



NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

**Division B - Tax, Unemployment, Health, State Fiscal Relief, & Other Provisions  
in the American Recovery and Reinvestment Act of 2009 -  
Title I - Tax Provisions**

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| <b>Public Law 111-5</b>                                       |  |   |
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| <b>Subtitle A - Tax Relief for Individuals &amp; Families</b> |  |   |
| <b>Part I - General Tax Relief</b>                            | Making work pay credit                         | <ul style="list-style-type: none"> <li>• Provision applies to taxable years beginning after December 31, 2008</li> <li>• Provides eligible individuals a refundable income tax credit for two years, which is either the lesser of 6.2% of an individual's earned income or \$400 (\$800 in the case of a joint return).</li> <li>• If an individual's adjusted gross income is over \$75,000 (\$150,000 in the case of a joint return), then the credit is phased out at a rate of 2% of that individual's income that exceeds \$75,000 (\$150,000).</li> <li>• Eligible individuals include anyone who is not a nonresident alien, an individual who is claimed as a dependent on another's taxes, and an estate or trust.</li> <li>• Amount is reduced by the amount of any payment received under the Veterans Administration, Railroad Retirement Board, &amp; Social Security Administration &amp; temporary refundable tax credit for certain government retirees.</li> <li>• Each tax return must include the social security number of the taxpayer</li> </ul> |
|   | Temporary increase in earned income tax credit | <ul style="list-style-type: none"> <li>• Provision applies to taxable years beginning after December 31, 2008</li> <li>• EITC increase up to 45% for taxpayers with 3 or more children</li> <li>• Increases the threshold phase-out amounts for married couples filing joint returns to \$5,000 above the threshold phase-out amounts for singles, surviving spouses, &amp; heads of households, for 2009 &amp; 2010                             <ul style="list-style-type: none"> <li>○ Begins to phase down at a rate of 15.98% of earnings above \$16,420 (or \$21,420 if married filing jointly)</li> </ul> </li> </ul>  |

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|                                      |   | <ul style="list-style-type: none"> <li>○ Phases down to \$0 at \$35,463 of earnings (or \$40,463 if married filing jointly)</li> </ul>  |
|                                      | Temporary increase of refundable portion of child credit                      | <ul style="list-style-type: none"> <li>● Provision applies to taxable years beginning after December 31, 2008</li> <li>● Refundable child credit is calculated to apply to 15% of earned income in excess of \$3,000 for taxable years beginning in 2009 &amp; 2010</li> </ul>  |
| Subtitle B - Energy Incentives       |   |   |
| Part I - Renewable Energy Incentives | Extension of credit for Electricity Produced from Certain Renewable Resources | <ul style="list-style-type: none"> <li>● Extends the period during which qualified facilities producing electricity from wind, closed-loop biomass, open-loop biomass, geothermal energy, municipal solid waste, &amp; qualified hydropower may be placed in service for purposes of the electricity production credit by 3 years (through 2013, except 2012 for wind facilities).</li> <li>● Extends the placed-in-service period for marine &amp; hydrokinetic renewable energy resources two years (through 2013)</li> <li>● Technical amendment to definition of small irrigation power facility - clarifies its integration into the definition of marine &amp; hydrokinetic renewable energy facility</li> <li>● Effective for property placed into service after the date of enactment</li> <li>● Technical amendment effective as if included in section 102 of the Energy Improvement &amp; Extension Act of 2008</li> </ul> |
|                                      | Election of Investment Credit In Lieu of Production Credit                    | <ul style="list-style-type: none"> <li>● Provision applies to taxable years beginning after December 31, 2008</li> <li>● Taxpayer is allowed to make an irrevocable election to have certain facilities placed in service through 2013 (or 2012 for wind facilities) be treated as energy property eligible for a 30% investment credit under section 48.</li> <li>● A taxpayer electing to treat a facility as energy property may not claim the production credit under section 45 production tax credit.</li> <li>● Property eligible for the credit is tangible personal or other tangible property (not including a building or its structural components), &amp; with respect to which depreciation or amortization is allowable but only if such property is used as an integral part of the qualified facility</li> </ul>   |
|                                      | Repeal of Certain Limitations on Credit for Renewable Energy Property         | <ul style="list-style-type: none"> <li>● Eliminates the credit cap applicable to qualified small wind energy property</li> <li>● Removes the rule that reduces the basis of the property for purposes of claiming the credit if the property is financed in whole or in part by subsidized energy financing or with proceeds from private activity bonds</li> <li>● Provision applies to taxable years beginning after December 31, 2008, under rules similar to rules of section 48(m) of the Code.</li> </ul>   |
|                                      | Coordination with Renewable Energy Grants                                     | <ul style="list-style-type: none"> <li>● Clarifies the qualifying property must be depreciable or amortizable to be eligible for a grant</li> <li>● Permits taxpayers to claim the credit with respect to otherwise eligible property that is not placed in service in 2009 &amp; 2010 so long as construction begins in either of those years &amp; is completed prior to <ul style="list-style-type: none"> <li>○ 2013 for wind facility</li> <li>○ 2014 for other renewable power facility property eligible for credit under section 45</li> </ul> </li> </ul>  |

