

110TH CONGRESS
2D SESSION

H. R. 6741

To amend the Internal Revenue Code of 1986 to modify and extend certain energy-related tax credits.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. ISRAEL introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to modify and extend certain energy-related tax credits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXTENSION AND MODIFICATION OF RENEW-**
4 **ABLE ENERGY PRODUCTION TAX CREDIT.**

5 (a) EXTENSION OF CREDIT.—Each of the following
6 provisions of section 45(d) of the Internal Revenue Code
7 of 1986 (relating to qualified facilities) is amended by
8 striking “January 1, 2009” and inserting “January 1,
9 2019”:

10 (1) Paragraph (1).

- 1 (2) Clauses (i) and (ii) of paragraph (2)(A).
 2 (3) Clauses (i)(I) and (ii) of paragraph (3)(A).
 3 (4) Paragraph (4).
 4 (5) Paragraph (5).
 5 (6) Paragraph (6).
 6 (7) Paragraph (7).
 7 (8) Paragraph (8).
 8 (9) Subparagraphs (A) and (B) of paragraph
 9 (9).

10 (b) PRODUCTION CREDIT FOR ELECTRICITY PRO-
 11 DUCED FROM MARINE RENEWABLES.—

12 (1) IN GENERAL.—Paragraph (1) of section
 13 45(c) of such Code (relating to resources) is amend-
 14 ed by striking “and” at the end of subparagraph
 15 (G), by striking the period at the end of subpara-
 16 graph (H) and inserting “, and”, and by adding at
 17 the end the following new subparagraph:

18 “(I) marine and hydrokinetic renewable en-
 19 ergy.”.

20 (2) MARINE RENEWABLES.—Subsection (c) of
 21 section 45 of such Code is amended by adding at the
 22 end the following new paragraph:

23 “(10) MARINE AND HYDROKINETIC RENEW-
 24 ABLE ENERGY.—

1 “(A) IN GENERAL.—The term ‘marine and
2 hydrokinetic renewable energy’ means energy
3 derived from—

4 “(i) waves, tides, and currents in
5 oceans, estuaries, and tidal areas,

6 “(ii) free flowing water in rivers,
7 lakes, and streams,

8 “(iii) free flowing water in an irriga-
9 tion system, canal, or other man-made
10 channel, including projects that utilize non-
11 mechanical structures to accelerate the
12 flow of water for electric power production
13 purposes, or

14 “(iv) differentials in ocean tempera-
15 ture (ocean thermal energy conversion).

16 “(B) EXCEPTIONS.—Such term shall not
17 include any energy which is derived from any
18 source which utilizes a dam, diversionary struc-
19 ture (except as provided in subparagraph
20 (A)(iii)), or impoundment for electric power
21 production purposes.”.

22 (3) DEFINITION OF FACILITY.—Subsection (d)
23 of section 45 of such Code is amended by adding at
24 the end the following new paragraph:

1 “(11) MARINE AND HYDROKINETIC RENEW-
2 ABLE ENERGY FACILITIES.—In the case of a facility
3 producing electricity from marine and hydrokinetic
4 renewable energy, the term ‘qualified facility’ means
5 any facility owned by the taxpayer—

6 “(A) which has a nameplate capacity rat-
7 ing of at least 150 kilowatts, and

8 “(B) which is originally placed in service
9 on or after the date of the enactment of this
10 paragraph and before January 1, 2010.”.

11 (4) CREDIT RATE.—Subparagraph (A) of sec-
12 tion 45(b)(4) of such Code is amended by striking
13 “or (9)” and inserting “(9), or (11)”.

14 (5) COORDINATION WITH SMALL IRRIGATION
15 POWER.—Paragraph (5) of section 45(d) of such
16 Code, as amended by subsection (a), is amended by
17 striking “January 1, 2019” and inserting “the date
18 of the enactment of paragraph (11)”.

19 (c) SALES OF ELECTRICITY TO REGULATED PUBLIC
20 UTILITIES TREATED AS SALES TO UNRELATED PER-
21 SONS.—Section 45(e)(4) of such Code (relating to related
22 persons) is amended by adding at the end the following
23 new sentence: “A taxpayer shall be treated as selling elec-
24 tricity to an unrelated person if such electricity is sold to

1 a regulated public utility (as defined in section
2 7701(a)(33)).”.

