

107TH CONGRESS
1ST SESSION

H. R. 778

To amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2001

Mr. CUNNINGHAM (for himself, Mr. MARKEY, Mr. LEWIS of California, Mr. HUNTER, Mrs. CAPPS, Mrs. BONO, Mr. FARR of California, Mr. ISSA, Mr. GEORGE MILLER of California, Mr. DREIER, Mr. BALDACCI, Mr. BASS, Mr. FRANK, Mr. HORN, Mr. FILNER, Mr. MALONEY of Connecticut, Mr. PASCRELL, Mr. HINCHEY, Mr. BOEHLERT, Mr. ALLEN, Mr. LEWIS of Georgia, and Ms. DELAURO) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

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. INCENTIVE FOR CERTAIN ENERGY EFFICIENT**
4 **PROPERTY USED IN BUSINESS.**

5 (a) IN GENERAL.—Part VI of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following new section:

1 **“SEC. 199. ENERGY PROPERTY DEDUCTION.**

2 “(a) IN GENERAL.—There shall be allowed as a de-
3 duction for the taxable year an amount equal to the sum
4 of—

5 “(1) the amount determined under subsection
6 (b) for each energy property of the taxpayer placed
7 in service during such taxable year, and

8 “(2) the energy efficient commercial building
9 amount determined under subsection (f).

10 **“(b) AMOUNT FOR ENERGY PROPERTY.—**

11 “(1) IN GENERAL.—The amount determined
12 under this subsection for the taxable year for each
13 item of energy property shall equal the amount spec-
14 ified for such property in the following table:

| Description of property: | Allowable amount is: |
|--|--|
| Elected solar hot water property | \$1.00 per each kwh/year of sav- ings. |
| Photovoltaic property | \$4.50 per peak watt. |
| Natural gas heat pump described in subsection (d)(2)(C). | \$3,000. |
| Tier 2 energy-efficient building property (other than a natural gas heat pump). | \$1,500. |
| Tier 1 energy-efficient building property | \$750. |

15 “(2) ELECTED SOLAR HOT WATER PROP-
16 erty.—In the case of elected solar hot water prop-
17 erty, the taxpayer may elect to substitute ‘\$21 per
18 annual Therm of natural gas savings’ for ‘\$1.00 per

1 each kwh/year of savings’ in the table contained in
2 paragraph (1).

3 “(c) ENERGY PROPERTY DEFINED.—

4 “(1) IN GENERAL.—For purposes of this part,
5 the term ‘energy property’ means any property—

6 “(A) which is—

7 “(i) solar energy property,

8 “(ii) Tier 2 energy-efficient building
9 property, or

10 “(iii) Tier 1 energy-efficient building
11 property,

12 “(B)(i) the construction, reconstruction, or
13 erection of which is completed by the taxpayer,
14 or

15 “(ii) which is acquired by the taxpayer if
16 the original use of such property commences
17 with the taxpayer,

18 “(C) with respect to which depreciation (or
19 amortization in lieu of depreciation) is allow-
20 able, and

21 “(D) which meets the performance and
22 quality standards, and the certification require-
23 ments (if any), which—

24 “(i) have been prescribed by the Sec-
25 retary by regulations (after consultation

1 with the Secretary of Energy or the Ad-
2 ministrator of the Environmental Protec-
3 tion Agency, as appropriate),

4 “(ii) in the case of the energy effi-
5 ciency ratio (EER)—

6 “(I) require measurements to be
7 based on published data which is test-
8 ed by manufacturers at 95 degrees
9 Fahrenheit, and

10 “(II) do not require ratings to be
11 based on certified data of the Air
12 Conditioning and Refrigeration Insti-
13 tute, and

14 “(iii) are in effect at the time of the
15 acquisition of the property.

16 “(2) SOLAR ENERGY PROPERTY.—In the case
17 of—

18 “(A) elected solar hot water property, the
19 regulations under paragraph (1)(D) shall be
20 based on the OG–300 Standard for the Annual
21 Performance of OG–300 Certified Systems of
22 the Solar Rating and Certification Corporation,
23 and

24 “(B) photovoltaics, such regulations shall
25 be based on the ASTM Standard E 1036 and

1 E 1036M–96 Standard Test Method for Elec-
 2 tric Performance of Nonconcentrator Terres-
 3 trial Photovoltaic Modules and Arrays Using
 4 Reference Cells,

5 to the extent the Secretary determines such stand-
 6 ards carry out the purposes of this section.

