

110TH CONGRESS  
2D SESSION

# S. 2821

To amend the Internal Revenue Code of 1986 to provide for the limited continuation of clean energy production incentives and incentives to improve energy efficiency in order to prevent a downturn in these sectors that would result from a lapse in the tax law.

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## IN THE SENATE OF THE UNITED STATES

APRIL 3, 2008

Ms. CANTWELL (for herself, Mr. ENSIGN, Mr. SALAZAR, Mr. SUNUNU, Ms. STABENOW, Mr. COLEMAN, Mr. SCHUMER, Ms. SNOWE, Mrs. FEINSTEIN, Mr. MARTINEZ, Mr. SANDERS, Mr. GRAHAM, Ms. KLOBUCHAR, Mrs. DOLE, Mr. DODD, Ms. COLLINS, Mrs. BOXER, Mr. CORNYN, Mr. DOMENICI, Mr. CRAIG, Mr. SMITH, Mr. THUNE, Mr. ALLARD, Mr. HATCH, Mr. ROBERTS, Ms. MURKOWSKI, Mr. STEVENS, Mrs. HUTCHISON, and Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for the limited continuation of clean energy production incentives and incentives to improve energy efficiency in order to prevent a downturn in these sectors that would result from a lapse in the tax law.

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. SHORT TITLE; ETC.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Clean Energy Tax Stimulus Act of 2008”.

4 (b) AMENDMENT OF 1986 CODE.—Except as other-  
5 wise expressly provided, whenever in this Act an amend-  
6 ment or repeal is expressed in terms of an amendment  
7 to, or repeal of, a section or other provision, the reference  
8 shall be considered to be made to a section or other provi-  
9 sion of the Internal Revenue Code of 1986.

10 (c) TABLE OF CONTENTS.—The table of contents for  
11 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—EXTENSION OF CLEAN ENERGY PRODUCTION  
INCENTIVES

Sec. 101. Extension and modification of renewable energy production tax credit.

Sec. 102. Extension and modification of solar energy and fuel cell investment  
tax credit.

Sec. 103. Extension and modification of residential energy efficient property  
credit.

Sec. 104. Extension and modification of credit for clean renewable energy  
bonds.

Sec. 105. Extension of special rule to implement FERC restructuring policy.

TITLE II—EXTENSION OF INCENTIVES TO IMPROVE ENERGY  
EFFICIENCY

Sec. 201. Extension and modification of credit for energy efficiency improve-  
ments to existing homes.

Sec. 202. Extension and modification of tax credit for energy efficient new  
homes.

Sec. 203. Extension and modification of energy efficient commercial buildings  
deduction.

Sec. 204. Modification and extension of energy efficient appliance credit for ap-  
pliances produced after 2007.

1 **TITLE I—EXTENSION OF CLEAN**  
 2 **ENERGY PRODUCTION INCEN-**  
 3 **TIVES**

4 **SEC. 101. EXTENSION AND MODIFICATION OF RENEWABLE**  
 5 **ENERGY PRODUCTION TAX CREDIT.**

6 (a) EXTENSION OF CREDIT.—Each of the following  
 7 provisions of section 45(d) (relating to qualified facilities)  
 8 is amended by striking “January 1, 2009” and inserting  
 9 “January 1, 2010”:

10 (1) Paragraph (1).

11 (2) Clauses (i) and (ii) of paragraph (2)(A).

12 (3) Clauses (i)(I) and (ii) of paragraph (3)(A).

13 (4) Paragraph (4).

14 (5) Paragraph (5).

15 (6) Paragraph (6).

16 (7) Paragraph (7).

17 (8) Paragraph (8).

18 (9) Subparagraphs (A) and (B) of paragraph

19 (9).

20 (b) PRODUCTION CREDIT FOR ELECTRICITY PRO-  
 21 DUCED FROM MARINE RENEWABLES.—

22 (1) IN GENERAL.—Paragraph (1) of section  
 23 45(c) (relating to resources) is amended by striking  
 24 “and” at the end of subparagraph (G), by striking  
 25 the period at the end of subparagraph (H) and in-

1       serting “, and”, and by adding at the end the fol-  
 2       lowing new subparagraph:

3               “(I) marine and hydrokinetic renewable en-  
 4               ergy.”.

