

**Statement for the Record**  
**by AGC Flat Glass North America**  
**Committee on Ways and Means**  
**Subcommittee on Select Revenue Measures and Subcommittee on Oversight**  
**Joint Hearing on Energy Tax Policy and Tax Reform**  
**September 22, 2011**

AGC Flat Glass North America would like to thank the Subcommittee on Select Revenue Measures and the Subcommittee on Oversight for their interest in the tax code's role in our nation's energy policy as this is an issue of consequence to our company.

AGC Flat Glass North America strongly believes that tax policy has an important role to play in supporting the nation's energy policy. Both should work to increase the nation's energy supply, encourage corporations and individuals to become more energy efficient, and reduce energy costs. Since 1916, energy tax incentives have advanced the national interest by supporting the energy sector, and this role should be continued. Therefore, as Congress considers fundamental tax reform, we urge it to consider reforms which make the nation's energy tax policy more efficient and effective at a lower cost to taxpayers. In order to accomplish this goal, AGC Flat Glass North America believes that the nation's energy tax policy should be based on sound science and technology neutral standards. Too often past energy tax incentives have strayed from these two core principles, resulting in an inefficient allocation of capital and lack of coordination amongst federal agencies' energy programs.

AGC Flat Glass North America

With thousands of employees in the U.S., AGC Flat Glass North America supplies high-quality products to the construction, specialty, solar and automotive glass markets through three strategic business units: Building Products; Solar Glass; and Automotive Glass. AGC Flat Glass North America offers one of the broadest product lines in the flat-glass industry – supporting a wide range of customer needs. AGC Flat Glass North America offers clear and tinted flat-glass products, energy efficient coated glass, reflective products, solar solutions, automotive glass, and specialty products such as patterned, acid-etched and painted glass. A leader in product innovation, AGC Flat Glass North America has designed and assembled an array of advanced products to address recent market demands for lower emissivity, increased solar control, enhanced solar panel performance, and improved clarity and visibility. AGC Flat Glass North America is committed to making high-quality, energy efficient glass products that continue to lead the way in the glass industry.

The Lessons of ARRA

AGC Flat Glass North America, like many other glass companies, was forced to deal with the unintended negative consequences of technology-specific language included in the American

Recovery and Reinvestment Act (ARRA). The Energy Policy Act of 2005 established section 25C's tax credit for nonbusiness energy property, which allowed homeowners to claim a 10% credit up to a maximum of \$500 for the costs of all their qualified energy efficient property improvements, with a \$200 cap for windows. ARRA enhanced the section 25C credit, allowing homeowners to claim a 30% credit up to a maximum of \$1500 for the costs of their qualified energy efficient property improvements, with no caps for individual types of property.<sup>1</sup> In the process of enhancing and extending the section 25C credit, however, ARRA established a technology-specific efficiency standard for windows which undermined the credit's goal of incentivizing energy efficiency.<sup>2</sup>

ARRA provided that only a unique and limited type of glass qualified for the \$1,500 replacement window tax credit. Under ARRA, windows must have had a U-factor and Solar Heat Gain Coefficient (SHGC) less than or equal to 0.30 to qualify for the credit. SHGC refers to the amount of solar heat that is admitted through a window. It is expressed as a number between 0 and 1. The lower a window's SHGC, the less solar heat it lets into a room. According to the Department of Energy (DOE), different SHGC levels are necessary to provide the optimum energy savings across various climates. For example, a higher SHGC will allow more solar heat into a home which helps alleviate energy use in colder climates. In warmer climates, a lower SHGC blocks solar heat alleviating air conditioning energy usage. Rather than specifying an energy savings goal or establishing technology-neutral standards, ARRA dictated that glass must possess a specific SHGC in order to qualify for the credit, ignoring the fact that depending on the homeowner's location, this criteria would not always advance the credit's energy savings goals.<sup>3</sup>

### *Technology-Neutrality Standards*

The technology standards established by ARRA were not technology neutral and did not reflect certain scientific realities that the DOE had uncovered through its own research. Prior to ARRA, the DOE, with input from interested stakeholders such as glass and window manufacturers and energy efficiency organizations, worked for over a year to determine whether or not allowing more solar heat into northern homes through windows would save energy. In-depth studies by DOE labs and private researchers concluded that in order to save the maximum amount of energy, northern climates should capitalize on passive solar heat by installing windows with a higher SHGC. According to the DOE, there were significant differences in what SHGC provides the lowest energy cost for households based on the regional climate.