7 “(3) EXCEPTION.—Such term shall not include
 8 any property which is public utility property (as de-
 9 fined in section 46(f)(5) as in effect on the day be-
 10 fore the date of the enactment of the Revenue Rec-
 11 onciliation Act of 1990).

12 “(d) DEFINITIONS RELATING TO TYPES OF ENERGY
 13 PROPERTY.—For purposes of this section—

14 “(1) SOLAR ENERGY PROPERTY.—

15 “(A) IN GENERAL.—The term ‘solar en-
 16 ergy property’ means equipment which uses
 17 solar energy—

18 “(i) to generate electricity, or

19 “(ii) to provide hot water for use in a
 20 structure.

21 “(B) ELECTED SOLAR HOT WATER PROP-
 22 erty.—

23 “(i) IN GENERAL.—The term ‘elected
 24 solar hot water property’ means property
 25 which is solar energy property by reason of

1 subparagraph (A)(ii) and for which an
2 election under this subparagraph is in ef-
3 fect.

4 “(ii) ELECTION.—For purposes of
5 clause (i), a taxpayer may elect to treat
6 property described in clause (i) as elected
7 solar hot water property.

8 “(C) PHOTOVOLTAIC PROPERTY.—The
9 term ‘photovoltaic property’ means solar energy
10 property which uses a solar photovoltaic process
11 to generate electricity.

12 “(D) SWIMMING POOLS, ETC., USED AS
13 STORAGE MEDIUM.—The term ‘solar energy
14 property’ shall not include a swimming pool,
15 hot tub, or any other energy storage medium
16 which has a function other than the function of
17 such storage.

18 “(E) SOLAR PANELS.—No solar panel or
19 other property installed as a roof (or portion
20 thereof) shall fail to be treated as solar energy
21 property solely because it constitutes a struc-
22 tural component of the structure on which it is
23 installed.

1 “(2) TIER 2 ENERGY-EFFICIENT BUILDING
2 PROPERTY.—The term ‘Tier 2 energy-efficient build-
3 ing property’ means—

4 “(A) an electric heat pump water heater
5 that yields an energy factor of 1.7 or greater,

6 “(B) an electric heat pump that has a
7 heating seasonal performance factor (HSPF) of
8 9 or greater and a seasonal energy efficiency
9 ratio (SEER) of 15 or greater and an energy
10 efficiency ratio (EER) of 12.5 or greater,

11 “(C) a natural gas heat pump that has a
12 coefficient of performance of not less than 1.25
13 for heating and not less than 0.70 for cooling,

14 “(D) a central air conditioner that has a
15 seasonal energy efficiency ratio (SEER) of 15
16 or greater and a EER of 12.5 or greater, and

17 “(E) a natural gas water heater that has
18 an energy factor of at least 0.80.

19 “(3) TIER 1 ENERGY-EFFICIENT BUILDING
20 PROPERTY.—The term ‘Tier 1 energy-efficient build-
21 ing property’ means—

22 “(A) an electric heat pump that has a
23 heating system performance factor (HSPF) of
24 7.5 or greater and a cooling seasonal energy ef-
25 ficiency ratio (SEER) of 13.5 or greater and an

1 energy efficiency ratio (EER) of 11.5 or great-
2 er,

3 “(B) a central air conditioner that has a
4 cooling seasonal energy efficiency ratio (SEER)
5 of 13.5 or greater and an EER of 11.5 or
6 greater, and

7 “(C) a natural gas water heater that has
8 an energy factor of at least 0.65.

9 “(e) SPECIAL RULES.—For purposes of this
10 section—

11 “(1) BASIS REDUCTION.—For purposes of this
12 subtitle, if a deduction is allowed under this section
13 with respect to any energy property, the basis of
14 such property shall be reduced by the amount of the
15 deduction so allowed.

16 “(2) DOUBLE BENEFIT.—Property which
17 would, but for this paragraph, be eligible for deduc-
18 tion under more than one provision of this section
19 shall be eligible only under one such provision, the
20 provision specified by the taxpayer.

21 “(f) ENERGY EFFICIENT COMMERCIAL BUILDING
22 PROPERTY DEDUCTION.—

23 “(1) DEDUCTION ALLOWED.—For purposes of
24 subsection (a)—

“(A) IN GENERAL.—The energy efficient commercial building property deduction determined under this subsection is an amount equal to energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

“(B) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subparagraph (A) shall not exceed an amount equal to the product of—

“(i) \$2.25, and

“(ii) the square footage of the building with respect to which the expenditures are made.

“(C) YEAR DEDUCTION ALLOWED.—The deduction under subparagraph (A) shall be allowed in the taxable year in which the construction of the building is completed.