3 (d) TRASH FACILITY CLARIFICATION.—Paragraph
4 (7) of section 45(d) of such Code is amended—

5 (1) by striking “facility which burns” and in-
6 serting “facility (other than a facility described in
7 paragraph (6)) which uses”, and

8 (2) by striking “COMBUSTION”.

9 (e) EFFECTIVE DATES.—

10 (1) EXTENSION.—The amendments made by
11 subsection (a) shall apply to property originally
12 placed in service after December 31, 2008.

13 (2) MODIFICATIONS.—The amendments made
14 by subsections (b) and (c) shall apply to electricity
15 produced and sold after the date of the enactment
16 of this Act, in taxable years ending after such date.

17 (3) TRASH FACILITY CLARIFICATION.—The
18 amendments made by subsection (d) shall apply to
19 electricity produced and sold before, on, or after De-
20 cember 31, 2007.

21 **SEC. 2. EXTENSION AND MODIFICATION OF SOLAR ENERGY**

22 **AND FUEL CELL INVESTMENT TAX CREDIT.**

23 (a) EXTENSION OF CREDIT.—

24 (1) SOLAR ENERGY PROPERTY.—Paragraphs

25 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the

1 Internal Revenue Code of 1986 (relating to energy
2 credit) are each amended by striking “January 1,
3 2009” and inserting “January 1, 2019”.

4 (2) FUEL CELL PROPERTY.—Subparagraph (E)
5 of section 48(c)(1) of such Code (relating to quali-
6 fied fuel cell property) is amended by striking “De-
7 cember 31, 2008” and inserting “December 31,
8 2018”.

9 (3) QUALIFIED MICROTURBINE PROPERTY.—
10 Subparagraph (E) of section 48(c)(2) of such Code
11 (relating to qualified microturbine property) is
12 amended by striking “December 31, 2008” and in-
13 serting “December 31, 2018”.

14 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
15 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
16 38(c)(4) of such Code (relating to specified credits) is
17 amended by striking “and” at the end of clause (iii), by
18 striking the period at the end of clause (iv) and inserting
19 “, and”, and by adding at the end the following new
20 clause:

21 “(v) the credit determined under section 46 to the
22 extent that such credit is attributable to the energy credit
23 determined under section 48.”.

24 (c) REPEAL OF DOLLAR PER KILOWATT LIMITATION
25 FOR FUEL CELL PROPERTY.—

1 (1) IN GENERAL.—Section 48(c)(1) of such
2 Code (relating to qualified fuel cell), as amended by
3 subsection (a)(2), is amended by striking subpara-
4 graph (B) and by redesignating subparagraphs (C),
5 (D), and (E) as subparagraphs (B), (C), and (D),
6 respectively.

7 (2) CONFORMING AMENDMENT.—Section
8 48(a)(1) of such Code is amended by striking “para-
9 graphs (1)(B) and (2)(B) of subsection (c)” and in-
10 sserting “subsection (c)(2)(B)”.

11 (d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN
12 INTO ACCOUNT.—

13 (1) IN GENERAL.—Paragraph (3) of section
14 48(a) of such Code is amended by striking the sec-
15 ond sentence thereof.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Paragraph (1) of section 48(e) of such
18 Code, as amended by this section, is amended
19 by striking subparagraph (C) and redesignating
20 subparagraph (D) as subparagraph (C).

21 (B) Paragraph (2) of section 48(e) of such
22 Code, as amended by subsection (a)(3), is
23 amended by striking subparagraph (D) and re-
24 designating subparagraph (E) as subparagraph
25 (D).

1 (e) EFFECTIVE DATES.—

2 (1) EXTENSION.—The amendments made by
3 subsection (a) shall take effect on the date of the en-
4 actment of this Act.

5 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
6 IMUM TAX.—The amendments made by subsection
7 (b) shall apply to credits determined under section
8 46 of the Internal Revenue Code of 1986 in taxable
9 years beginning after the date of the enactment of
10 this Act and to carrybacks of such credits.

