

IRS Section 45L

Energy Efficient Tax Credit for Residential Properties

The following Q&A's provide information about this valuable tax incentive:

1. What is the 45L Tax Credit?

The 45L tax credit is available to eligible contractors for the construction or manufacture of energy efficient residential dwellings substantially completed and leased or sold before December 31, 2016. The credit is up to \$2,000 per residential unit. The tax credit is claimed by the developer (known as Eligible Contractor) in the year in which the unit is occupied.

Potential Benefits	
Qualified # Units	Possible Tax Credits
30	\$60,000
100	\$200,000
500	\$1,000,000

2. What is the timing to take the credit?

Although the credit is available for property substantially completed and leased or sold between August 5, 2005 and December 31, 2016, credits may only be taken on current tax returns or on amendable returns which, in general, is allowed for the three previous tax years.

3. What types of buildings are eligible for the 45L Tax Credit?

Eligible properties include:

- Apartments
- Condominiums
- Townhomes
- Multi-family residences
- Single-family developments
- Assisted living facilities
- Student housing dwelling units

An eligible property must be located in the United States, cannot be more than three stories above grade in height, and must be certified to meet specific energy-saving requirements within the HVAC and building envelope components. Certain rehabilitation projects may meet the qualification standards as well.

4. Who is the eligible contactor or taxpayer?

An eligible contractor is the person who constructed the dwelling and must have basis in the qualified property during its construction. The credits are taken in the tax year the units are leased or sold. The credit reduces the taxpayer's basis in the qualified property and, in general, is not applicable against AMT.

5. What else can the Section 45L Tax Credit do?

- Provide an extra bonus to LIHTC projects with excess eligible basis. Since such projects are capped in the amount of housing credits that they can receive, extra equity can be generated for a project by providing Section 45L tax credits to the limited partner investor.
- Provide additional tax benefits to the developer, if the limited partner investor doesn't want to take the Section 45L tax credits. With the consent of the limited partner, the partnership agreement can be amended to bifurcate the Section 45L tax credit from the project's other tax credits and losses and allocate all the Section 45L tax credits to the general partner.

6. What are other taxpayer considerations?

- The 45L credit is an IRC Section 38 business credit.
- General business credits generally are not allowable as a credit to offset Alternative Minimum Tax (AMT).
- The 45L credit reduces the taxpayer's cost of goods sold.
- The credit is claimed on the tax return for the year the dwelling units are leased or sold.

Contact us today for a complimentary feasibility assessment of your planned or existing Section 45L opportunity.

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