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|   |   | <ul style="list-style-type: none"> <li>○ 2017 for any specified energy property described in section 48</li> <li>• Grant amount is 30% of the basis of the property that would be eligible for credit under section 48 or comprise a section 45 credit-eligible facility</li> <li>• Grant amount is 10% of the basis of the property for qualified microturbine, combined heat &amp; power system, and geothermal heat pump property</li> <li>• Provision is to mimic the operation of the credit under section 48</li> <li>• No renewable electricity credit or energy credit may be claimed with respect to the grant eligible property if grant is paid</li> <li>• No Federal, State, local government, any political subdivision, agency, or instrumentality thereof, or any section 501(c) tax-exempt entity may be awarded such a grant</li> <li>• Secretary of the Treasury will administer grant program</li> <li>• Applications must be received no later than October 1, 2011.</li> <li>• Effective upon date of enactment.</li> </ul> |
| Part II - Increased Allocations of New Clean Renewable Energy Bonds & Qualified Energy Conservation Bonds | Increased Limitation on Issuance of New Clean Renewable Energy Bonds    | <ul style="list-style-type: none"> <li>• \$1.6 Billion additional for national new clean renewable energy bond limitation</li> <li>• Allocated by the Secretary of Energy</li> <li>• Applies to obligations issued after date of enactment</li> </ul>  |
|   | Increased Limitation on Issuance of Qualified Energy Conservation Bonds | <ul style="list-style-type: none"> <li>• \$3.2 billion</li> <li>• expands present-law qualified energy conservation bond program</li> <li>• includes use of loans, grants, or other repayment mechanisms to implement capital expenditures to implement green community programs <ul style="list-style-type: none"> <li>○ Enables States to issue such tax credit bond to finance retrofits of existing private buildings through loans and/or grants to individual homeowners or businesses, or through other repayment mechanisms</li> <li>○ Can include periodic fees assessed on a government bill or utility that approximates the energy savings of energy efficiency or conservation retrofits</li> <li>○ Retrofits can include heating, cooling, lighting, water-saving, storm water-reducing, or other efficiency measures.</li> </ul> </li> <li>• Bonds issued for such purposes will not be treated as a private activity bond.</li> <li>• Effective upon date of enactment</li> </ul>  |
| Part III - Energy Conservation Incentives   | Extension & Modification of Credit for Nonbusiness Energy Property      | <ul style="list-style-type: none"> <li>• Raises credit rate to 30%</li> <li>• All energy property otherwise eligible for the \$50, \$100, or \$150 credits is instead eligible for a 30% credit on expenditures for such property.</li> <li>• Extends the provision for one year, through December 31, 2010</li> <li>• Replaces \$500 lifetime cap (and \$200 lifetime cap with respect to windows) with an aggregate cap of \$1,500 in the case of property placed in service after December 31, 2008 &amp; prior to January 1, 2011</li> <li>• Eliminates subsidized energy financing.</li> </ul>  |

