

112TH CONGRESS
1ST SESSION

H. R. 2231

To amend the Internal Revenue Code of 1986 to terminate the ethanol tax credits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2011

Mrs. NOEM (for herself, Mr. BERG, and Mr. SCHOCK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to terminate the ethanol tax credits, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Ethanol Modernization
5 and Deficit Reduction Act”.

6 **SEC. 2. TERMINATION OF ETHANOL TAX CREDITS.**

7 (a) EXCISE TAX CREDIT AND DIRECT PAYMENTS.—
8 Sections 6426(b)(6) and 6427(e)(6)(A) of the Internal

1 Revenue Code of 1986 are each amended by striking “De-
2 cember 31, 2011” and inserting “June 30, 2011”.

3 (b) INCOME TAX CREDIT.—Paragraph (1) of section
4 40(e) of such Code is amended—

5 (1) by striking “December 31, 2011” in sub-
6 paragraph (A) and inserting “June 30, 2011”, and

7 (2) by striking “January 1, 2012” in subpara-
8 graph (B) and inserting “July 1, 2011”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to any sale, use, or removal for
11 any period after June 30, 2011.

12 **SEC. 3. EXTENSION AND MODIFICATION OF ALTERNATIVE**
13 **FUEL VEHICLE REFUELING PROPERTY CRED-**
14 **IT.**

15 (a) EXTENSION.—Subsection (g) of section 30C of
16 the Internal Revenue Code of 1986 is amended by striking
17 “placed in service—” and all that follows and inserting
18 “placed in service after the earlier of December 31, 2016,
19 or the date on which the Secretary certifies that at least
20 53,000 qualified alternative fuel refueling properties
21 (other than properties described in subsection (c)(2)(C))
22 have been placed in service.”.

23 (b) ONLY CERTAIN ETHANOL BLENDS ELIGIBLE
24 FOR CREDIT.—Subparagraph (A) of section 30C(c)(2) of

1 the Internal Revenue Code of 1986 is amended to read
2 as follows:

3 “(A) Any fuel—

4 “(i) at least 85 percent of the volume
5 of which consists of one or more of the fol-
6 lowing: natural gas, compressed natural
7 gas, liquified natural gas, liquefied petro-
8 leum gas, or hydrogen, or

9 “(ii) at least 85 percent of the volume
10 of which consists of—

11 “(I) ethanol, or

12 “(II) ethanol and gasoline or one
13 or more of the fuels described in
14 clause (i), but only if at least 15 per-
15 cent and not more than 85 percent of
16 the volume of such fuel consists of
17 ethanol.”.

18 (c) CREDIT FOR DUAL-USE REFUELING PROP-
19 erty.—Subsection (e) of section 30C of the Internal Rev-
20 enue Code of 1986 is amended by adding at the end the
21 following new paragraph:

22 “(6) DUAL-USE REFUELING PROPERTY.—

23 “(A) IN GENERAL.—In the case of any
24 dual-use refueling property, 100 percent of the
25 cost of such property shall be treated as quali-

1 fied alternative fuel refueling property if the
2 taxpayer certifies, in such time and manner as
3 the Secretary shall prescribe, that such prop-
4 erty will be used in more than a de minimis ca-
5 pacity for the purposes described in section
6 179A(d)(3)(A) (applied as specified in sub-
7 section (c)(2)).

8 “(B) RECAPTURE.—If at any time within
9 5 years after the date of the certification under
10 subparagraph (A) the dual-use refueling prop-
11 erty ceases to be used as required under such
12 subparagraph, 100 percent of the cost of such
13 property shall be subject to recapture under
14 paragraph (5).

15 “(C) DUAL-USE REFUELING PROPERTY.—
16 For purposes of this paragraph, the term ‘dual-
17 use refueling property’ means property that is
18 both qualified alternative fuel vehicle refueling
19 property and property used—

20 “(i) to store or dispense fuels not de-
21 scribed in subsection (c)(2), or

22 “(ii) to store fuels described in sub-
23 section (c)(2) for any purpose other than
24 delivery of such fuel into the fuel tank of
25 a motor vehicle.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 June 30, 2011.

4 **SEC. 4. EXTENSION OF CELLULOSIC BIOFUEL PRODUCER**
5 **CREDIT THROUGH 2014.**

6 Subparagraph (H) of section 40(b)(6) of the Internal
7 Revenue Code of 1986 is amended by striking “January
8 1, 2013” and inserting “January 1, 2015”.

9 **SEC. 5. EXTENSION OF SPECIAL DEPRECIATION ALLOW-**
10 **ANCE FOR CELLULOSIC BIOFUEL PLANT**
11 **PROPERTY.**

12 Subparagraph (D) of section 168(l)(2) of the Internal
13 Revenue Code of 1986 is amended by striking “January
14 1, 2013” and inserting “January 1, 2015”.

