

Energy-related Tax Incentives in the “2008 Energy Act”

The “Energy Improvement and Extension Act of 2008” (the 2008 Energy Act), which was enacted on Oct. 3, 2008, includes a package of energy-related tax incentives designed to spur investment and create jobs in the renewable energy industry. Here's an overview of the key energy provisions in the new legislation:

Extension and modification of production tax credit. The renewable energy production tax credit is extended through 2009 in the case of wind and refined coal, and through 2010 in the case of other sources. The types of facilities qualifying for the credit are expanded to include new biomass facilities and those that generate electricity from marine renewables (e.g., waves and tides).

Long-term extension of energy credit. The 30% investment tax credit for solar energy property and qualified fuel cell property, as well as the 10% investment tax credit for microturbines, are extended through 2016. The cap for qualified fuel cells is increased, and small commercial wind is added as a category of qualified investment. A new 10% investment tax credit is provided for combined heat and power systems and geothermal heat pumps. These credits may be used to offset the alternative minimum tax (AMT).

Long-term extension and modification of the residential energy-efficient property credit. The credit for residential solar property is extended through 2016, and the credit cap (\$2,000 under pre-2008 Energy Act law) for solar electric investments is *removed*. Residential small wind investment, capped at \$4,000, and geothermal heat pumps, capped at \$2,000, are added as qualifying property. The credit may be used to offset the AMT.

Carbon capture and sequestration demonstration projects. The new law provides \$1.5 billion in new tax credits for the creation of advanced coal electricity projects and certain coal gasification projects that demonstrate the greatest potential for carbon capture and sequestration technology.

CO2 capture credit. The new law provides a credit of \$10 per ton for the first 75 million metric tons of CO2 captured and transported from an industrial source for use in enhanced oil recovery and \$20 credit per ton for CO2 captured and transported from an industrial source for permanent storage underground.

Plug-in electric drive vehicle credit. Consumers could collect a **tax credit** of **\$2,500 to \$7,500** for the purchase of a *plug-in electric car or light truck, depending on the capacity of the battery*. The credit is available against the AMT.

Bicycle commuters. Employers are allowed to provide employees who commute to work by bicycle limited fringe benefits to offset the costs of such commuting (e.g., storage).

Expansion of allowance for cellulosic biofuels property. The provision allowing taxpayers to immediately write off 50% of the cost of facilities that produce cellulosic biofuels is expanded to include production of other cellulosic biofuels in addition to cellulosic ethanol.

Extension of biodiesel production tax credit; extension and modification of renewable diesel tax credit. The \$1.00 per gallon production tax credit for biodiesel and the 10¢/gallon credit for small biodiesel producers are extended through 2009. The \$1.00 per gallon production tax credit for diesel fuel created from biomass is also extended. Biodiesel imported and sold for export is not eligible for the credit effective May 15, 2008.

Extension and expansion of the alternative refueling stations credit. The 30% credit for alternative refueling property, such as natural gas or E85 pumps, is extended through 2010. Electric vehicle recharging property is added to the types of property eligible for the credit. The credit for hydrogen refueling property is unchanged.

Percentage depletion for marginal wells. The suspension on the taxable income limit for purposes of depreciating a marginal oil or gas well is extended for 2009.

Extension and modification of credit for energy-efficiency improvements to existing homes. The tax credit for energy-efficient existing homes is extended for 2009 and is expanded to include energy-efficient biomass fuel stoves as a new class of energy-efficient property eligible for a consumer tax credit of \$300.

Extension of energy-efficient buildings deduction. The law allowing taxpayers to deduct the cost of energy-efficient property installed in commercial buildings is extended through 2013.

Extension of credit for energy-efficiency improvements to new homes. The provision allowing contractors to receive a credit for the construction of energy-efficient new homes is extended through 2009.

Modification and extension of energy-efficient appliance credit. The provision allowing manufacturers to receive a tax credit for the production of energy-efficient appliances is extended through 2010, and the credit's standards and amounts are increased.

Accelerated depreciation for smart meters and smart grid systems. The depreciable life of such property is reduced from 20 years to 10 years.

Investments in recycling. Taxpayers can claim accelerated depreciation for purchases of equipment used to collect, distribute or recycle a variety of commodities.

Revenue raisers. The energy changes are offset by: mandatory basis reporting to IRS by brokers on transactions involving publicly traded securities; freezing the Code Sec. 199 manufacturing deduction at 6% (the deduction had been scheduled to increase to 9% in 2010 under pre-2008 Energy Act law) for domestic manufacturing activities of major American oil and gas companies; extending the FUTA surtax through 2010; tightening the rules by which oil and gas companies pay taxes on income earned overseas; and making general fund monies available with increased payments into the oil spill liability trust fund as new drilling is considered.

I hope this information is helpful. If you would like more details about these changes, or any other aspects of the new law, please do not hesitate to write, email or call.

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