“(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this subsection, the term ‘energy efficient commercial building property expenditures’ means an amount paid or incurred for energy efficient commercial building property installed on or in connec-

1 tion with new construction or reconstruction of
2 property—

3 “(A) for which depreciation is allowable
4 under section 167,

5 “(B) which is located in the United States,
6 and

7 “(C) the construction or erection of which
8 is completed by the taxpayer.

9 Such property includes all residential rental prop-
10 erty, including low-rise multifamily structures and
11 single family housing property which is not within
12 the scope of Standard 90.1–1999 (described in para-
13 graph (3)). Such term includes expenditures for
14 labor costs properly allocable to the onsite prepara-
15 tion, assembly, or original installation of the prop-
16 erty.

17 “(3) ENERGY EFFICIENT COMMERCIAL BUILD-
18 ING PROPERTY.—For purposes of paragraph (2)—

19 “(A) IN GENERAL.—The term ‘energy effi-
20 cient commercial building property’ means any
21 property which reduces total annual energy and
22 power costs with respect to the lighting, heat-
23 ing, cooling, ventilation, and hot water supply
24 systems of the building by 50 percent or more
25 in comparison to a reference building which

1 meets the requirements of Standard 90.1–1999
2 of the American Society of Heating, Refriger-
3 erating, and Air Conditioning Engineers and
4 the Illuminating Engineering Society of North
5 America using methods of calculation under
6 subparagraph (B) and certified by qualified
7 professionals as provided under paragraph (6).

8 “(B) METHODS OF CALCULATION.—The
9 Secretary, in consultation with the Secretary of
10 Energy, shall promulgate regulations which de-
11 scribe in detail methods for calculating and
12 verifying energy and power consumption and
13 cost, taking into consideration the provisions of
14 the 1998 California Nonresidential ACM Man-
15 ual. These procedures shall meet the following
16 requirements:

17 “(i) In calculating tradeoffs and en-
18 ergy performance, the regulations shall
19 prescribe the costs per unit of energy and
20 power, such as kilowatt hour, kilowatt, gal-
21 lon of fuel oil, and cubic foot or Btu of
22 natural gas, which may be dependent on
23 time of usage.

24 “(ii) The calculational methodology
25 shall require that compliance be dem-

onstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

“(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

“(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999, or

“(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

“(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating

1 system, and the lighting system shall be al-
2 located to the appropriate building sub-
3 system based on system-specific energy
4 cost savings targets in regulations promul-
5 gated by the Secretary of Energy which
6 are equivalent, using the calculation meth-
7 odology, to the whole building requirement
8 of 50 percent savings.

9 “(iv) The calculational methods under
10 this subparagraph need not comply fully
11 with section 11 of such Standard 90.1–
12 1999.

13 “(v) The calculational methods shall
14 be fuel neutral, such that the same energy
15 efficiency features shall qualify a building
16 for the deduction under this subsection re-
17 gardless of whether the heating source is a
18 gas or oil furnace or an electric heat pump.

19 “(vi) The calculational methods shall
20 provide appropriate calculated energy sav-
21 ings for design methods and technologies
22 not otherwise credited in either such
23 Standard 90.1–1999 or in the 1998 Cali-
24 fornia Nonresidential ACM Manual, in-
25 cluding the following:

1 “(I) Natural ventilation.

2 “(II) Evaporative cooling.

3 “(III) Automatic lighting controls
4 such as occupancy sensors, photocells,
5 and timeclocks.

6 “(IV) Daylighting.

7 “(V) Designs utilizing semi-con-
8 ditioned spaces that maintain ade-
9 quate comfort conditions without air
10 conditioning or without heating.

11 “(VI) Improved fan system effi-
12 ciency, including reductions in static
13 pressure.

14 “(VII) Advanced unloading
15 mechanisms for mechanical cooling,
16 such as multiple or variable speed
17 compressors.

18 “(VIII) The calculational meth-
19 ods may take into account the extent
20 of commissioning in the building, and
21 allow the taxpayer to take into ac-
22 count measured performance that ex-
23 ceeds typical performance.

24 “(C) COMPUTER SOFTWARE.—

1 “(i) IN GENERAL.—Any calculation
2 under this paragraph shall be prepared by
3 qualified computer software.

