

**Joint Statement of**  
**Air Conditioning Contractors of America (ACCA)**  
**Air-Conditioning, Heating, and Refrigeration Institute (AHRI)**  
**Heating, Airconditioning & Refrigeration Distributors International (HARDI)**

**Submitted for the joint hearing of the**

**Subcommittee on Select Revenue Measures  
and the  
Subcommittee on Oversight**

**Committee on Ways and Means  
U.S. House of Representatives  
on  
“Energy Tax Policy and Tax Reform”**

**September 22, 2011**

The Air Conditioning Contractors of America (ACCA), the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), and the Heating, Airconditioning & Refrigeration Distributors International (HARDI) appreciate the opportunity to submit this joint written statement for today’s hearing on “Energy Tax Policy and Tax Reform.”

Our three organizations represent the manufacturers, distributors, and installers of residential heating, ventilation, and air conditioning (HVAC) and hot water equipment, employing more than one and a half million workers who help homeowners enjoy the comforts and cost savings of higher efficiency appliances.

We hope this submission for the hearing record on federal energy tax incentives will assist the Committee on Ways and Means members in future policy decisions that impact small business owners and homeowners in these trying economic times.

**Nonbusiness Energy Property Credit (Section 25)**

Since 2006, Section 25C of the tax code has allowed eligible taxpayers to claim tax credits for qualified improvements designed to make their primary residence more energy efficient. The tax credits help defray the initial investments costs and shorten the payback period of qualified furnaces, central air conditioners and heat pumps, hot water heaters, and other energy savings appliances or building improvements.

The 25C tax credit was originally authorized in the Energy Policy Act of 2005 for tax years 2006 and 2007. At that time, lifetime claims were limited to \$500, with caps placed on individual appliances or retrofit measures.

The American Recovery and Reinvestment Act of 2009 (ARRA) renewed the tax credits for 2009 and 2010, with several important modifications, most significantly boosting the value of the tax credits to equal 30% of the installed costs, up to a \$1,500 limit. Other changes eliminated the lifetime cap on cumulative claims, making a homeowner eligible for claims each time the credit was renewed; and removal of the caps on individual appliances or retrofit measures.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 enacted last December extended the 25C tax credits for 2011 but at a significantly lower value for homeowners. The tax credit value was reduced to 10% of the installed costs, the \$500 credit limit was reinstated, as were the caps on individual appliance or retrofit measures.

When comparing the tax credits for residential HVAC appliances available to eligible taxpayers in 2009/2010 and 2011, the maximum amount a taxpayer could claim for a qualifying furnace was reduced from \$1,500 down to \$150. The maximum amount a homeowner could claim for a qualified central air conditioner, heat pump, or hot water heater was reduced from \$1,500 to \$300. In addition to these drastic drops a taxpayer is limited to a cap of \$500 credit over his/her lifetime for qualifying energy efficient upgrades.

### **Success of the 25C Tax Credits**

Surveys of ACCA contractors conducted in 2009 and 2010 found the 25C tax credits to be an effective financial incentive to encourage homeowners to reach for and obtain higher efficiency HVAC equipment while stimulating economic activity.

A key finding of the surveys demonstrate that the 25C tax credit helped homeowners afford products with a higher efficiency while helping the HVAC industry maintain a steady demand for its products and services, despite the severe economic downturn.

According to the surveys, 46% of ACCA's contractor members saw a "significant" increase in the sale of qualifying HVAC equipment after the passage of the stimulus bill. Another 32% saw a small increase in the sales of qualifying HVAC equipment. When taken in tandem, more than 75% of ACCA's contractor members saw some increase in the sale of qualifying higher efficiency furnaces, central air conditioners, heat pumps, and hot water heaters.

And even though 25C tax credits are aimed at individual taxpayers, these valuable incentives helped the small businesses of the HVACR industry.

Our survey had a number of positive comments from members:

“Without the stimulus bill for 95% efficient furnaces we would have had an extremely bad time of it last year. The stimulus helped us to stay in business and helped a lot of consumers as well.

“My business has grown and prospered through our down economy and my customers are more than ever more comfortable and saving more money month to month for the more precious things in life such as their children’s welfare.”

