

TITLE 26 - INTERNAL REVENUE CODE
Subtitle A - Income Taxes
CHAPTER 1 - NORMAL TAXES AND SURTAXES
Subchapter A - Determination of Tax Liability
PART IV - CREDITS AGAINST TAX
Subpart D - Business Related Credits

§ 45M. Energy efficient appliance credit

(a) General rule

(1) In general

For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

(2) Credit amounts

The credit amount determined for any type of qualified energy efficient appliance is—

- (A)** the applicable amount determined under subsection (b) with respect to such type, multiplied by
- (B)** the eligible production for such type.

(b) Applicable amount

For purposes of subsection (a)—

(1) Dishwashers

The applicable amount is—

- (A)** \$45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and
- (B)** \$75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

(2) Clothes washers

The applicable amount is—

- (A)** \$75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,
- (B)** \$125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,
- (C)** \$150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds¹ 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and
- (D)** \$250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds¹ 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

(3) Refrigerators

The applicable amount is—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

- (A) \$50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,
- (B) \$75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,
- (C) \$100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and
- (D) \$200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.

(c) Eligible production

The eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

- (1) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over
- (2) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 2-calendar year period.

(d) Types of energy efficient appliance

For purposes of this section, the types of energy efficient appliances are—

- (1) dishwashers described in subsection (b)(1),
- (2) clothes washers described in subsection (b)(2), and
- (3) refrigerators described in subsection (b)(3).

(e) Limitations

(1) Aggregate credit amount allowed

The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.

(2) Amount allowed for certain refrigerators and clothes washers

Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).

(3) Limitation based on gross receipts

The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

(4) Gross receipts

For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448 (c) shall apply.

(f) Definitions

For purposes of this section—

(1) Qualified energy efficient appliance

The term “qualified energy efficient appliance” means—

- (A) any dishwasher described in subsection (b)(1),
- (B) any clothes washer described in subsection (b)(2), and
- (C) any refrigerator described in subsection (b)(3).

(2) Dishwasher

The term “dishwasher” means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

(3) Clothes washer

The term “clothes washer” means a residential model clothes washer, including a commercial residential style coin operated washer.

(4) Top-loading clothes washer

The term “top-loading clothes washer” means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.

(5) Refrigerator

The term “refrigerator” means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

(6) Modified energy factor

The term “modified energy factor” means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.

(7) Produced

The term “produced” includes manufactured.

(8) 2001 energy conservation standard

The term “2001 energy conservation standard” means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

(9) Gallons per cycle

The term “gallons per cycle” means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

(10) Water consumption factor

The term “water consumption factor” means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.

(g) Special rules

For purposes of this section—

(1) In general

Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

(2) Controlled group**(A) In general**

All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

(B) Inclusion of foreign corporations

For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

(3) Verification

No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.

Footnotes

¹ So in original. Probably should be followed by “a”.

(Added Pub. L. 109–58, title XIII, § 1334(a), Aug. 8, 2005, 119 Stat. 1030; amended Pub. L. 110–343, div. B, title III, § 305(a)–(e), Oct. 3, 2008, 122 Stat. 3845–3847.)

Amendments

2008—Subsec. (b). Pub. L. 110–343, § 305(a), reenacted heading without change and amended text generally. Prior to amendment, subsec. (b) provided applicable credit amounts and energy savings amounts for dishwashers, clothes washers, and refrigerators.

Subsec. (c). Pub. L. 110–343, § 305(b)(1), struck out par. (1) designation and heading, substituted “The eligible” for “Except as provided in paragraphs (2), the eligible”, redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, and realigned margins, and struck out former par. (2) which provided a special rule for eligible production of refrigerators.

Subsec. (c)(2). Pub. L. 110–343, § 305(b)(2), substituted “2-calendar year” for “3-calendar year”.

Subsec. (d). Pub. L. 110–343, § 305(c), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the types of energy efficient appliances are—

“(1) dishwashers described in subsection (b)(1)(A),

“(2) clothes washers described in subsection (b)(1)(B),

“(3) refrigerators described in subsection (b)(1)(C)(i),

“(4) refrigerators described in subsection (b)(1)(C)(ii), and

“(5) refrigerators described in subsection (b)(1)(C)(iii).”

Subsec. (e)(1). Pub. L. 110–343, § 305(d)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.”

Subsec. (e)(2). Pub. L. 110–343, § 305(d)(2), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “In the case of refrigerators described in subsection (b)(1)(C)(i), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$20,000,000.”

Subsec. (f)(1). Pub. L. 110–343, § 305(e)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘qualified energy efficient appliance’ means—

“(A) any dishwasher described in subsection (b)(1)(A),

“(B) any clothes washer described in subsection (b)(1)(B), and

“(C) any refrigerator described in subsection (b)(1)(C).”

Subsec. (f)(3). Pub. L. 110–343, § 305(e)(2), inserted “commercial” after “including a”.

Subsec. (f)(4), (5). Pub. L. 110–343, § 305(e)(3), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (f)(6). Pub. L. 110–343, § 305(e)(4), amended heading and text of par. (6) generally. Prior to amendment, text read as follows: “The term ‘EF’ means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.”

Pub. L. 110–343, § 305(e)(3), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (f)(7), (8). Pub. L. 110–343, § 305(e)(3), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (f)(9), (10). Pub. L. 110–343, § 305(e)(5), added pars. (9) and (10).

Effective Date of 2008 Amendment

Pub. L. 110–343, div. B, title III, § 305(f), Oct. 3, 2008, 122 Stat. 3848, provided that: “The amendments made by this section [amending this section] shall apply to appliances produced after December 31, 2007.”

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Effective Date

Section applicable to appliances produced after Dec. 31, 2005, see section 1334(d) of Pub. L. 109–58, set out as an Effective Date of 2005 Amendments note under section 38 of this title.