15 **SEC. 6. ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR**
16 **PURPOSES OF THE CELLULOSIC BIOFUEL**
17 **PRODUCER CREDIT, ETC.**

18 (a) IN GENERAL.—Subclause (I) of section
19 40(b)(6)(E)(i) of the Internal Revenue Code of 1986 is
20 amended to read as follows:

21 “(I) is derived solely by, or from,
22 qualified feedstocks, and”.

23 (b) QUALIFIED FEEDSTOCK; SPECIAL RULES FOR
24 ALGAE.—Paragraph (6) of section 40(b) of the Internal
25 Revenue Code of 1986, as amended by this Act, is amend-

1 ed by redesignating subparagraphs (F) and (G) as sub-
2 paragraphs (H) and (I), respectively, and by inserting
3 after subparagraph (E) the following new subparagraphs:

4 “(F) QUALIFIED FEEDSTOCK.—For pur-
5 poses of this paragraph, the term ‘qualified
6 feedstock’ means—

7 “(i) any lignocellulosic or
8 hemicellulosic matter that is available on a
9 renewable or recurring basis, and

10 “(ii) any cultivated algae,
11 cyanobacteria, or lemna.

12 “(G) SPECIAL RULES FOR ALGAE.—In the
13 case of fuel which is derived by, or from, feed-
14 stock described in subparagraph (F)(ii) and
15 which is sold by the taxpayer to another person
16 for refining by such other person into a fuel
17 which meets the requirements of subparagraph
18 (E)(i)(II)—

19 “(i) such sale shall be treated as de-
20 scribed in subparagraph (C)(i),

21 “(ii) such fuel shall be treated as
22 meeting the requirements of subparagraph
23 (E)(i)(II) in the hands of such taxpayer,
24 and

1 “(iii) except as provided in this sub-
2 paragraph, such fuel (and any fuel derived
3 from such fuel) shall not be taken into ac-
4 count under subparagraph (C) with respect
5 to the taxpayer or any other person.”.

6 (c) ALGAE TREATED AS A QUALIFIED FEEDSTOCK
7 FOR PURPOSES OF BONUS DEPRECIATION FOR BIOFUEL
8 PLANT PROPERTY.—

9 (1) IN GENERAL.—Subparagraph (A) of section
10 168(l)(2) of the Internal Revenue Code of 1986 is
11 amended by striking “solely to produce cellulosic
12 biofuel” and inserting “solely to produce second gen-
13 eration biofuel (as defined in section 40(b)(6)(E))”.

14 (2) CONFORMING AMENDMENTS.—Subsection
15 (l) of section 168 of such Code, as amended by this
16 Act, is amended—

17 (A) by striking “cellulosic biofuel” each
18 place it appears in the text thereof and insert-
19 ing “second generation biofuel”,

20 (B) by striking paragraph (3) and redesign-
21 ating paragraphs (4) through (8) as para-
22 graphs (3) through (7), respectively,

23 (C) by striking “CELLULOSIC” in the
24 heading of such subsection and inserting “SEC-
25 OND GENERATION”, and

1 (D) by striking “CELLULOSIC” in the head-
2 ing of paragraph (2) and inserting “SECOND
3 GENERATION”.

4 (d) CONFORMING AMENDMENTS.—

5 (1) Section 40 of the Internal Revenue Code of
6 1986, as amended by this Act, is amended—

7 (A) by striking “cellulosic biofuel” each
8 place it appears in the text thereof and insert-
9 ing “second generation biofuel”,

10 (B) by striking “CELLULOSIC” in the
11 headings of subsections (b)(6), (b)(6)(E), and
12 (d)(3)(D) and inserting “SECOND GENERA-
13 TION”, and

14 (C) by striking “CELLULOSIC” in the head-
15 ings of subsections (b)(6)(C), (b)(6)(D),
16 (b)(6)(H), (d)(6), and (e)(3) and inserting
17 “SECOND GENERATION”.

18 (2) Clause (ii) of section 40(b)(6)(E) of such
19 Code is amended by striking “Such term shall not”
20 and inserting “The term ‘second generation biofuel’
21 shall not”.

22 (3) Paragraph (1) of section 4101(a) of such
23 Code is amended by striking “cellulosic biofuel” and
24 inserting “second generation biofuel”.

25 (e) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to fuels sold or used after the date of the
4 enactment of this Act.

5 (2) APPLICATION TO BONUS DEPRECIATION.—
6 The amendments made by subsection (c) shall apply
7 to property placed in service after the date of the en-
8 actment of this Act.

9 **SEC. 7. BUDGETARY EFFECTS.**

10 (a) PAYGO SCORECARD.—The budgetary effects of
11 this Act (and the amendments made by this Act) shall not
12 be entered on either PAYGO scorecard maintained pursu-
13 ant to section 4(d) of the Statutory Pay-As-You-Go Act
14 of 2010.

15 (b) SENATE PAYGO SCORECARD.—The budgetary
16 effects of this Act (and the amendments made by this Act)
17 shall not be recorded on any PAYGO scorecard main-
18 tained for purposes of section 201 of S. Con. Res. 21
19 (110th Congress).

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