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|           |  | <ul style="list-style-type: none"> <li>• Updates the building insulation requirements to follow the prescriptive criteria of the 2009 International Energy Conservation Code</li> <li>• Qualifying exterior windows, doors, &amp; skylights must have a U-factor at or below 0.30 &amp; a seasonal heat gain coefficient ("SHGC") at or below 0.30</li> <li>• Electric heat pumps must achieve the highest efficiency tier of Consortium for Energy Efficiency, as in effect on January 1, 2009. <ul style="list-style-type: none"> <li>○ SEER greater than or equal to 15, EER greater than or equal to 12.5, &amp; HSPF greater than or equal to 8.5 for split heat pumps</li> <li>○ SEER greater than or equal to 14, EER greater than or equal to 12, &amp; HSPF greater than or equal to 8.0 for packaged heat pumps</li> </ul> </li> <li>• Central air conditioners must achieve the highest efficiency tier of Consortium for Energy Efficiency, as in effect on January 1, 2009 <ul style="list-style-type: none"> <li>○ SEER greater than or equal to 16 &amp; EER greater than or equal to 14 for split systems</li> <li>○ SEER greater than or equal to 14 &amp; EER greater than or equal to 12 for packaged systems</li> </ul> </li> <li>• Natural gas, propane, or oil water heaters must have an energy factor greater than or equal to 0.82 or a thermal efficiency of greater than or equal to 90%. <ul style="list-style-type: none"> <li>○ Natural gas, propane, or oil water boilers must achieve an annual fuel utilization efficiency rate of at least 90</li> <li>○ Qualified oil furnaces must achieve an annual fuel utilization efficiency rate of at least 90</li> </ul> </li> <li>• Biomass fuel property must have a thermal efficiency rating of at least 75% as measured using a lower heating value.</li> <li>• Provision is generally effective for taxable years beginning after December 31, 2008.</li> <li>• New efficiency standards for qualifying property, other than those for biomass fuel property, apply to property placed in to service after the date of enactment.</li> <li>• Modification with respect to biomass fuel property is effective for taxable years beginning after December 31, 2008.</li> </ul> |
|           | Modification of Credit for Residential Energy Efficient Property             | <ul style="list-style-type: none"> <li>• Eliminates credit caps for solar hot water, geothermal, &amp; wind property</li> <li>• Eliminates reduction in credits for property using subsidized energy financing</li> <li>• Applies to taxable years beginning after December 31, 2008.</li> </ul>  |
|           | Temporary Increase in Credit for Alternative Fuel Vehicle Refueling Property | <ul style="list-style-type: none"> <li>• Modifications for property placed into service in 2009 or 2010 that does not relate to hydrogen <ul style="list-style-type: none"> <li>○ Credit rate of 50% instead of 30%</li> <li>○ Maximum credit available of \$50,000 instead of \$30,000</li> <li>○ Maximum credit rate available for nonbusiness property of \$2,000 instead of \$1,000</li> </ul> </li> <li>• Increases maximum credit for such property that does relate to hydrogen from \$30,000 to \$200,000</li> <li>• Applies to taxable years beginning after December 31, 2008.</li> </ul>   |
| Part IV - | Application of   | <ul style="list-style-type: none"> <li>• In order to qualify for \$10 per metric ton credit, carbon dioxide used as a tertiary injectant &amp;</li> </ul>   |

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| Modification of Credit For Carbon Dioxide Sequestration | Monitoring Requirements to Carbon Dioxide Used as a Tertiary Injectant                 | <p>otherwise eligible for credit be sequestered by the taxpayer in permanent geological storage</p> <ul style="list-style-type: none"> <li>• Permanent geological storage includes oil &amp; gas reservoirs, unminable coal seams, &amp; deep saline formations</li> <li>• Secretary of Treasury must consult with the Secretaries of Energy &amp; Interior &amp; the Administrator of the EPA when promulgating such regulations</li> <li>• Effective after date of enactment</li> </ul>  |
| Part V - Plug-In Electric Drive Motor Vehicles          | Credit for New Qualified Plug-In Electric Drive Motor Vehicles                         | <ul style="list-style-type: none"> <li>• Creates a new 10% credit for low-speed vehicles, motorcycles, &amp; three-wheeled vehicles that would otherwise meet the criteria of a qualified plug-in electric drive motor vehicles except for the fact that they are low-speed vehicles or do not have at least 4 wheels. <ul style="list-style-type: none"> <li>○ \$2,500 - maximum credit available for electric drive low-speed vehicles, motorcycles, &amp; three-wheeled vehicles.</li> <li>○ If vehicle draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, then another \$417 is added for each additional kilowatt hour of capacity up until \$5,000.</li> <li>○ Part of a general business credit</li> <li>○ Credit not available for vehicles sold after December 31, 2011</li> </ul> </li> </ul>                           |
|   | Credit for Certain Plug-In Electric Vehicles   | <ul style="list-style-type: none"> <li>• Limits maximum credit to \$7,500 for plug-in electric drive vehicles regardless of vehicle weight <ul style="list-style-type: none"> <li>○ Eliminates credit for low speed plug-in vehicles &amp; for plug-in vehicles weighing 14,000 pounds or more</li> <li>○ 200,000 plug-in vehicles per manufacturer limitation instead of 250,000 limitation</li> <li>○ Credit phases out over 4 calendar quarters beginning the second calendar quarter following the quarter in which the manufacturer limit is reached <ul style="list-style-type: none"> <li>▪ 50% for first 2 calendar quarters</li> <li>▪ 25% for 3<sup>rd</sup> &amp; 4<sup>th</sup> calendar quarters</li> <li>▪ 0% for each calendar quarter thereafter</li> </ul> </li> </ul> </li> <li>• Effective for vehicles acquired after December 31, 2009</li> </ul> |
|   | Conversion Kits  | <ul style="list-style-type: none"> <li>• Creates a new 10% credit of up to \$4,000 for the cost of converting any motor vehicle into a qualified plug-in electric drive motor vehicle <ul style="list-style-type: none"> <li>○ Increases the minimum capacity of a qualified battery module to 4 kilowatt-hours</li> <li>○ Applies to property placed in service after the date of enactment</li> <li>○ Eliminates credit for plug-in conversions made after December 31, 2011.</li> <li>○ Lessors of battery modules cannot claim the plug-in conversion credit.</li> </ul> </li> </ul>   |
|   | Treatment of Alternative Motor Vehicle Credit as a Personal Credit Allowed Against AMT | <ul style="list-style-type: none"> <li>• Provides that alternative motor vehicle credit is a personal credit allowed against the alternative minimum tax</li> <li>• Effective for taxable years beginning after December 31, 2008</li> </ul>   |

