Lev Buslovich

Subject: Congress Extends Renewable Tax Credits

Importance: High

The tax credit energy efficient buildings was included in the bail out bill. Here is the section below that pertains to the EPAct of 2005 extension and lighting.

IV. ENERGY CONSERVATION AND EFFICIENCY

Extension of Energy-Efficient Buildings Deduction. Current law allows taxpayers to deduct the cost of energy-efficient property installed in commercial buildings. The amount deductible is up to $1.80 per square foot of building floor area for buildings achieving a 50 percent energy savings target. This bill extends the energy-efficient commercial buildings deduction for five years, through December 31, 2013

Congress Extends Renewable Tax Credits in Wall Street Rescue Bill

In passing the Emergency Economic Stabilization Act of 2008 today, the House of Representatives extended a number of tax credits set to expire at the end of this year. Congress has struggled for much of this session to find a way to extend these credits. And as late as last week, there was real concern that Congress would be unable to extend the credits before the end of the year. But in a last-minute effort to save the rescue bill, the renewable tax extenders were added as "sweeteners" to secure additional House votes. In addition to the extension of the renewable production and investment tax credits, Congress also included provisions to support clean coal technologies, carbon capture, and renewable fuels. The President has committed to signing the rescue bill.

The key energy provisions in the bill are summarized below:

I. RENEWABLE ENERGY INCENTIVES

Extension and Modification of Production Tax Credit. The bill extends the placed-in-service date for the Section 45 production tax credit ("PTC") through December 31, 2009 in the case of wind and refined coal, and through December 31, 2010 in the case of closed-loop biomass; open-loop biomass; geothermal; small irrigation; landfill gas; waste-to-energy facilities; and qualified hydropower. The bill expands the scope of the PTC to include new units placed at existing closed-loop and open-loop biomass facilities. The bill updates the definition of refined coal (eliminates the increased market value test and increases emissions reduction requirements), the definition of a trash combustion facility (to apply to a facility that "uses" waste to generate electricity), and the definition of a non-hydroelectric dam. The bill extends the PTC to include facilities that generate electricity from marine and hydrokinetic renewable energy (waves, tides, currents, free flowing water, and ocean thermal energy conversion),

CONTACTS

Philip H. Spector
Partner
212.704.6004

Bonnie A. Suchman
Of Counsel
202.274.2908

Kevin C. Greene
Energy Practice Group Leader
404.885.3146

Clifford "Cliff" S. Sikora
Energy Practice Group Leader
202.274.2966

Mark A. Goldsmith
Tax Practice Group Leader
212.704.6255

> Energy Practice
> Tax Practice
> Troutman Sanders Web site

with a place-in-service date of December 31, 2011. The bill does not include any changes to the calculation of the PTC or cap on the credit, which had been included in prior legislative proposals.

Long-term Extension of Energy Credit. The bill extends the 30% investment tax credit ("ITC") for solar energy property and qualified fuel cell property, as well as the 10% ITC for microturbines, for property placed in service before January 1, 2017. The bill increases the $500 per half kilowatt of capacity cap for qualified fuel cells to $1,500 per half kilowatt of capacity, and adds small commercial wind as a category of qualified investment. The bill also provides a new 10% ITC for combined heat and power systems and geothermal heat pumps. The bill allows the ITC to be used to offset the alternative minimum tax (AMT). The bill allows regulated utilities to claim the ITC for qualifying property owned by the utility. The long-term extension of the ITC for solar is expected to spur investment in PV panel manufacturing plants and in utility-scale concentrated solar power projects in the United States.

Sales of Electric Transmission Property. The bill extends the present-law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Rather than recognizing the full amount of gain in the year of sale, this provision allows gain on such sales to be recognized ratably over an 8-year period. The rule applies to sales before January 1, 2010.

New Clean Renewable Energy Bonds ("CREBs"). The bill authorizes $800 million of new clean renewable energy bonds to finance facilities that generate electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, qualified hydropower, landfill gas, marine renewable and trash combustion facilities. This $800 million authorization is subdivided into thirds: 1/3 for qualifying projects of State/local/tribal governments; 1/3 for qualifying projects of public power providers; and 1/3 for qualifying projects of electric cooperatives. The bill also extends the termination date for existing CREBs by one year.

