

November 4, 2022

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

RE: Notice 2022-48 – EE of Residential and Commercial Buildings

Dear Secretary Yellen:

On behalf of the National Association of State Energy Officials (NASEO), we appreciate the U.S. Department of Treasury's rapid action on a number of important energy-related tax provisions included in the Inflation Reduction Act (IRA). NASEO represents the nation's 56 governor-designated State, Territory, and District of Columbia Energy Offices focused on advancing clean, affordable, reliable energy solutions in energy production, distribution, and end-use. Nearly every state is taking proactive steps to enable and expand the use of cost-effective energy options for consumers and businesses, including building-related energy efficiency and renewable energy installations. Following are NASEO's comments on questions raised by the U.S. Treasury in Notice 2022-48 – EE of Residential and Commercial Buildings, as well as additional comments regarding these important building-related energy tax issues.

Section 25C – U.S Treasury Question: What certifications or requirements for home energy auditors?

To ensure homeowners receive the best value for their home energy investments, and to provide for good stewardship of federal taxpayer funds, it is essential to support well-qualified home energy auditors. The training and certifications supported by states from a wide range of geographic and climate zones suggests that the U.S. Treasury should *require* auditor certifications from one or more of the following: Association of Energy Engineers (AEE) Certified Energy Auditor, American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Building Energy Assessment Professional, Building Performance Institute (BPI) Building Analyst, BPI Energy Auditor, BPI Multifamily Building Analyst, Home Energy Rating System (HERS) Rater, Investor Confidence Project (ICP) Quality Assurance Assessor, Leadership in Energy and Environmental Design (LEED) Green Rater, and Phius Certified Rater.

Section 25C Additional NASEO Comments – The nation's State Energy Offices were tasked by Congress with implementing two significant residential energy efficiency programs under IRA Sections 50121, 50122, and 50123. States seek to design programs that maximize the cost-savings benefits of energy efficiency for consumers and businesses and require the ability to create bundled program offerings that best meet the unique circumstances (e.g., variation of the age and status of residential properties, income levels, rural and urban consumers) of their states. We strongly recommend clear U.S. Treasury guidance that

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explicitly states 25C tax credits can be added to (“stacked”) with IRA residential programs under Sections 50121 and 50122.

Section 45L – Additional NASEO Comments – U.S. Treasury guidance should clarify that neither eligible basis nor depreciable basis is reduced for Section 42 Low Income Housing Tax Credit properties. Absent clear direction, this section could result in diminishing these benefits rather than improving them as Congress intended. In addition, the U.S. Treasury should clarify that “the Secretary” in question in updating the U.S. Department of Energy’s Zero Energy Homes program is the Secretary of Energy, and that the Administrator of the U.S. Environmental Protection Agency (EPA) has authority on which version of EPA’s ENERGY STAR program is associated with the tax credit.

Section 179D – Additional NASEO Comments – U.S. Treasury guidance on how tenants and building owners purchasing equipment for a specific tenant in a multi-tenant building can benefit from 179D. For example, necessary guidance could indicate that the site energy use intensity (EUI) reduction may be prorated for the square footage of the tenant’s space with no requirement for costly submetering.

We hope that the U.S. Treasury is able to address the above issues in favor of maximizing the benefits of domestic energy production, affordability, and energy efficiency for all Americans.

Best regards,

David Terry, NASEO Executive Director

A handwritten signature in blue ink, appearing to read 'DT', with a long, sweeping underline.

cc: State Energy Directors; Secretary of Energy Granholm; Deputy Assistant Secretary Alejandro Moreno, Office of Renewable Power, U.S. Department of Energy