“It is crucial that these tax credits stay in effect as proposed and not cancelled prematurely.”

“Thank goodness for the tax credits or our business would have seen a much larger drop off as people’s spending habits changed whether out of concern for their jobs or due to the inability to obtain financing.”

“Last fall was my busiest season in the 30 years I have been in business. All of my equipment sold was top of the line high efficiency.”

“The tax incentive helped us not only survive a down year, but turn it into a reasonably profitable one.”

“Without the \$1500 tax credit, we would have had massive temporary and some permanent layoffs. Instead, we have been able to keep steady work during a traditionally slow time.”

Indeed, the higher value tax credits are helping homeowners elect to replace equipment that may be in need of repair, reversing a three year trend in the industry.

### **IRS Data**

According to IRS statistics, fully 93% of tax credit claims under 25C and 25D (for solar, geothermal, wind, and photovoltaic properties) were made by taxpayers who have an adjusted gross income of no more than \$200,000, which is indicative of a middle class tax program.

Examining the 2009 Estimated Data Line Counts for Individual Tax Returns gives a clear picture of how homeowners used \$1,500 residential energy tax credits in 2009.

Taxpayers use Form 5695 worksheet to claim one of several available residential energy credits. The taxpayer first calculates the total cost of qualified expenditures, reduces that amount by 30%, and compares that value with \$1,500. The taxpayer is eligible for tax credits equal to the lesser amount.

Data from the Form 5695 forms in 2009 tells us how many taxpayers claimed the residential energy tax credits; how many claimed a credit for the purchase of a qualified central air conditioner, heat pump, or hot water heater; a qualified furnace or hot water boiler, or an advanced main air circulating fan; and the total expenditures on these improvements.

In 2009, 6,753,885 households filed Form 5695 to claim a credit against their tax liability for installing some type of energy efficient appliance or retrofit measure in their primary home.

Of that total amount, 976,380 households claimed for purchasing and installing “energy efficient building property,” otherwise known as qualified central air conditioner, heat pump, and hot water heater totaling \$3,968,715,000 in expenditures

In 2009, 1,290,640 taxpayers claimed tax credits for “qualified natural gas, propane, or oil furnace or hot water boilers” and reported total expenditures of \$4,310,456,000.

And 221,274 taxpayers claimed some credit for an advanced main air circulating fan, with an aggregate expenditure amount of \$694,422,000.

For all retrofit measures and appliances that qualified for the tax credit, including energy efficient windows and door, insulation, and roofing materials, American taxpayers claimed \$5.17 billion in tax credits on \$25.1 billion worth of work. This is a significant number, especially when you consider that is only represents what was filed. What’s missing is the work performed for a taxpayer who ended up not being able to use the tax credit because it turned out they weren’t eligible.

The National Association of Home Builders estimates every \$100,000 in remodeling expenditures generates 1.11 full-time jobs.

### **25C Should Be Extended for 2012 At the 2009/2010 Levels**

The section 25C tax credits are set to expire at the end of this year and our three organizations recommend that Congress return the 25C credits to the 2009/2010 value so that taxpayers can continue to make energy efficient retrofits to their homes.

The extension should remove the lifetime cap on claims so that taxpayers who may have already claimed credits for improvements to their HVAC systems, windows and doors, insulation, or hot water heaters, should be eligible for qualified tax credits for other energy efficient improvements. Furthermore, the credit-eligible water heater levels should be divided into storage and tankless, to better reflect the advantages of both technologies and allow for more consumer choice.

As a result of changes made by ARRA, heating, ventilation, and air conditioning (HVAC) contractors saw an increase in the number of qualifying systems sold and installed in the United States. The 25C tax credit succeeded in helping millions of Americans afford higher quality and higher efficiency HVAC equipment, resulting in lower utility bills and more spending money, and improved indoor air quality for homeowners, fewer greenhouse gas emissions and the retirement of systems using refrigerants with a higher global warming potential, and a boost to the economy through the creation of jobs for HVAC equipment manufacturers, distributors, and installers.

