

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

CHRIS CAMPBELL, STAFF DIRECTOR
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

June 9, 2016

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Koskinen:

Pursuant to the Committee's inquiry into the use of certain energy-related tax provisions, I write concerning the Treasury Department's Section 1603 Payments for Specified Energy Property in Lieu of Tax Credits ("Section 1603 program / Section 1603 payments") program and the Internal Revenue Service's administration of the energy investment tax credit under Internal Revenue Code §48(a) ("energy credit"). Last March, I wrote to you and Secretary Lew about the administration of the Section 1603 program specifically. In light of the Treasury Department's response on behalf of the IRS, I ask that you provide the following additional information:

1. At the IRS's earliest opportunity, I request a briefing for my Committee staff on:
 - a. The 1603 Compliance Initiative Project; and
 - b. Considerations regarding the fair market value of energy properties claiming the energy credit, including considerations of appropriate cost basis and whether transactions are conducted at arms' length.
2. For taxpayers claiming an energy credit, describe the IRS's process for reviewing claims regarding fair market value (FMV) of the project's cost basis and whether the agency is considering changes to how it evaluates FMV.
3. Detail the IRS's verification process for tax returns claiming the energy credit.
 - a. What later follow-up verification does the IRS do to ensure that the energy credit is not eligible for recapture?
 - b. What actions does the IRS take in the event that it determines an energy credit is eligible for recapture?
4. Please provide a list of all instances when the IRS sought to recapture an energy credit of \$10 million or more claimed for an energy property since 2010. Please include the following:
 - a. Taxpayer name;
 - b. Total value of the energy credit;
 - c. Amount sought to be recaptured;

- d. Amount recaptured;
 - e. Tax year(s) in which the energy credit was claimed;
 - f. Property name; and
 - g. Copies of any relevant Forms 4255, *Recapture of Investment Credit* filed.
5. What, if any, verification does the IRS conduct of a taxpayer claiming depreciation of a renewable energy project?
6. When the Treasury Department sends the IRS details of Section 1603 grant recipients:
- a. In what form does it arrive?
 - b. Does the IRS do any follow-up review to check for “double-dipping” of both the energy credit and Section 1603 grants?
7. The Treasury Department’s response to my March 2016 letter stated that of the 104,724 awarded Section 1603 payments (Treasury’s website states 104,733), 29,249 have been reduced from the amounts requested. Does the IRS plan to determine whether these taxpayers are also overstating the costs solar properties for which an energy credit was claimed?

Please respond to these questions by no later than Thursday, June 30, 2016. I also ask that you provide your answers on a question by question basis, indicating which question you are answering. J

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Sincerely,



Orrin G. Hatch
Chairman