11 (3) FUEL CELL PROPERTY AND PUBLIC ELEC-
12 TRIC UTILITY PROPERTY.—The amendments made
13 by subsections (c) and (d) shall apply to periods
14 after the date of the enactment of this Act, in tax-
15 able years ending after such date, under rules simi-
16 lar to the rules of section 48(m) of the Internal Rev-
17 enue Code of 1986 (as in effect on the day before
18 the date of the enactment of the Revenue Reconcili-
19 ation Act of 1990).

20 **SEC. 3. EXTENSION AND MODIFICATION OF RESIDENTIAL**
21 **ENERGY EFFICIENT PROPERTY CREDIT.**

22 (a) EXTENSION.—Subsection (g) of section 25D of
23 the Internal Revenue Code of 1986 (relating to termi-
24 nation) is amended by striking “December 31, 2008” and
25 inserting “December 31, 2018”.

1 (b) NO DOLLAR LIMITATION FOR CREDIT FOR
2 SOLAR ELECTRIC PROPERTY.—

3 (1) IN GENERAL.—Section 25D(b)(1) of such
4 Code (relating to maximum credit) is amended by
5 striking subparagraph (A) and by redesignating sub-
6 paragraphs (B) and (C) as subparagraphs (A) and
7 (B), respectively.

8 (2) CONFORMING AMENDMENTS.—Section
9 25D(e)(4) of such Code is amended—

10 (A) by striking clause (i) in subparagraph

11 (A),

12 (B) by redesignating clauses (ii) and (iii)
13 in subparagraph (A) as clauses (i) and (ii), re-
14 spectively, and

15 (C) by striking “, (2),” in subparagraph

16 (C).

17 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
18 IMUM TAX.—

19 (1) IN GENERAL.—Subsection (c) of section
20 25D of such Code is amended to read as follows:

21 “(c) LIMITATION BASED ON AMOUNT OF TAX;

22 CARRYFORWARD OF UNUSED CREDIT.—

23 “(1) LIMITATION BASED ON AMOUNT OF
24 TAX.—In the case of a taxable year to which section
25 26(a)(2) does not apply, the credit allowed under

1 subsection (a) for the taxable year shall not exceed
2 the excess of—

3 “(A) the sum of the regular tax liability
4 (as defined in section 26(b)) plus the tax im-
5 posed by section 55, over

6 “(B) the sum of the credits allowable
7 under this subpart (other than this section) and
8 section 27 for the taxable year.

9 “(2) CARRYFORWARD OF UNUSED CREDIT.—

10 “(A) RULE FOR YEARS IN WHICH ALL
11 PERSONAL CREDITS ALLOWED AGAINST REG-
12 ULAR AND ALTERNATIVE MINIMUM TAX.—In
13 the case of a taxable year to which section
14 26(a)(2) applies, if the credit allowable under
15 subsection (a) exceeds the limitation imposed by
16 section 26(a)(2) for such taxable year reduced
17 by the sum of the credits allowable under this
18 subpart (other than this section), such excess
19 shall be carried to the succeeding taxable year
20 and added to the credit allowable under sub-
21 section (a) for such succeeding taxable year.

22 “(B) RULE FOR OTHER YEARS.—In the
23 case of a taxable year to which section 26(a)(2)
24 does not apply, if the credit allowable under
25 subsection (a) exceeds the limitation imposed by

1 paragraph (1) for such taxable year, such ex-
2 cess shall be carried to the succeeding taxable
3 year and added to the credit allowable under
4 subsection (a) for such succeeding taxable
5 year.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 23(b)(4)(B) of such Code is
8 amended by inserting “and section 25D” after
9 “this section”.

10 (B) Section 24(b)(3)(B) of such Code is
11 amended by striking “and 25B” and inserting
12 “, 25B, and 25D”.

13 (C) Section 25B(g)(2) of such Code is
14 amended by striking “section 23” and inserting
15 “sections 23 and 25D”.

16 (D) Section 26(a)(1) of such Code is
17 amended by striking “and 25B” and inserting
18 “25B, and 25D”.

19 (d) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply to taxable years beginning
22 after December 31, 2007.

23 (2) APPLICATION OF EGTRRA SUNSET.—The
24 amendments made by subparagraphs (A) and (B) of
25 subsection (c)(2) shall be subject to title IX of the

1 Economic Growth and Tax Relief Reconciliation Act
2 of 2001 in the same manner as the provisions of
3 such Act to which such amendments relate.

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