Finally, we urge Congress to move to extend the 25C and other energy and small business related tax incentives well before they are set to expire. It hurts a small businesses ability to plan and compete. The entire HVAC supply chain budgets for purchasing and marketing months in advance. Not knowing whether or not there will be tax credits available to customers makes it very difficult for small businesses to plan ahead.

### **IG Report**

Our organizations are aware of the April 19, 2011 Department of Treasury's Inspector Generals Report that finds fault with IRS's ability to verify eligibility for the 25C and 25D tax credits.

The IRS could not verify whether individuals claiming Residential Energy Credits are entitled to them at the time their tax returns are processed. It is true that the IRS does not require individuals to submit any third-party documentation supporting the purchase of qualifying home improvement products and/or costs associated with making energy efficiency improvements or whether these qualified purchases and/or improvements were made to their principal residences. However, a taxpayer is required to retain a manufacturer's certificate verifying a products qualifying efficiency rating. In case of an IRS audit, the homeowner should be able to present such documentation.

While the report did note a number of deficiencies with the IRS process for establishing verification of eligibility for the credit, not being able to establish eligibility does not mean they were all illegitimate claims. In addition, the IRS notes that it can improve its processes to add additional safeguards and improve its ability to verify eligibility. The HVAC industry stands ready to assist the government in making sure that the credit is only going to those who truly deserve the benefit.

There are a variety of methods that should be explored to provide an identifying number or code that could be included on tax returns to help the IRS establish the eligibility of a product for the tax credit which could be implemented for use with electronic filing. As an industry, we are willing to continue to work with Congress and the IRS to improve the system of product verification and taxpayer eligibility.

### **Section 179**

Section 179D, the Commercial Building Tax Deduction, allows a \$1.80 per square foot tax deduction for building owners who make qualified improvements in overall performance. Unfortunately, the incentive falls short and is not meeting expectations. Although the deduction has been successfully used to build and retrofit some larger energy efficient buildings, the economic crisis has reduced the amount of building design, construction and renovations across the country. In addition, the deduction is based on energy consumption reductions compared to model building code ASHRAE 90.1 2004, which some older builders do not meet without major and expensive retrofits. Furthermore, the expensive nature of many HVAC and water heating upgrades require major initial outlays of capital, another difficult hurdle in today's difficult economy.

Our organizations support the passage of legislation to increase the maximum allowable deduction from \$1.80 per square foot to \$3.00 per square foot (\$1.00 in the case of individual subsystems) to create jobs. Furthermore, allowing deductions or tax credits for specific HVAC and water heating components such as chillers, boilers, or roof top units, combined with an allowable square footage deduction of \$3.00, Congress could immediately stimulate building design, construction, and renovation across the country, spurring job creation in every state and region, while enhancing our energy independence and improving our nation's infrastructure for the 21st century.

Submitted by:

Name: Guido Zucconi

Organization (if applicable): Air-Conditioning, Heating and Refrigeration Institute

Address: 2111 Wilson Boulevard, Suite 500, Arlington, VA 22201

Phone Number: 703-600-0316

Contact E-mail Address: [gzuconi@ahrinet.org](mailto:gzuconi@ahrinet.org)

Name: Charlie McCrudden

Organization (if applicable): Air Conditioning Contractors of America

Address: 2800 Shirlington Road Suite 300 Arlington, VA 22206

Phone Number: 703-575-4477

Contact E-mail Address: [charlie.mccrudden@acca.org](mailto:charlie.mccrudden@acca.org)

Name: Jonathan Melchi

Organization: Heating, Airconditioning & Refrigeration Distributors International

Address: 3455 Mill Run Drive, Suite 820 Columbus, OH 43026

Phone Number: 614-345-HEAT(4328)

Contact E-mail Address: [jmelchi@hardinet.org](mailto:jmelchi@hardinet.org)

Name: Mark Riso

Organization: Plumbing, Heating, Cooling Contractors

Address: 180 S. Washington Street - P.O. Box 6808 - Falls Church, VA 22046

Phone Number: 703-237-8100

Contact E-mail Address: [riso@naphcc.org](mailto:riso@naphcc.org)