

money talks

By John Edwards, President
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TAX Credits Or Not?



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Simple question.... with a not-so-simple answer!

Do interior mounted window coverings qualify for tax credits....or don't they? If you believe the manufacturers who have produced their own certificates of qualification, they do. But if you put your trust in our government, then they probably do not. If you are in the window coverings business and have not been touched by this very controversial topic, then read on.

There is an extremely enticing tax incentive that is being offered by the Internal Revenue Service (IRS) which states that up to 30% (with a \$1500.00 maximum) of the purchase price of certain energy saving products will qualify for a tax credit. This tax credit may or may not include window coverings. In fact, several manufacturers have produced certificates that state that they have products that qualify for these tax credits. However, the final decision ultimately rests with the IRS. That said, the IRS looks to the Environmental Protection Agency (EPA), the agency that manages the Energy Star program, for technical guidance.

As of January 2009, the Energy Star Website states the following: "The IRS has not issued specific guidance on this issue yet. Window treatments are most likely not covered by the tax credits because they do not appear to meet the requirements of the law: they must be specifically and primarily designed to reduce heat loss or gain — and window treatments are specifically and primarily designed for decoration and privacy; and they must meet the 'prescriptive criteria of the 2009 IECC' for insulation, and window treatments are not considered wall, ceiling, or floor insulation, nor are they mentioned in the 2009 IECC. However, we are aware that some manufacturers are issuing certifications for these products. If a consumer buys a window treatment that comes with a 'Manufacturer's Certification

Statement', then the consumer will get the tax credit, even if it is later determined that the certificate was issued erroneously. There are stiff penalties in the law for manufacturers who issue false certifications. Window treatments can save energy but are very dependent upon consumer behavior. If a consumer does not open and close the window treatments correctly and routinely, there will be no energy savings."

The reference to the "prescriptive criteria of the 2009 IECC" from the Energy Star website is addressing the International Energy Conservation Code that provides minimum energy efficiency provisions for residential and commercial buildings. The code, among other things, addresses the thermal performance of a building envelope and is where the window covering manufacturers who are taking the stand that their products qualify are focusing. If you have downloaded and read one of the Manufacturers' Certificates, you will see that they refer to their product as an "insulating system". So, technically speaking, you are not selling your client a window covering if you propose that the end user will qualify for a tax credit when installing one of these products. You are selling insulation. The product must also be "specifically and primarily" designed to reduce heat gain and heat loss.

In researching this issue I have had a number of exchanges with representatives from the EPA and the IRS, and while these individuals all agree that there are energy savings associated with these products, they also said that the products do not qualify for the program because they do not meet the qualifications set forth in the code and because they rely on human behavior to make them work. That is to say, you have to pull a cord or tilt a louver to open and close the product. An example of an energy savings product that would meet all of the criteria of the program would be insulation. Insulation just sits there in your attic doing its job; you don't

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have to open and close it or turn it on to make it work.

A good example of a product that tried to qualify for the program but did not is a programmable thermostat. Even though the manufacturers of the product argued that the products primary design was to reduce heat gain and loss, the programming could be defeated by the people residing in the building. So, consequently, the final ruling was that programmable thermostats do not qualify!

I interviewed three different manufacturers who have decided not to make the claim that their window products qualify for the credits even though they have products of a similar design to those products that are claiming to qualify for the credit. In each case they said that after studying the IECC documents and IRS Bulletin 2009-25, they did not believe that window treatments qualify for the credit and that the downside risk of representing that their products qualified would be too great.

These manufacturers also realize that they are losing sales as a result of their decision not to produce certificates of qualification and one manufacturer has filed a complaint with the Federal Trade Commission and the Office of the Attorney General in the state of California citing misrepresentation and unfair business practices. Should the IRS rule against the manufacturers who have produced these certificates of qualification, the stiff penalties that the Energy Star website refers to, are stiff indeed. It was not clear if the manufacturer would be held responsible for the amount of the credit, but it was clear that they could be fined up to \$1000.00 per incident. Some of the window covering products claiming to qualify for the credits have enhancements that were designed into them that were clearly intended for energy savings, while other products seem questionable.

As a window covering retailer myself, my concern was that we might also be held responsible for providing a certificate if the IRS ruled against window treatments. That is why I emailed the EPA and asked if the retailer could be held responsible if the IRS ruling is unfavorable — their response, although vague, was “the tax code does not seem to directly address that situation.” However, one manufacturer that is producing certificates

pointed out that “According to IRS guidance, the consumer has the right to rely on the Manufacturer’s Certification without risk.” This manufacturer went on to say “Neither the consumer nor the dealer can be penalized for relying on the Manufacturers Certification.”

As confusing as all of this may be, the best news is that regardless of what the final ruling from the IRS is, the consumer will get their tax credit as long as they have a Manufacturer’s Certificate. We can only hope that the IRS rules favorably so that our suppliers are not injured, but in the meantime you can educate yourself by following the updates on the Energy Star website and contacting the IRS directly. The following links will help you follow the program from the IRS and EPA perspective. The first link is to IRS Bulletin 2009-25, where you can study the detail behind the program. There is also contact information at the end of the bulletin. The second link is to the Energy Star website. When visiting the Energy Star site, go to the FAQ’s page and search “window treatments” for updated information.

http://www.irs.gov/irb/2009-25_IRB/ar10.html

http://www.energystar.gov/index.cfm?c=tax_credits.tx_index

So, as of this writing, interior mounted window coverings may or may not qualify for the tax credit, and some people might ask “does it really matter if the manufacturer is ultimately responsible anyway?” The answer to that question probably depends on who you are asking. If you are the consumer or retail dealer relying on the Manufacturer’s Certification you might not care. However, if you are a competing manufacturer that interprets the IECC Code the same way that the EPA interprets the code, and have decided to sell your products without the aid of the tax credit, then it probably does matter. Whatever your position is in the window treatment tax rebate debate, it is a good idea to educate yourself by keeping in contact with the EPA and IRS so that you are aware of the details beyond those being provided in the Manufacturers Certifications. It can never hurt to obtain more information than your competition. 🌿