4 “(ii) QUALIFIED COMPUTER SOFT-
5 WARE.—For purposes of this subpara-
6 graph, the term ‘qualified computer soft-
7 ware’ means software—

8 “(I) for which the software de-
9 signer has certified that the software
10 meets all procedures and detailed
11 methods for calculating energy and
12 power consumption and costs as re-
13 quired by the Secretary,

14 “(II) which provides such forms
15 as required to be filed by the Sec-
16 retary in connection with energy effi-
17 ciency of property and the deduction
18 allowed under this subsection, and

19 “(III) which provides a notice
20 form which summarizes the energy ef-
21 ficiency features of the building and
22 its projected annual energy costs.

23 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC
24 PROPERTY.—In the case of energy efficient commer-
25 cial building property installed on or in public prop-

erty, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the tax payer for purposes of this subsection.

“(5) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(C)(ii)(III).

“(6) CERTIFICATION.—

“(A) IN GENERAL.—Except as provided in this paragraph, the Secretary, in consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures similar to the procedures under section 25B(c)(7).

“(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

1 “(C) PROFICIENCY OF QUALIFIED INDIVID-
2 UALS.—The Secretary shall consult with non-
3 profit organizations and State agencies with ex-
4 pertise in energy efficiency calculations and in-
5 spections to develop proficiency tests and train-
6 ing programs to qualify individuals to determine
7 compliance.

8 “(g) REGULATIONS.—The Secretary shall promul-
9 gate such regulations as necessary to take into account
10 new technologies regarding energy efficiency and renew-
11 able energy for purposes of determining energy efficiency
12 and savings under this section.

13 “(h) TERMINATION.—This section shall not apply
14 with respect to—

15 “(1) any energy property placed in service after
16 December 31, 2007, and

17 “(2) any energy efficient commercial building
18 property expenditures in connection with property—

19 “(A) the plans for which are not certified
20 under subsection (f)(6) on or before December
21 31, 2007, and

22 “(B) the construction of which is not com-
23 pleted on or before December 31, 2009.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 48(a)(3)(A) of such Code is amend-
2 ed to read as follows:

3 “(A) which is equipment used to produce,
4 distribute, or use energy derived from a geo-
5 thermal deposit (within the meaning of section
6 613(e)(2)), but only, in the case of electricity
7 generated by geothermal power, up to (but not
8 including) the electrical transmission stage,”.

9 (2) Subparagraph (B) of section 168(e)(3) of
10 such Code is amended—

11 (A) in clause (vi)(I)—

12 (i) by striking “section 48(a)(3)” and
13 inserting “section 199(d)(1)”, and

14 (ii) by striking “clause (i)” and in-
15 serting “such subparagraph (A)”, and

16 (B) in the last sentence, by striking “sec-
17 tion 48(a)(3)” and inserting “section
18 199(c)(3)”.

19 (3) Section 1016(a) of such Code is amended
20 by striking “and” at the end of paragraph (26), by
21 striking the period at the end of paragraph (27) and
22 inserting “, and”, and by inserting the following new
23 paragraph:

24 “(28) for amounts allowed as a deduction under
25 section 199(a).”.

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 for part VI of subchapter B of chapter 1 of such Code
 3 is amended by adding at the end the following new item:

“Sec. 199. Energy property deduction.”.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated to the Department of
 6 Energy out of amounts not already appropriated such
 7 sums as necessary to carry out this section.

8 (e) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-
 10 graph (2), the amendments made by this section
 11 shall apply to taxable years beginning after Decem-
 12 ber 31, 2000.

13 (2) ENERGY EFFICIENT COMMERCIAL BUILDING
 14 PROPERTY.—In the case of energy efficient commer-
 15 cial building property, as defined in section
 16 199(f)(3) of the Internal Revenue Code of 1986, as
 17 added by subsection (a), the amendments made by
 18 this section shall apply to taxable years beginning
 19 after September 30, 2001.

20 **SEC. 2. CREDIT FOR CERTAIN NONBUSINESS ENERGY**
 21 **PROPERTY.**

22 (a) IN GENERAL.—Subpart A of part IV of sub-
 23 chapter A of chapter 1 of the Internal Revenue Code of
 24 1986 (relating to nonrefundable personal credits) is

1 amended by inserting after section 25A the following new
2 section:

3 **“SEC. 25B. NONBUSINESS ENERGY PROPERTY.**

4 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
5 dividual, there shall be allowed as a credit against the tax
6 imposed by this chapter for the taxable year an amount
7 equal to the sum of—

8 “(1) the amount determined under subsection
9 (b) for each qualified energy property of the tax-
10 payer placed in service during such taxable year, and

11 “(2) the credit amount specified in the fol-
12 lowing table for a new, highly energy-efficient prin-
13 cipal residence:

| “New, highly energy-efficient principal residence: | Credit amount: |
|---|-----------------------|
| 30 percent property | \$750 |
| 50 percent property | \$2,000. |

14 “(b) AMOUNT FOR QUALIFIED ENERGY PROP-
15 erty.—

16 “(1) RESIDENTIAL ENERGY PROPERTY EX-
17 PENDITURES.—Except as provided in paragraph (2),
18 the amount determined under this subsection for the
19 taxable year for each item of qualified energy prop-
20 erty shall equal the amount of residential energy
21 property expenditures made by the taxpayer with re-
22 spect to such property during such taxable year.

