

SUPPORTING STATEMENT

Internal Revenue Service

Requirements related to energy efficient homes credit, manufactured homes

OMB # 1545-1994

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 45L of the Internal Revenue Code allows a credit for qualified new energy efficient manufactured homes constructed by a taxpayer who qualifies as an eligible contractor and acquired for use as a residence.

Notice 2008-36 sets forth a process under which a taxpayer who constructs a manufactured home may obtain certification that the dwelling unit is an energy efficient home that satisfies the requirements of section 45L(c)(1)(A) and (B) of the Internal Revenue Code. Under section 45L, taxpayers are allowed a credit for the construction of a qualified new energy efficient home located in the United States and the construction of which is substantially completed by August 8, 2005. For qualified new energy efficient homes that are manufactured homes, the amount of the credit is \$1,000 or \$2,000, depending on the energy savings that are achieved. Section 45L(d)(1) provides that the required energy savings of a dwelling unit and the methods of calculating energy and cost savings shall meet the certification requirements prescribed the Secretary in consultation with the Secretary of Energy.

Notice 2008-35 (OMB No. 1545-1995), sets forth a process under which a taxpayer who constructs a dwelling unit (other than a manufactured home) may obtain certification that the dwelling unit is an energy efficient home that satisfies the requirements of Section 45L(c)(1) (A) and (B) of the Internal Revenue Code. Under Section 45L, taxpayers are allowed a credit for the construction of a qualified new energy efficient home located in the United States and the construction of which is substantially completed by August 8, 2005. Section 45L(d)(1) provides that the required energy savings of a dwelling unit and the methods of calculating energy and cost savings shall meet the certification requirements prescribed the Secretary in consultation with the Secretary of Energy.

2. USE OF DATA

The data will be used by taxpayers (1) for the purpose of determining which specific software programs may be used in calculating energy consumption for purposes of the credit, and (2) taxpayers for the purpose of determining the methods by taxpayers can construct dwelling units to meet the energy efficiency requirements of section 45L and certify such units for purposes of the credit. In addition, for manufactured homes, the data will be used by taxpayers for determining whether the home meets the requirements for the \$1,000 or \$2,000 credit.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as

practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There is minimal to no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute to this type of entity.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Consequences of less frequent collection on federal programs or policy activities could result in a decreased amount of taxes collected by the Service, inaccurate and untimely filing of tax returns, and an increase in tax violations.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Notice 2008-36 was published in the Internal Revenue Bulletin on March 24, 2008 (2008-12 IRB 650).

In response to the Federal Register notice dated September 7, 2021 (86 FR 50209), we received one comment letter during the comment period regarding Notice 2008-36. The comment letter stated, “Our comments can be summarized as follows. First, new forward-looking guidance on the certification of homes for purposes of the section 45L credit is unnecessary because Notice 2008-35 and Notice 2008-363 give taxpayers sufficient guidance, especially in light of the fact that legislative changes to section 45L are currently being contemplated. Therefore, a new section 45L guidance project would be a poor use of limited Treasury and IRS resources. It would also be burdensome to taxpayers and certifiers, as the costs of updating their procedures is significant. Second, if Treasury and the IRS do issue new guidance on this topic, that guidance should permit the continued use of “equivalent calculation procedures,” along with reliance on calculation procedures provided by earlier RESNET publications in order to minimize the compliance burdens on taxpayers and certifiers. Third, any new guidance should be prospective only, consistent with the long-

standing presumption against retroactive guidance.”

The letter has been forwarded to the appropriate counsel office for consideration and review. Any official response to the comments provided in the letter must be delayed pending resolution of current proposed Congressional legislation. Any potential updates to notices approved under this collection will also be delayed pending the same proposed Congressional legislation.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 45L(d)(1) provides that the required energy savings of a dwelling unit and the methods of calculating energy and cost savings shall meet the certification requirements prescribed the Secretary in consultation with the Secretary of Energy.

It is estimated that the total annual reporting burden will be 60 hours. The estimated average annual burden per respondent will be 4 hours to complete the requests for certification required under this notice. This estimated burden is based upon the approximated amount of time it will take the average respondent to gather the necessary data and mail that data to the IRS. The estimated number of respondents is 15.

OMB Collection	Authority	Form	Annual Responses	Hours per Response	Total Burden
IRS 1545-1994	IRC 45L	N/A	15	4	60
	IRS TOTAL		15		60

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, the *Federal Register* notice dated September 7, 2021, requested

public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. No comments were received in response to this request. However, to ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no start-up costs associated with this collection.

15. REASONS FOR CHANGE IN BURDEN

There are no changes to the burden previously approved.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	15	0	0	0	0	15
Annual Time Burden (Hr)	60	0	0	0	0	60
Annual Cost Burden (\$)	0	0	0	0	0	0

Notice 2008-35 and Notice 2008-36 are related publications that were issued at the same time. While the credit for new energy efficient homes acquired (by sale or lease) after December 31, 2021, is no longer available, the notices are still relied upon by taxpayers to claim the section 45L credit. Because these notices are still relied upon by taxpayers to claim the section 45L credit and it is plausible that taxpayers will continue to claim the credit on amended returns into 2023, IRS is seeking to continue the approval number with OMB.

This submission is being made for renewal purposes.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration

date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all the collections of information in this submission:

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. Books or records relating to a collection of information must be retained if 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.