5               (2) MARINE RENEWABLES.—Subsection (c) of  
 6       section 45 is amended by adding at the end the fol-  
 7       lowing new paragraph:

8               “(10) MARINE AND HYDROKINETIC RENEW-  
 9       ABLE ENERGY.—

10              “(A) IN GENERAL.—The term ‘marine and  
 11       hydrokinetic renewable energy’ means energy  
 12       derived from—

13              “(i) waves, tides, and currents in  
 14       oceans, estuaries, and tidal areas,

15              “(ii) free flowing water in rivers,  
 16       lakes, and streams,

17              “(iii) free flowing water in an irriga-  
 18       tion system, canal, or other man-made  
 19       channel, including projects that utilize non-  
 20       mechanical structures to accelerate the  
 21       flow of water for electric power production  
 22       purposes, or

23              “(iv) differentials in ocean tempera-  
 24       ture (ocean thermal energy conversion).

1           “(B) EXCEPTIONS.—Such term shall not  
 2           include any energy which is derived from any  
 3           source which utilizes a dam, diversionary struc-  
 4           ture (except as provided in subparagraph  
 5           (A)(iii)), or impoundment for electric power  
 6           production purposes.”.

7           (3) DEFINITION OF FACILITY.—Subsection (d)  
 8           of section 45 is amended by adding at the end the  
 9           following new paragraph:

10           “(11) MARINE AND HYDROKINETIC RENEW-  
 11           ABLE ENERGY FACILITIES.—In the case of a facility  
 12           producing electricity from marine and hydrokinetic  
 13           renewable energy, the term ‘qualified facility’ means  
 14           any facility owned by the taxpayer—

15           “(A) which has a nameplate capacity rat-  
 16           ing of at least 150 kilowatts, and

17           “(B) which is originally placed in service  
 18           on or after the date of the enactment of this  
 19           paragraph and before January 1, 2010.”.

20           (4) CREDIT RATE.—Subparagraph (A) of sec-  
 21           tion 45(b)(4) is amended by striking “or (9)” and  
 22           inserting “(9), or (11)”.

23           (5) COORDINATION WITH SMALL IRRIGATION  
 24           POWER.—Paragraph (5) of section 45(d), as amend-  
 25           ed by subsection (a), is amended by striking “Janu-

1       ary 1, 2010” and inserting “the date of the enact-  
2       ment of paragraph (11)”.

3       (c) SALES OF ELECTRICITY TO REGULATED PUBLIC  
4 UTILITIES TREATED AS SALES TO UNRELATED PER-  
5 SONS.—Section 45(e)(4) (relating to related persons) is  
6 amended by adding at the end the following new sentence:  
7 “A taxpayer shall be treated as selling electricity to an  
8 unrelated person if such electricity is sold to a regulated  
9 public utility (as defined in section 7701(a)(33)).”.

10       (d) TRASH FACILITY CLARIFICATION.—Paragraph  
11 (7) of section 45(d) is amended—

12               (1) by striking “facility which burns” and in-  
13       serting “facility (other than a facility described in  
14       paragraph (6)) which uses”, and

15               (2) by striking “COMBUSTION”.

16       (e) EFFECTIVE DATES.—

17               (1) EXTENSION.—The amendments made by  
18       subsection (a) shall apply to property originally  
19       placed in service after December 31, 2008.

20               (2) MODIFICATIONS.—The amendments made  
21       by subsections (b) and (c) shall apply to electricity  
22       produced and sold after the date of the enactment  
23       of this Act, in taxable years ending after such date.

24               (3) TRASH FACILITY CLARIFICATION.—The  
25       amendments made by subsection (d) shall apply to

1 electricity produced and sold before, on, or after De-  
 2 cember 31, 2007.

3 **SEC. 102. EXTENSION AND MODIFICATION OF SOLAR EN-**  
 4 **ERGY AND FUEL CELL INVESTMENT TAX**  
 5 **CREDIT.**

6 (a) EXTENSION OF CREDIT.—

7 (1) SOLAR ENERGY PROPERTY.—Paragraphs  
 8 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating  
 9 to energy credit) are each amended by striking  
 10 “January 1, 2009” and inserting “January 1,  
 11 2017”.

12 (2) FUEL CELL PROPERTY.—Subparagraph (E)  
 13 of section 48(c)(1) (relating to qualified fuel cell  
 14 property) is amended by striking “December 31,  
 15 2008” and inserting “December 31, 2017”.

16 (3) QUALIFIED MICROTURBINE PROPERTY.—  
 17 Subparagraph (E) of section 48(c)(2) (relating to  
 18 qualified microturbine property) is amended by  
 19 striking “December 31, 2008” and inserting “De-  
 20 cember 31, 2017”.