1 “(2) SOLAR HOT WATER PROPERTY; PHOTO-
2 VOLTAIC PROPERTY.—

3 “(A) IN GENERAL.—In the case of solar
4 hot water property and photovoltaic property,
5 the amount determined under this subsection
6 for the taxable year shall equal the amount
7 specified for such property in the following
8 table:

| Description of property: | Allowable amount is: |
|--|---|
| Elected solar hot water property | 35¢ per each kwh/year of sav- ings. |
| Photovoltaic property | \$1.50 per peak watt. |

9 “(B) ELECTED SOLAR HOT WATER PROP-
10 PERTY.—In the case of elected solar hot water
11 property, the taxpayer may elect to substitute
12 ‘\$7 per annual Therm of natural gas savings’
13 for ‘35¢ per each kwh/year of savings’ in the
14 table contained in subparagraph (A).

15 “(3) MAXIMUM AMOUNT.—In the case of prop-
16 erty described in the following table, the amount of
17 expenditures taken into account under paragraph
18 (1) and the amount determined under paragraph (2)
19 for the taxable year for each item of qualified energy
20 property with respect to a dwelling unit shall not

1 exceed the amount specified for such property in
2 such table:

| “Description of property item: | Maximum allowable credit amount is: |
|---|--|
| Tier 2 energy-efficient building property (other than a natural gas heat pump). | \$500. |
| Natural gas heat pump described in section 199(d)(2)(C). | \$1,000. |
| Tier 1 energy-efficient building property | \$ 250. |
| Solar hot water property | \$1,000. |
| Photovoltaic property | \$6,000. |

3
4 “(c) DEFINITIONS.—For purposes of this section—
5 “(1) RESIDENTIAL ENERGY PROPERTY EX-
6 PENDITURES.—The term ‘residential energy prop-
7 erty expenditures’ means expenditures made by the
8 taxpayer for qualified energy property installed on or
9 in connection with a dwelling unit which—

10 “(A) is located in the United States, and

11 “(B) is used by the taxpayer as a resi-
12 dence.

13 Such term includes expenditures for labor costs
14 properly allocable to the onsite preparation, assem-
15 bly, or original installation of the property.

16 “(2) QUALIFIED ENERGY PROPERTY.—

17 “(A) IN GENERAL.—The term ‘qualified
18 energy property’ means—

19 “(i) energy-efficient building property,

20 “(ii) solar hot water property, and

1 “(iii) photovoltaic property.

2 “(B) SWIMMING POOL, ETC., USED AS
3 STORAGE MEDIUM; SOLAR PANELS.—For pur-
4 poses of this paragraph, the provisions of sub-
5 paragraphs (D) and (E) section 199(d)(1) shall
6 apply.

7 “(C) REQUIRED STANDARDS.—Property
8 described under subparagraph (A) shall meet
9 the performance and quality standards and cer-
10 tification standards of paragraphs (1)(D) and
11 (2) of section 199(e).

12 “(3) ENERGY-EFFICIENT BUILDING PROP-
13 ERTY.—The term ‘energy-efficient building property’
14 has the same meaning given the terms ‘Tier 2 en-
15 ergy-efficient property’ and ‘Tier 1 energy-efficient
16 property’ in paragraphs (2) and (3) of section
17 199(d), respectively.

18 “(4) SOLAR HOT WATER PROPERTY.—The term
19 ‘solar hot water property’ means property which,
20 when installed in connection with a structure, uses
21 solar energy for the purpose of providing hot water
22 for use within such structure.

23 “(5) PHOTOVOLTAIC PROPERTY.—The term
24 ‘photovoltaic property’ has the same meaning given
25 such term in section 199(d)(1)(C).

1 “(6) RESIDENCE.—For purposes of paragraph
2 (1)(B)—

3 “(A) IN GENERAL.—The term ‘residence’
4 has the same meaning as when the term ‘prin-
5 cipal residence’ is used in section 121, except
6 no ownership requirement shall be imposed.