II. CARBON MITIGATION AND COAL PROVISIONS

Carbon Capture and Sequestration (CCS) Demonstration Projects. The bill provides $1.5 billion in new tax credits for the creation of advanced coal electricity projects (Section 48A) and certain coal gasification projects (Section 48B) that demonstrate the greatest potential for carbon capture and sequestration (CCS) technology. Of these $1.5 billion of incentives, $1.25 billion will be awarded to advanced coal electricity projects, and $250 million will be awarded to coal gasification projects. These tax credits will be awarded by the Department of Treasury through an application process, with applicants that demonstrate the greatest CO_2 sequestration percentage receiving the highest priority. Applications will not be considered unless they can demonstrate that either their advanced coal electricity project would capture and sequester at least 65% of the facility's CO_2 emissions or that their coal gasification project would capture and sequester at least 75% of the facility's CO_2 emissions. Once these credits are awarded, recipients failing to meet these minimum levels of carbon capture and sequestration would forfeit these tax credits. The bill also clarifies that gasification projects producing transportation grade liquid fuels are eligible under Section 48B.

CO_2 Capture Credit. The bill provides a $10 credit per ton for the first 75 million metric tons of CO_2 captured and transported from an industrial source for use in enhanced oil or natural gas recovery and $20 credit per ton for CO_2

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captured and transported from an industrial source for permanent storage in a geologic formation. Qualifying facilities must capture at least 500,000 metric tons of CO_2 per year. The credit applies to CO_2 captured and disposed of or used in the United States. The tax credit shall be adjusted for inflation.

Carbon Audit of the Tax Code. The bill directs the Secretary of the Treasury to enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the tax code to identify the types of specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

III. TRANSPORTATION AND DOMESTIC FUEL SECURITY

Expansion of Allowance for Cellulosic Biofuels Property. Under current law, taxpayers are allowed to immediately write off 50% of the cost of facilities that produce cellulosic ethanol if such facilities are placed in service before January 1, 2013. The bill makes the benefit available for the 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 bill extends the $1.00 per gallon production tax credits for biodiesel and the 10 cents/gallon credit for small agri-biodiesel producer credit through 2009. The bill also extends for one year (through December 31, 2009) the $1.00 per gallon production tax credit for diesel fuel created from biomass. The bill eliminates the current-law disparity in credit for biodiesel and agri-biodiesel, and eliminates the requirement that renewable diesel fuel must be produced using a thermal depolymerization process. As a result, the credit will be available for any diesel fuel created from biomass without regard to the process used, so long as the fuel is usable as home heating oil, as a fuel in vehicles, or as aviation jet fuel. Diesel fuel created by co-processing biomass with other feedstocks (e.g., petroleum) will be eligible for the 50 cent per gallon tax credit for alternative fuels. Biodiesel imported and sold for export will not be eligible for the credit effective May 15, 2008.

Extension and Modification of Alternative Fuel Credit. The bill extends the alternative fuel excise tax credit under Section 6426 through December 31, 2009 for all fuels except hydrogen (which maintains its current-law expiration date of September 30, 2014). Beginning October 1, 2009, qualified fuel derived from coal through the Fischer-Tropsch process must be produced at a facility that separates and sequesters at least 50 percent of its CO_2 emissions. This sequestration requirement increases to 75 percent on December 31, 2009. The proposal further provides that biomass gas versions of liquefied petroleum gas and liquefied or compressed natural gas and aviation fuels qualify for the credit.

Publicly Traded Partnership Income Treatment of Alternative Fuels. The bill permits publicly traded partnerships to treat the income derived from the transportation or storage of certain alternative fuels, as well as anthropogenic CO_2, as qualifying income for purposes of the publicly traded partnership rules.

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Accelerated Depreciation for Smart Meters and Smart Grid Systems. The bill provides accelerated depreciation for smart electric meters and smart electric grid equipment. Under current law, taxpayers are generally able to recover the cost of this property over a 20-year period. The bill allows taxpayers to recover the cost of this property over a 10-year period, unless the property already qualified under a shorter recovery schedule.

For more information, please contact:

Philip Spector
212.704.6004
phil.spector@troutmansanders.com

Bonnie Suchman
202.274.2908
bonnie.suchman@troutmansanders.com