21 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-  
 22 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section  
 23 38(c)(4) (relating to specified credits) is amended by strik-  
 24 ing “and” at the end of clause (iii), by striking the period

1 at the end of clause (iv) and inserting “, and”, and by  
 2 adding at the end the following new clause:

3 “(v) the credit determined under sec-  
 4 tion 46 to the extent that such credit is at-  
 5 tributable to the energy credit determined  
 6 under section 48.”.

7 (c) REPEAL OF DOLLAR PER KILOWATT LIMITATION  
 8 FOR FUEL CELL PROPERTY.—

9 (1) IN GENERAL.—Section 48(c)(1) (relating to  
 10 qualified fuel cell), as amended by subsection (a)(2),  
 11 is amended by striking subparagraph (B) and by re-  
 12 designating subparagraphs (C), (D), and (E) as sub-  
 13 paragraphs (B), (C), and (D), respectively.

14 (2) CONFORMING AMENDMENT.—Section  
 15 48(a)(1) is amended by striking “paragraphs (1)(B)  
 16 and (2)(B) of subsection (c)” and inserting “sub-  
 17 section (c)(2)(B)”.

18 (d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN  
 19 INTO ACCOUNT.—

20 (1) IN GENERAL.—Paragraph (3) of section  
 21 48(a) is amended by striking the second sentence  
 22 thereof.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Paragraph (1) of section 48(c), as  
 25 amended by this section, is amended by striking



1           subparagraph (C) and redesignating subpara-  
2           graph (D) as subparagraph (C).

3           (B) Paragraph (2) of section 48(c), as  
4           amended by subsection (a)(3), is amended by  
5           striking subparagraph (D) and redesignating  
6           subparagraph (E) as subparagraph (D).

7       (e) EFFECTIVE DATES.—

8           (1) EXTENSION.—The amendments made by  
9           subsection (a) shall take effect on the date of the en-  
10          actment of this Act.

11          (2) ALLOWANCE AGAINST ALTERNATIVE MIN-  
12          IMUM TAX.—The amendments made by subsection  
13          (b) shall apply to credits determined under section  
14          46 of the Internal Revenue Code of 1986 in taxable  
15          years beginning after the date of the enactment of  
16          this Act and to carrybacks of such credits.

17          (3) FUEL CELL PROPERTY AND PUBLIC ELEC-  
18          TRIC UTILITY PROPERTY.—The amendments made  
19          by subsections (c) and (d) shall apply to periods  
20          after the date of the enactment of this Act, in tax-  
21          able years ending after such date, under rules simi-  
22          lar to the rules of section 48(m) of the Internal Rev-  
23          enue Code of 1986 (as in effect on the day before  
24          the date of the enactment of the Revenue Reconcili-  
25          ation Act of 1990).

1 **SEC. 103. EXTENSION AND MODIFICATION OF RESIDENTIAL**  
 2 **ENERGY EFFICIENT PROPERTY CREDIT.**

3 (a) EXTENSION.—Section 25D(g) (relating to termi-  
 4 nation) is amended by striking “December 31, 2008” and  
 5 inserting “December 31, 2009”.

6 (b) NO DOLLAR LIMITATION FOR CREDIT FOR  
 7 SOLAR ELECTRIC PROPERTY.—

8 (1) IN GENERAL.—Section 25D(b)(1) (relating  
 9 to maximum credit) is amended by striking subpara-  
 10 graph (A) and by redesignating subparagraphs (B)  
 11 and (C) as subparagraphs (A) and (B), respectively.

12 (2) CONFORMING AMENDMENTS.—Section  
 13 25D(e)(4) is amended—

14 (A) by striking clause (i) in subparagraph  
 15 (A),

16 (B) by redesignating clauses (ii) and (iii)  
 17 in subparagraph (A) as clauses (i) and (ii), re-  
 18 spectively, and

19 (C) by striking “, (2),” in subparagraph  
 20 (C).

21 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
 22 IMUM TAX.—

23 (1) IN GENERAL.—Subsection (c) of section  
 24 25D is amended to read as follows:

25 “(c) LIMITATION BASED ON AMOUNT OF TAX;  
 26 CARRYFORWARD OF UNUSED CREDIT.—

1           “(1) LIMITATION BASED ON AMOUNT OF  
2           TAX.—In the case of a taxable year to which section  
3           26(a)(2) does not apply, the credit allowed under  
4           subsection (a) for the taxable year shall not exceed  
5           the excess of—

6                   “(A) the sum of the regular tax liability  
7                   (as defined in section 26(b)) plus the tax im-  
8                   posed by section 55, over

9                   “(B) the sum of the credits allowable  
10                  under this subpart (other than this section) and  
11                  section 27 for the taxable year.

