

112TH CONGRESS
1ST SESSION

S. 1093

To amend the Internal Revenue Code of 1986 to provide that solar energy property need not be located on the property with respect to which it is generating electricity in order to qualify for the residential energy efficient property credit.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2011

Mr. UDALL of Colorado introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide that solar energy property need not be located on the property with respect to which it is generating electricity in order to qualify for the residential energy efficient property credit.

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 “Solar Uniting Neigh-
5 borhoods (SUN) Act of 2011”.

1 **SEC. 2. CLARIFICATION WITH RESPECT TO LOCATION OF**
2 **SOLAR ELECTRIC PROPERTY.**

3 (a) IN GENERAL.—Paragraph (2) of section 25D(d)
4 of the Internal Revenue Code of 1986 is amended to read
5 as follows:

6 “(2) QUALIFIED SOLAR ELECTRIC PROPERTY
7 EXPENDITURE.—

8 “(A) IN GENERAL.—The term ‘qualified
9 solar electric property expenditure’ means an
10 expenditure for property which uses solar en-
11 ergy to generate electricity—

12 “(i) for use in a dwelling unit located
13 in the United States and used as a resi-
14 dence by the taxpayer, or

15 “(ii) which enters the electrical grid at
16 any point which is not more than 50 miles
17 from the point at which such a dwelling
18 unit used as a residence by the taxpayer is
19 connected to such grid, but only if such
20 property is not used in a trade or business
21 of the taxpayer or in an activity with re-
22 spect to which a deduction is allowed to
23 the taxpayer under section 162 or para-
24 graph (1) or (2) of section 212.

25 “(B) RECAPTURE.—The Secretary may
26 provide for the recapture of the credit under

1 this subsection with respect to any property de-
 2 scribed in clause (ii) of subparagraph (A) which
 3 ceases to satisfy the requirements of such
 4 clause.”.

5 **(b) LIMITATION WITH RESPECT TO OFF-SITE SOLAR**
 6 **PROPERTY.**—Subsection (b) of section 25D of the Internal
 7 Revenue Code of 1986 is amended by adding at the end
 8 the following new paragraph:

9 **“(3) MAXIMUM CREDIT FOR OFF-SITE SOLAR**
 10 **PROPERTY.**—In the case of any qualified solar elec-
 11 tric property expenditure which is such an expendi-
 12 ture by reason of clause (ii) of subsection (d)(2)(A),
 13 the credit allowed under subsection (a) (determined
 14 without regard to subsection (c)) for any taxable
 15 year with respect to all such expenditures shall not
 16 exceed \$50,000.”.

17 **(c) EFFECTIVE DATE.**—The amendments made by
 18 this section shall apply to taxable years beginning after
 19 the date of the enactment of this Act.

20 **SEC. 3. CLARIFICATION WITH RESPECT TO LOCATION OF**
 21 **SOLAR WATER HEATING PROPERTY.**

22 **(a) IN GENERAL.**—Section 25D(d)(1) of the Internal
 23 Revenue Code of 1986 is amended—

24 (1) by striking “The term” and inserting the
 25 following:

1 “(A) IN GENERAL.—The term”, and

2 (2) by adding at the end the following new sub-
3 paragraph:

4 “(B) OFF-SITE PROPERTY.—

5 “(i) IN GENERAL.—Such term shall
6 include an expenditure for property de-
7 scribed in subparagraph (A) notwith-
8 standing—

9 “(I) whether such property is lo-
10 cated on the same site as the dwelling
11 unit for which the energy generated
12 from such property is used, and

13 “(II) whether the energy gen-
14 erated by such property displaces the
15 energy used to heat the water load or
16 space heating load for the dwelling, so
17 long as any such displacement from
18 such property occurs not more than
19 50 miles from such dwelling unit,

20 but only if such property is not used in a
21 trade or business of the taxpayer or in an
22 activity with respect to which a deduction
23 is allowed to the taxpayer under section
24 162 or paragraph (1) or (2) of section
25 212.

1 “(ii) RECAPTURE.—The Secretary
2 may provide for the recapture of the credit
3 under this subsection with respect to any
4 property described in clause (i) which
5 ceases to satisfy the requirements of such
6 clause.”.

7 (b) LIMITATION WITH RESPECT TO OFF-SITE SOLAR
8 PROPERTY.—Paragraph (3) of section 25D(b) of the In-
9 ternal Revenue Code of 1986, as added by section 2, is
10 amended to read as follows:

11 “(3) MAXIMUM CREDIT FOR OFF-SITE SOLAR
12 PROPERTY.—In the case of—

13 “(A) any qualified solar electric property
14 expenditure which is such an expenditure by
15 reason of clause (ii) of subsection (d)(2)(A),
16 and

17 “(B) any qualified solar water heating
18 property expenditure which is such an expendi-
19 ture by reason of subparagraph (B) of sub-
20 section (d)(1),

21 the credit allowed under subsection (a) (determined
22 without regard to subsection (c)) for any taxable
23 year with respect to all such expenditures shall not
24 exceed \$50,000.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 4. EXCLUSION OF INCOME FROM QUALIFYING SALES.**

5 (a) IN GENERAL.—Part III of subchapter B of chap-
6 ter 1 is amended by inserting before section 140 the fol-
7 lowing new section:

8 **“SEC. 139F. INCOME FROM QUALIFYING SALES OF SOLAR**
9 **ELECTRICITY.**

10 “For any taxable year, gross income of any person
11 shall not include any gain from the sale or exchange to
12 the electrical grid during such taxable year of electricity
13 which is generated by property with respect to which any
14 qualified solar electric property expenditures are eligible
15 to be taken into account under section 25D, but only to
16 the extent such gain does not exceed the value of the elec-
17 tricity used at such residence during such taxable year.”.

18 (b) TECHNICAL AMENDMENT.—The Internal Rev-
19 enue Code of 1986 is amended by redesignating the sec-
20 tion added to such Code by section 10108(f) of the Patient
21 Protection and Affordable Care Act as section 139E, and
22 by locating such section immediately after section 139D
23 of such Code (as added by section 9021(a) of such Act)
24 and immediately before section 139F of such Code (as
25 added by this section).

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for part III of subchapter B of chapter 1 of such Code
3 is amended by striking all that follows after the item relat-
4 ing to section 139C and inserting the following items:

“Sec. 139D. Indian health care benefits.

“Sec. 139E. Free choice vouchers.

“Sec. 139F. Income from qualifying sales of solar electricity.

“Sec. 140. Cross references to other Acts.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 the date of the enactment of this Act.

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