



National Association of  
State Energy Officials

January 22, 2024

Submitted Electronically Via Regulations.Gov  
Internal Revenue Service  
CC:PA:LPD:PR (REG-132569-17)  
Room 5203, P.O. Box 7604, Ben Franklin Station  
Washington, DC 20044

RE: NASEO Comments in Response to Notice of Proposed Rulemaking REG-132569-17

The National Association of State Energy Officials (NASEO) submits these comments in response to the Notice of Proposed Rulemaking REG 132569-17 regarding the investment Section 48 tax credit. NASEO represents the 56 State, Territory, and District of Columbia Energy Offices across the nation. The State Energy Offices work with consumers and businesses to advance energy solutions aimed at making energy more affordable, reliable, and environmentally sustainable.

Geothermal heat pump systems are among the most energy efficient heating and cooling technologies. They reduce energy costs for consumers, reduce emissions, and minimize the impact of heating and cooling on the electric grid and fuel systems during extreme weather events. Congressional intent in enacting the increased investment tax credit for geothermal heat pump systems, included spurring third-party ownership through the use of innovative business models. However, the November 17, 2023, proposed U.S. Internal Revenue Service (IRS) regulations have the potential to impede the deployment of cost-effective geothermal heat pump systems. The proposed regulation prohibits the shared ownership of these systems for tax credit purposes – substantially limiting the beneficial leverage that private financing can deliver. Inexplicably, this means that if one taxpayer owns the ground loop portion of the system and another taxpayer owns the indoor heat pump equipment, neither can claim any portion of the tax credit.

By design, networked geothermal heat pump systems almost always involve multiple owners. The ground loop and the geothermal heat pump units are functionally interdependent and distinct components of the system. The viability of the networked geothermal heat pump system model rests on taxpayers’ ability to share ownership of the separate functions of the system. We urge the IRS to change the final rule to allow for third-party ownership and networked geothermal business models. The delineation between outdoor and indoor equipment is sufficient for clear application of the credit between taxpayers.

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Additionally, the proposed 80/20 rule on replacement equipment requires revision to accommodate the future growth of networked geothermal heat pump systems. Geothermal networks may grow over time, adding customer buildings and ground loop capacity as needed. An “expansion penalty” hinders adoption. We ask the IRS to revise the 80/20 test to support implementation of these systems.

Thank you for the opportunity to comment on the proposed regulation.

Best regards,

A handwritten signature in black ink, appearing to be 'DT', with a long, sweeping horizontal stroke extending to the right.

David Terry, President, NASEO

CC: State and Territory Energy Offices