

CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512www.energy.ca.gov

June 18, 2014

Ms. Jennifer Bernardini
Office of Associate Chief Counsel
Passthroughs and Special Industries
Internal Revenue Service
1111 Constitution Avenue NW
Washington, D.C. 20224

Dear Ms. Bernardini:

As you may recall, the California Energy Commission is an Equivalent Rating Network under IRS Notice 2008-35, as a state agency administering building energy efficiency standards. Please see the enclosed Energy Commission Order No. 08-910-11 documenting the findings supporting this authority, and the letters dated September 17, 2008, to you and Mr. Eric Solomon, Assistant Secretary, U.S. Department of the Treasury, informing you of the Energy Commission's status as an Equivalent Rating Network.

As Equivalent Rating Network, the Energy Commission is authorized to approve Equivalent Calculation Procedures for eligible certifiers to calculate dwelling unit energy consumption to determine eligibility for the New Energy Efficient Home Credit under Internal Revenue Code § 45L. Consistent with Section 4.01(7) of Notice 2008-35, the Energy Commission approved the software program, EnergyPro 4.4, developed by EnergySoft, LLC, for use in determining whether California's energy efficiency standards are satisfied. In 2007 EnergySoft submitted, and Residential Energy Services Network (RESNET) approved, EnergyPro 4.4 for New Energy Efficient Home Credit eligibility beginning with tax year 2007, based on RESNET Publication 06-001. RESNET's approval of EnergyPro 4.4 has continued to exist for each tax year thereafter through 2012.

Pursuant to Public Law 112-240, § 408, EnergyPro 4.8 revises EnergyPro 4.4 to change the "reference house" for tax credit purposes in accordance with chapter 4 of the 2006 International Energy Conservation Code; EnergyPro 4.8 makes no other changes to EnergyPro 4.4. EnergyPro 4.8 also has passed the tests that explicitly address software modeling accuracy that appear in Section 4.1.2 of RESNET Publication No. 13-001. Thus, EnergyPro, as revised to version 4.8, continues to produce comparable

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results obtained under the procedures prescribed in RESNET Publication No. 05-001 (Nov. 17, 2005) or No. 06-001 (June 1, 2006), and is an Equivalent Calculation Procedure, consistent with Section 4.01(6) of IRS Notice 2008-35. When the list of software programs specified in Section 5.01 of IRS Notice 2008-35 is next updated, the Energy Commission requests that EnergyPro 4.8 be included.

If you have any questions regarding this letter, please contact Mr. Pippin Brehler, Senior Attorney, Chief Counsels Office, California Energy Commission at Pippin.Brehler@energy.ca.gov or (916)654-5056.

Sincerely,

Signature On File
Robert P. Oglesby
Executive Director

Enclosures as required by Section 5.02 of IRS Notice 2008-35 (4)

This letter and the action it describes do not constitute any advice or position about: interpretation or terms of any agreement between EnergySoft, LLC and any other entity; applicability of any tax law, or: eligibility for any tax credit claimed by a particular taxpayer in a given instance. This letter is not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties that may be imposed on any taxpayer. It was not intended or written to be used to support the promotion or marketing of any transaction. Taxpayers should seek advice based on their particular circumstances from an independent tax advisor.