

106TH CONGRESS
1ST SESSION

H. R. 750

To amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1999

Mr. THOMAS (for himself, Ms. DUNN, Mr. SALMON, Mr. HINCHEY, Mr. RAMSTAD, Mr. MINGE, Mr. MATSUI, Mr. BOYD, Mr. EHLERS, Mr. KLECZKA, Mr. BEREUTER, Mr. POMEROY, Mr. GEORGE MILLER of California, Mr. LEACH, Mr. STUPAK, Mr. HASTINGS of Florida, Mrs. THURMAN, Mr. KUCINICH, Mr. LEVIN, Mr. DEUTSCH, Mr. FOLEY, Mr. DAVIS of Florida, Mr. UDALL of Colorado, Mr. WELLER, Mr. EWING, Mr. BOEHLERT, Mr. LEWIS of Georgia, Mrs. MEEK of Florida, Mr. HOUGHTON, Mr. McDERMOTT, Mr. PALLONE, Mr. FROST, Mrs. BONO, Mr. STEARNS, Mr. DEFazio, Mr. ABERCROMBIE, Mr. BALDACCI, Mr. NEAL of Massachusetts, Mr. BROWN of Ohio, Mr. TAUZIN, Mr. PORTMAN, Mr. SHAW, Mr. LATHAM, Mr. OBERSTAR, Mr. GORDON, Mr. CARDIN, Mr. BECERRA, Mr. McCRERY, Mr. WATKINS, Mr. HALL of Texas, Mr. SANDERS, Mr. SHAYS, Mr. SCOTT, Mrs. CAPPS, Ms. RIVERS, Ms. ROSLEHTINEN, Mr. WEXLER, Ms. WOOLSEY, Mr. EVANS, Mr. SCHAFER, and Mr. DIAZ-BALART) 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 a 5-year extension of the credit for producing electricity from wind, 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,*

1 **SECTION 1. 5-YEAR EXTENSION OF CREDIT FOR PRODUC-**
 2 **ING ELECTRICITY FROM WIND.**

3 (a) IN GENERAL.—Paragraph (3) of section 45(c) of
 4 the Internal Revenue Code of 1986 (defining qualified fa-
 5 cility) is amended to read as follows:

6 “(3) QUALIFIED FACILITY.—The term ‘quali-
 7 fied facility’ means any facility owned by the tax-
 8 payer which is originally placed in service—

9 “(A) in the case of a facility using wind to
 10 produce electricity, after December 31, 1993,
 11 and before July 1, 2004, and

12 “(B) in the case of a facility using closed-
 13 loop biomass to produce electricity, after De-
 14 cember 31, 1992, and before July 1, 1999.”.

15 (b) CREDIT NOT TO APPLY TO ELECTRICITY SOLD
 16 TO UTILITIES UNDER CERTAIN CONTRACTS.—Subsection
 17 (b) of section 45 of such Code is amended by adding at
 18 the end the following new paragraph:

19 “(4) CREDIT NOT TO APPLY TO ELECTRICITY
 20 SOLD TO UTILITIES UNDER CERTAIN CONTRACTS.—

21 “(A) IN GENERAL.—The credit determined
 22 under subsection (a) shall not apply to
 23 electricity—

24 “(i) produced at a qualified facility
 25 placed in service by the taxpayer after
 26 June 30, 1999, and

1 “(ii) sold to a utility pursuant to a
2 contract originally entered into before Jan-
3 uary 1, 1987 (whether or not amended or
4 restated after that date).

5 “(B) EXCEPTION.—Subparagraph (A)
6 shall not apply if—

7 “(i) the prices for energy and capacity
8 from such facility are established pursuant
9 to an amendment to the contract referred
10 to in subparagraph (A)(ii);

11 “(ii) such amendment provides that
12 the prices set forth in the contract which
13 exceed avoided cost prices determined at
14 the time of delivery shall apply only to an-
15 nual quantities of electricity (prorated for
16 partial years) which do not exceed the
17 greater of—

18 “(I) the average annual quantity
19 of electricity sold to the utility under
20 the contract during calendar years
21 1994, 1995, 1996, 1997, and 1998,
22 or

23 “(II) the estimate of the annual
24 electricity production set forth in the
25 contract, or, if there is no such esti-

1 mate, the greatest annual quantity of
2 electricity sold to the utility under the
3 contract in any of the calendar years
4 1996, 1997, or 1998; and

5 “(iii) such amendment provides that
6 energy and capacity in excess of the limita-
7 tion in clause (ii) may be—

8 “(I) sold to the utility only at
9 prices that do not exceed avoided cost
10 prices determined at the time of deliv-
11 ery, or

12 “(II) sold to a third party subject
13 to a mutually agreed upon advance
14 notice to the utility.

15 For purposes of this subparagraph, avoided cost
16 prices shall be determined as provided for in 18
17 CFR 292.304(d)(1) or any successor regula-
18 tion.”.

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