7 “(B) MANUFACTURED HOUSING.—The
8 term ‘residence’ shall include a dwelling unit
9 which is manufactured housing.

10 “(7) HIGHLY ENERGY-EFFICIENT PRINCIPAL
11 RESIDENCE.—

12 “(A) IN GENERAL.—Property is a highly
13 energy-efficient principal residence if—

14 “(i) such property is located in the
15 United States,

16 “(ii) the use of such property com-
17 mences with the taxpayer and is, at the
18 time of such use, the principal residence of
19 the taxpayer, and

20 “(iii) such property is certified before
21 such use commences as being 50 percent
22 property or 30 percent property.

23 “(B) 50 OR 30 PERCENT PROPERTY.—

24 “(i) IN GENERAL.—For purposes of
25 subparagraph (A), property is 50 percent

1 property or 30 percent property if the pro-
2 jected heating and cooling energy usage of
3 such property, measured in terms of aver-
4 age annual energy cost to taxpayer, is re-
5 duced by 50 percent, or 30 percent, respec-
6 tively, in comparison to the energy usage
7 of the standard design reference house as
8 determined using the procedures under
9 clause (iv).

10 “(ii) STANDARD DESIGN REFERENCE
11 HOUSE.—For purposes of this paragraph,
12 the term ‘standard design reference house’
13 means a dwelling which conforms with the
14 standards of chapter 4 of the 2000 Inter-
15 national Energy Conservation Code of the
16 International Code Council and the min-
17 imum equipment efficiency standards pro-
18 mulgated by the Department of Energy
19 under the National Appliance Energy Con-
20 servation Act.

21 “(iii) ENERGY EFFICIENT REFERENCE
22 HOUSE.—For purposes of this paragraph,
23 the term ‘energy efficient reference house’
24 means a design of a dwelling which uses
25 the same heating fuel type as the proposed

1 design and which uses minimum standards
2 equipment, as required by the Department
3 of Energy under the National Appliance
4 Energy Conservation Act and which
5 achieves, on average over fuel type and
6 house geometry, the required 30 percent or
7 50 percent reductions in annual energy
8 cost as calculated using the procedures
9 under clause (iv).

10 “(iv) PROCEDURES.—

11 “(I) IN GENERAL.—For purposes
12 of clause (i), energy usage shall be
13 demonstrated either by a component-
14 based approach or a performance-
15 based approach.

16 “(II) COMPONENT APPROACH.—

17 Compliance by the component ap-
18 proach is achieved when all of the
19 components of the house comply with
20 the requirements of prescriptive pack-
21 ages established by the Secretary of
22 Energy, in consultation with the Ad-
23 ministrator of the Environmental Pro-
24 tection Agency, such that they are
25 equivalent, for the strong majority of

1 houses which can use this method, to
2 the results of using the performance-
3 based approach of subclause (III) to
4 achieve the required reduction in en-
5 ergy usage.

6 “(III) PERFORMANCE-BASED AP-
7 PROACH.—Performance-based compli-
8 ance shall be demonstrated in terms
9 of equivalent or less energy usage
10 when compared to the energy efficient
11 reference house of the same heating
12 fuel type as the taxpayer’s house or
13 through an alternate method pre-
14 scribed by the Secretary which yields
15 equivalent results.

16 “(IV) COMPUTER SOFTWARE.—
17 Computer software shall be used in
18 support of performance-based compli-
19 ance under subclause (III) and such
20 software shall meet all of the proce-
21 dures and methods for calculating en-
22 ergy savings reductions that are pro-
23 mulgated by the Secretary of Energy.
24 Such regulations on the specifications
25 for software and verification protocols

1 shall be based on the 1998 California
2 Residential Alternative Calculation
3 Method Approval Manual.

4 “(V) FUEL PARITY.—In the case
5 of both the component and the per-
6 formance-based approaches, and any
7 software used in support of such ap-
8 proach, the Secretary shall assure fuel
9 parity by requiring both the energy ef-
10 ficient reference house and the pre-
11 scriptive package under subclause (II)
12 to employ the same envelope energy
13 efficiency measures for a house heated
14 by a gas furnace as for a house heat-
15 ed by an electric air source heat pump
16 or by an oil furnace or boiler; and, for
17 equipment efficiency, to employ elec-
18 tric, oil, or gas equipment efficiency of
19 corresponding efficiency improvement.
20 Such determination of corresponding
21 efficiency improvement shall be made
22 on a linear scale between the min-
23 imum standard equipment efficiency
24 and the best available marketplace
25 technology efficiency as determined by

1 the Secretary after considering the in-
2 formation provided by the Air Condi-
3 tioning and Refrigeration Institute
4 (ARI) and the Gas Appliance Manu-
5 facturers Association (GAMA) guides
6 for the respective electric, oil, and
7 natural gas equipment of such type
8 (such as heating and cooling).