Section 25C's language, as modified by ARRA, disregarded the DOE's expertise and research and implemented tax policy which did not achieve the highest possible amount of energy savings in certain climates. Indeed, ARRA's section 25C window criteria actually *cost* homeowners money in certain climates by incentivizing them to purchase windows eligible for the credit which were not best-suited to keep their homes a comfortable temperature in their specific

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<sup>1</sup> The \$1,500 is an aggregate cap applicable to windows and other qualified energy efficiency improvements such as doors, skylights, heat pumps and water heaters after February 17, 2009, and before January 1, 2011.

<sup>2</sup> Under ARRA, the tax credit applied to property placed in service after February 17, 2009, and prior to January 1, 2011.

<sup>3</sup> The updated 2010 Energy Star Criteria were not available when Congress enacted ARRA.

climates. Specifically, the ARRA tax credit encouraged northern homeowners to buy windows which did not save the maximum amount of energy for their climate: cool-climate homeowners spent more to purchase windows which save less energy than less expensive windows which are more suitable for their climate; consumers then pay more to heat their homes, using more energy and increasing carbon emissions.

In addition to the impact on individual consumers and the environment, the language of section 25C had a profound impact on the windows manufacturing sector. Jobs were lost at glass manufacturing companies which produced energy efficient glass for cool-climate windows, but which were not eligible for the section 25C credit under ARRA. Consequently, even though the credit was intended as a stimulative measure to combat the fiscal crisis of 2008, it actually resulted in the *loss* of jobs within the glass manufacturing industry. For example, as a result of the technology-specific language of the tax credit, demand for AGC Flat Glass North America's cool-climate windows fell, ultimately contributing to the closure of an AGC Flat Glass North America plant in Michigan.

### *Conflicting Federal Policies*

Additionally, ARRA's prescriptive section 25C windows criteria would eventually come to conflict with DOE policy. On April 7, 2009, two months after ARRA's enactment, the DOE's Energy Star program published final Energy Star criteria to take effect in January 2010 which set regional SHGC rates for windows based on climate. The Energy Star criteria, unlike the section 25C criteria, was developed through a process informed by scientific research, public meetings, comment periods, and reviews of comments by experts at the DOE.

Thus, the ARRA tax credit, which required that windows have a U-factor and SHGC less than or equal to 0.30, was at odds with the updated Energy Star criteria. As a result, the vast number of new window purchases in 2009 and 2010 were from the slice of the replacement window market that qualified for the ARRA tax credit, regardless of whether those windows were the most energy efficient choice for a particular home. The evidence supporting windows with a higher SHGC in the north (even in advance of the 2010 Energy Star Criteria) resulted in significant research and development investment by glass companies to diversify their product lines. This industry-wide effort was significantly undercut by section 25C's technology-specific language because consumers immediately focused on purchasing windows that were eligible for the enhanced federal tax credit. In many cases, these were the only windows consumers were interested in buying because receiving the tax credit drove their choice regardless of the windows' impact on the overall energy performance of their home.

Consequently, ARRA's modification of the section 25C credit had the unintended consequence of allowing tax policy to undermine the nation's energy policy. This separation of energy policy from tax policy resulted in significant confusion in the marketplace and lost jobs, not to mention tax credits for installation of windows which may not have been the most energy efficient for certain homes.

## The Section 25C Homeowners Tax Credit Today

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 corrected the windows tax credit criteria so that it comported with Energy Star standards. AGC Flat Glass North America applauded this change. However, in doing so, the credit was reduced to its pre-ARRA levels, providing a 10% credit with a \$200 cap for windows. The \$200 cap renders the tax credit completely ineffective. Replacing windows is a very expensive endeavor. A \$200 credit does not incentivize homeowners to replace their windows, but instead merely rewards those homeowners who were already going to replace their windows with the advantage of a \$200 tax credit. Consequently, under current law, taxpayer dollars are being spent with no impact on energy policy.

## AGC Flat Glass North America Recommendations

AGC Flat Glass North America supports continuing the section 25C tax incentive for energy efficient window upgrades. We also support using the Energy Star criteria as the criteria for the tax credit, ensuring that tax and energy policy remain aligned. However, in order to ensure the tax credit acts as an effective incentive to taxpayers, we advocate increasing the credit to a minimum of \$1000 and, preferably, \$1500, for the costs of taxpayers' qualified energy efficient property improvements.

Furthermore, as was made public by the May 18 report from the Treasury Inspector General for Tax Administration, compliance with the window tax credit has been problematic. AGC Flat Glass North America supports the strongest possible compliance efforts. We also believe that a windows tax credit which does not support the very visible Energy Star program leads to consumer confusion and unintended fraud in the system because consumers naturally assume that an Energy Star window would qualify for the tax credit.

Thank you again for your attention to this important issue. If AGC Flat Glass North America can be of any assistance to you, please do not hesitate to contact me.

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