Credit for investment in advanced energy facilities

- \$300 million increase in amount of credits that may be allocated by the Secretary, to \$2.3 billion
- Establishes a 30% credit for investment in qualified property used in a qualified advanced energy manufacturing project.
- Such a project is one that re-equips, expands, or establishes a manufacturing facility for the production of property designed to be used to produce
  - energy from the sun, wind, or geothermal deposits (within the meaning of section 613(e)(9)), or other renewable sources;
  - fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles;
  - electric grids to support the transmission of intermittent sources of renewable energy, including storage of such energy;
  - property designed to capture & sequester carbon dioxide;
  - property designed to refine or blend renewable fuels, but not fossil fuels, or to produce energy conservation technologies, including energy-conserving lighting technologies and smart-grid technologies;
  - other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary;
  - projects designed to manufacture any new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)), any specified vehicle (as defined by section 30D(f)(2)); or
  - any component which is designed specifically for use with such vehicles, including any electric motor, generator, or power control unit
- Qualified property must be depreciable, or amortizable, property used in a qualified advanced energy project
- Property designed to manufacture equipment for the use in refining or blending of any transportation fuel other than renewable is not applicable
- Basis of qualified property must be reduced by the amount of credit received
- Projects must be certified by the Secretary of Treasury in consultation with the Secretary of Energy
- Secretary of Treasury must establish a certification program no later than 180 days after date of enactment
- Projects to be selected must have a reasonable expectation of commercial viability.
- Selection criteria that must be considered:
  - Provide greatest domestic job creation
  - Provide greatest net impact in avoiding or reducing air pollutants or anthropogenic emissions of greenhouse gases
  - Have the greatest potential for technological innovation
  - Have greatest potential for commercial deployment
  - Have lowest levelized cost of generated or stored energy, or of measured reduction in energy consumption or greenhouse gas emission
  - Have the shortest project time from certification to completion.
- Project applications must be submitted within two years of date that certification program is established
- Project applicants must provide evidence that the certification requirements have been met within one year after Secretary accepts application
- Projects must be placed in service within three years of date of issuance of enactment of the certification
- Secretary must review the credit allocations within four years from the date of enactment of the credit
  - At this point, Secretary may redistribute any credits that were not used either because of a revoked certification or because of an insufficient quantity of credit applications

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|   | <ul style="list-style-type: none"><li>• Clarifies that the only tangible personal property &amp; other tangible property is credit-eligible, but not including a building or its structural components.</li></ul>   |
| Subtitle G - Other Provisions                               |   |
| Grants for specified energy property in lieu of tax credits | <ul style="list-style-type: none"><li>• Eliminates credit cap applicable to qualified small wind energy property</li><li>• Removes the rule that reduces the basis of the property for purposes of claiming the credit if the property is financed in whole or in part by subsidized energy financing or with proceeds from private activity bonds</li><li>• Effective after December 31, 2008, under rules similar to the rules of section 48(m) of the Code, or in effect on the day before the enactment of the Revenue Reconciliation Act of 1990</li></ul> |