9 “(VI) APPROVAL OF SOFTWARE
10 SUBMISSIONS.—The Secretary shall
11 approve software submissions that
12 comply with the calculation require-
13 ments of subclause (IV).

14 “(VII) PROCEDURES FOR IN-
15 SPECTION AND TESTING OF HOMES.—
16 The Secretary shall ensure that proce-
17 dures for the inspection and testing
18 for compliance comply with the cal-
19 culation requirements under subclause
20 (IV).

21 “(C) DETERMINATIONS OF COMPLIANCE.—

22 A determination of compliance made for the
23 purposes of this paragraph shall be filed with
24 the Secretary within 1 year of the date of such
25 determination and shall include the TIN of the

1 certifier, the address of the building in compli-
2 ance, and the identity of the person for whom
3 such determination was performed. Determina-
4 tions of compliance filed with the Secretary
5 shall be available for inspection by the Sec-
6 retary of Energy.

7 “(D) COMPLIANCE.—

8 “(i) IN GENERAL.—The Secretary, in
9 consultation with the Secretary of Energy
10 shall establish requirements for certifi-
11 cation and compliance procedures after ex-
12 amining the requirements for energy con-
13 sultants and home energy ratings providers
14 specified by the Mortgage Industry Na-
15 tional Accreditation Procedures for Home
16 Energy Rating Systems.

17 “(ii) INDIVIDUALS QUALIFIED TO DE-
18 TERMINE COMPLIANCE.—Individuals quali-
19 fied to determine compliance shall be only
20 those individuals who are recognized by an
21 organization certified by the Secretary for
22 such purposes. The Secretary may qualify
23 a Home Energy Rating Systems Organiza-
24 tion, a local building code agency, a State
25 or local energy office, a utility, or other or-

1 ganizations which meet the requirements
2 prescribed under this section.

3 “(E) PRINCIPAL RESIDENCE.—For pur-
4 poses of this paragraph—

5 “(i) IN GENERAL.—The term ‘prin-
6 cipal residence’ has the same meaning as
7 when used in section 121, except that the
8 period for which a building is treated as
9 the principal residence of the taxpayer
10 shall also include the 60-day period ending
11 on the 1st day on which it would (but for
12 this subparagraph) first be treated as a
13 principal residence.

14 “(ii) MANUFACTURED HOUSING.—The
15 term ‘residence’ shall include a dwelling
16 unit which is manufactured housing.

17 “(d) SPECIAL RULES.—For purposes of this
18 section—

19 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
20 CUPANCY.—In the case of any dwelling unit which if
21 jointly occupied and used during any calendar year
22 as a residence by 2 or more individuals the following
23 rules shall apply:

24 “(A) The amount of the credit allowable
25 under subsection (a) by reason of expenditures

made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

“(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

“(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation and such credit shall be allocated pro rata to such individual.

“(3) CONDOMINIUMS.—

1 “(A) IN GENERAL.—In the case of an indi-
 2 vidual who is a member of a condominium man-
 3 agement association with respect to a condo-
 4 minium which he owns, such individual shall be
 5 treated as having made his proportionate share
 6 of any expenditures of such association and any
 7 credit shall be allocated appropriately.

8 “(B) CONDOMINIUM MANAGEMENT ASSO-
 9 CIATION.—For purposes of this paragraph, the
 10 term ‘condominium management association’
 11 means an organization which meets the require-
 12 ments of paragraph (1) of section 528(c) (other
 13 than subparagraph (E) thereof) with respect to
 14 a condominium project substantially all of the
 15 units of which are used as residences.

16 “(4) JOINT OWNERSHIP OF ENERGY ITEMS.—

17 “(A) IN GENERAL.—Any expenditure oth-
 18 erwise qualifying as a residential energy prop-
 19 erty expenditure shall not be treated as failing
 20 to so qualify merely because such expenditure
 21 was made with respect to 2 or more dwelling
 22 units.

23 “(B) LIMITS APPLIED SEPARATELY.—In
 24 the case of any expenditure described in sub-
 25 paragraph (A), the amount of the credit allow-

1 able under subsection (a) shall (subject to para-
2 graph (1)) be computed separately with respect
3 to the amount of the expenditure made for each
4 dwelling unit.

