides a \$2,000 credit to builders of new (for sale and for lease) homes, including multifamily housing in buildings of three or fewer stories, that exceed a minimum energy code specification and any applicable Federal minimum efficiency standards for equipment by at least 50% in both heating and cooling efficiency. When 45L was renewed as part of the *American Taxpayer Relief Act of 2012*, Congress updated the reference standard from the 2003 International Energy Conservation Code plus the 2004 supplement to the 2006 International Energy Conservation Code. To qualify, the efficiency performance must be independently verified by an authorized energy rater, and the credit is subject to both a basis adjustment and may not be claimed against alternative minimum tax (AMT) liability. Eligible homes include residences, single-family and multifamily, that are sold to owner-occupants or leased for rental purposes.

Although this credit has suffered from start-and-stop issues of short-term and retroactive extensions over the last five years, the 45L program has managed to deliver the market transformation results that Congress intended to encourage. The chart below shows that from enactment the Section 45L credit went from 0.7% of the market in 2006 to 11% of the market for new homes in 2011.

Year	Number of Homes Verified	% of New Homes Sold
2006	7,110	0.7%
2007	23,000	3%
2008	22,000	5%
2009	37,000	10%
2010	21,000	7%
2011	32,000	11%

Data provided by Residential Energy Services Network (<http://www.resnet.us/>)¹

¹ This represents the actual number of homes certified by RESNET, which is the largest certifier. Some additional homes may have qualified through other eligible certifiers.

In 2011, 11% of all the new homes sold met the energy thresholds of the Section 45L credit and were 50% or more energy efficient, with a nearly five-fold increase in total certified homes.

The Section 45L credit has also provided a useful incentive for apartment developers to install higher performance building systems and upgraded appliances than they otherwise could justify within the *pro forma* for developing the property. The utility cost savings associated with high-efficiency building systems accrue to the lessee. Utilization of the Section 45L credit requires additional upfront engineering, construction costs, and expenses for a third-party professional to certify that the property has achieved the required metrics.

The frequent lapses in the credit have proven to be disruptive for builders. Although Congress has, to date, retroactively approved the credit after every lapse, developers who utilize this tax credit face the difficult decision of whether to continue to offer the benefits of this credit to their customers without knowing if the credit will be extended. Small business owners cannot afford to gamble on whether a tax credit will be extended retroactively.

Thank you for your consideration, and we look forward to working with you as the Finance Committee moves forward with legislation to renew expired tax provisions.

Sincerely,

National Association of Home Builders

National Multifamily Housing Council

National Apartment Association

National Leased Housing Association

Leading Builders of America

Cc: Senator Hatch