

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.

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## 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. BALDACCIO, 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. DELAUR) introduced the following bill; which was referred to the Committee on Ways and Means

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## 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:

<b>Description of property:</b>	<b>Allowable amount is:</b>
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),

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

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.

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)—

1                   “(A) IN GENERAL.—The energy efficient  
2                   commercial building property deduction deter-  
3                   mined under this subsection is an amount equal  
4                   to energy efficient commercial building property  
5                   expenditures made by a taxpayer for the tax-  
6                   able year.

7                   “(B) MAXIMUM AMOUNT OF DEDUC-  
8                   TION.—The amount of energy efficient commer-  
9                   cial building property expenditures taken into  
10                  account under subparagraph (A) shall not ex-  
11                  ceed an amount equal to the product of—  
12                  “(i) \$2.25, and  
13                  “(ii) the square footage of the build-  
14                  ing with respect to which the expenditures  
15                  are made.

16                  “(C) YEAR DEDUCTION ALLOWED.—The  
17                  deduction under subparagraph (A) shall be al-  
18                  lowed in the taxable year in which the construc-  
19                  tion of the building is completed.

20                  “(2) ENERGY EFFICIENT COMMERCIAL BUILD-  
21                  ING PROPERTY EXPENDITURES.—For purposes of  
22                  this subsection, the term ‘energy efficient commer-  
23                  cial building property expenditures’ means an  
24                  amount paid or incurred for energy efficient com-  
25                  mercial 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, Refrig-  
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-



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 SOFTWARE.—For purposes of this subparagraph,  
5                     the term ‘qualified computer software’ means software—  
6  
7

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

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

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

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

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

7               “(5) NOTICE TO OWNER.—The qualified indi-  
8       vidual shall provide an explanation to the owner of  
9       the building regarding the energy efficiency features  
10      of the building and its projected annual energy costs  
11      as provided in the notice under paragraph  
12      (3)(C)(ii)(III).

13               “(6) CERTIFICATION.—

14               “(A) IN GENERAL.—Except as provided in  
15       this paragraph, the Secretary, in consultation  
16       with the Secretary of Energy, shall establish re-  
17       quirements for certification and compliance pro-  
18       cedures similar to the procedures under section  
19       25B(c)(7).

20               “(B) QUALIFIED INDIVIDUALS.—Individ-  
21       uals qualified to determine compliance shall be  
22       only those individuals who are recognized by an  
23       organization certified by the Secretary for such  
24       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.—

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.”.

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)”.

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:

<b>“New, highly energy-efficient principal residence:</b>	<b>Credit amount:</b>
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:

<b>Description of property:</b>	<b>Allowable amount is:</b>
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           ERTY.—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:

<b>“Description of property item:</b>	<b>Maximum allowable credit amount is:</b>
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 EXPENDITURES.—The term ‘residential energy property expenditures’ means expenditures made by the taxpayer for qualified energy property installed on or 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 residence.

13        Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

16                “(2) QUALIFIED ENERGY PROPERTY.—

17                “(A) IN GENERAL.—The term ‘qualified 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(c).

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).

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).

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.

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).

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-

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

6                     “(B) There shall be allowable with respect  
7 to such expenditures to each of such individ-  
8 uals, a credit under subsection (a) for the tax-  
9 able year in which such calendar year ends in  
10 an amount which bears the same ratio to the  
11 amount determined under subparagraph (A) as  
12 the amount of such expenditures made by such  
13 individual during such calendar year bears to  
14 the aggregate of such expenditures made by all  
15 of such individuals during such calendar year.

16       “(2) TENANT-STOCKHOLDER IN COOPERATIVE  
17       HOUSING CORPORATION.—In the case of an indi-  
18       vidual who is a tenant-stockholder (as defined in sec-  
19       tion 216) in a cooperative housing corporation (as  
20       defined in such section), such individual shall be  
21       treated as having made his tenant-stockholder’s pro-  
22       portionate share (as defined in section 216(b)(3)) of  
23       any expenditures of such corporation and such credit  
24       shall be allocated pro rata to such individual.

25                   “(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 into 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.—