5 “(5) ALLOCATION IN CERTAIN CASES.—If less
6 than 80 percent of the use of an item is for nonbusi-
7 ness purposes, only that portion of the expenditures
8 for such item which is properly allocable to use for
9 nonbusiness purposes shall be taken into account.
10 For purposes of this paragraph, use for a swimming
11 pool shall be treated as use which is not for nonbusi-
12 ness purposes.

13 “(6) COORDINATION WITH OTHER CREDITS.—
14 Property which would, but for this paragraph, be eli-
15 gible for credit under more than one provision of
16 this section shall be eligible only under one such pro-
17 vision, the provision specified by the taxpayer.

18 “(7) WHEN EXPENDITURE MADE; AMOUNT OF
19 EXPENDITURE.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), an expenditure with respect
22 to an item shall be treated as made when the
23 original installation of the item is completed.

24 “(B) EXPENDITURES PART OF BUILDING
25 CONSTRUCTION.—In the case of an expenditure

1 in connection with the construction of a struc-
2 ture, such expenditure shall be treated as made
3 when the original use of the constructed struc-
4 ture by the taxpayer begins.

5 “(8) PROPERTY FINANCED BY SUBSIDIZED EN-
6 ERGY FINANCING.—

7 “(A) REDUCTION OF EXPENDITURES.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in subparagraph (C), for purposes of
10 determining the amount of residential en-
11 ergy property expenditures made by any
12 individual with respect to any dwelling
13 unit, there shall not be taken in to account
14 expenditures which are made from sub-
15 sidized energy financing.

16 “(ii) SUBSIDIZED ENERGY FINANC-
17 ING.—For purposes of clause (i), the term
18 ‘subsidized energy financing’ has the same
19 meaning given such term in section
20 48(a)(4)(C).

21 “(B) DOLLAR LIMITS REDUCED.—The dol-
22 lar amounts in the table contained in subsection
23 (b)(1) with respect to each property purchased
24 for such dwelling unit for any taxable year of

1 such taxpayer shall be reduced proportionately
2 by an amount equal to the sum of—

3 “(i) the amount of the expenditures
4 made by the taxpayer during such taxable
5 year with respect to such dwelling unit and
6 not taken into account by reason of sub-
7 paragraph (A), and

8 “(ii) the amount of any Federal,
9 State, or local grant received by the tax-
10 payer during such taxable year which is
11 used to make residential energy property
12 expenditures with respect to the dwelling
13 unit and is not included in the gross in-
14 come of such taxpayer.

15 “(C) EXCEPTION FOR STATE PROGRAMS.—
16 Subparagraphs (A) and (B) shall not apply to
17 expenditures made with respect to property for
18 which the taxpayer has received a loan, State
19 tax credit, or grant under any State energy pro-
20 gram.

21 “(e) BASIS ADJUSTMENTS.—For purposes of this
22 subtitle, if a credit is allowed under this section for any
23 expenditure with respect to any property, the increase in
24 the basis of such property which would (but for this sub-

1 section) result from such expenditure shall be reduced by
 2 the amount of the credit so allowed.

3 “(f) REGULATIONS.—The Secretary shall promulgate
 4 such regulations as necessary to take into account new
 5 technologies regarding energy efficiency and renewable en-
 6 ergy for purposes of determining energy efficiency and
 7 savings under this section.

8 “(g) TERMINATION.—This section shall not apply
 9 with respect to any taxable years beginning after Decem-
 10 ber 31, 2007.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Subsection (a) of section 1016 of the Inter-
 13 nal Revenue Code of 1986 as amended by section
 14 1(b)(3), is amended by striking “and” at the end of
 15 paragraph (27), by striking the period at the end of
 16 paragraph (28) and inserting “, and”, and by add-
 17 ing at the end the following new paragraph:

18 “(29) to the extent provided in section 25B(e),
 19 in the case of amounts with respect to which a credit
 20 has been allowed under section 25B.”.

21 (2) The table of sections for subpart A of part
 22 IV of subchapter A of chapter 1 of such Code is
 23 amended by inserting after the item relating to sec-
 24 tion 25A the following new item:

“Sec. 25B. Nonbusiness energy property.”.

25 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to expenditures made after December 31,
4 2000.

5 (2) ENERGY EFFICIENT BUILDING PROPERTY
6 USED IN A PRINCIPAL RESIDENCE.—In the case of
7 energy efficient building property, as defined in sec-
8 tion 25B(c) of the Internal Revenue Code of 1986,
9 as added by subsection (a), the amendments made
10 by this section shall apply to expenditures made
11 after September 30, 2001.

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