12           “(2) CARRYFORWARD OF UNUSED CREDIT.—

13                   “(A) RULE FOR YEARS IN WHICH ALL  
14                   PERSONAL CREDITS ALLOWED AGAINST REG-  
15                   ULAR AND ALTERNATIVE MINIMUM TAX.—In  
16                   the case of a taxable year to which section  
17                   26(a)(2) applies, if the credit allowable under  
18                   subsection (a) exceeds the limitation imposed by  
19                   section 26(a)(2) for such taxable year reduced  
20                   by the sum of the credits allowable under this  
21                   subpart (other than this section), such excess  
22                   shall be carried to the succeeding taxable year  
23                   and added to the credit allowable under sub-  
24                   section (a) for such succeeding taxable year.

“(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting “and section 25D” after “this section”.

(B) Section 24(b)(3)(B) is amended by striking “and 25B” and inserting “, 25B, and 25D”.

(C) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25D”.

(D) Section 26(a)(1) is amended by striking “and 25B” and inserting “25B, and 25D”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

1           (2) APPLICATION OF EGTRRA SUNSET.—The  
 2           amendments made by subparagraphs (A) and (B) of  
 3           subsection (c)(2) shall be subject to title IX of the  
 4           Economic Growth and Tax Relief Reconciliation Act  
 5           of 2001 in the same manner as the provisions of  
 6           such Act to which such amendments relate.

7   **SEC. 104. EXTENSION AND MODIFICATION OF CREDIT FOR**  
 8           **CLEAN RENEWABLE ENERGY BONDS.**

9           (a) EXTENSION.—Section 54(m) (relating to termi-  
 10          nation) is amended by striking “December 31, 2008” and  
 11          inserting “December 31, 2009”.

12          (b) INCREASE IN NATIONAL LIMITATION.—Section  
 13          54(f) (relating to limitation on amount of bonds des-  
 14          ignated) is amended—

15               (1) by inserting “, and for the period beginning  
 16               after the date of the enactment of the Clean Energy  
 17               Tax Stimulus Act of 2008 and ending before Janu-  
 18               ary 1, 2010, \$400,000,000” after “\$1,200,000,000”  
 19               in paragraph (1),

20               (2) by striking “\$750,000,000 of the” in para-  
 21               graph (2) and inserting “\$750,000,000 of the  
 22               \$1,200,000,000”, and

23               (3) by striking “bodies” in paragraph (2) and  
 24               inserting “bodies, and except that the Secretary may  
 25               not allocate more than  $\frac{1}{3}$  of the \$400,000,000 na-

1 tional clean renewable energy bond limitation to fi-  
 2 nance qualified projects of qualified borrowers which  
 3 are public power providers nor more than  $\frac{1}{3}$  of such  
 4 limitation to finance qualified projects of qualified  
 5 borrowers which are mutual or cooperative electric  
 6 companies described in section 501(c)(12) or section  
 7 1381(a)(2)(C)’’.

8 (c) PUBLIC POWER PROVIDERS DEFINED.—Section  
 9 54(j) is amended—

10 (1) by adding at the end the following new  
 11 paragraph:

12 “(6) PUBLIC POWER PROVIDER.—The term  
 13 ‘public power provider’ means a State utility with a  
 14 service obligation, as such terms are defined in sec-  
 15 tion 217 of the Federal Power Act (as in effect on  
 16 the date of the enactment of this paragraph).”, and

17 (2) by inserting “; PUBLIC POWER PROVIDER”  
 18 before the period at the end of the heading.

19 (d) TECHNICAL AMENDMENT.—The third sentence of  
 20 section 54(e)(2) is amended by striking “subsection  
 21 (l)(6)” and inserting “subsection (l)(5)”.

22 (e) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to bonds issued after the date of  
 24 the enactment of this Act.

1 **SEC. 105. EXTENSION OF SPECIAL RULE TO IMPLEMENT**  
2 **FERC RESTRUCTURING POLICY.**

3 (a) QUALIFYING ELECTRIC TRANSMISSION TRANS-  
4 ACTION.—

5 (1) IN GENERAL.—Section 451(i)(3) (defining  
6 qualifying electric transmission transaction) is  
7 amended by striking “January 1, 2008” and insert-  
8 ing “January 1, 2010”.

9 (2) EFFECTIVE DATE.—The amendment made  
10 by this subsection shall apply to transactions after  
11 December 31, 2007.

12 (b) INDEPENDENT TRANSMISSION COMPANY.—

13 (1) IN GENERAL.—Section 451(i)(4)(B)(ii) (de-  
14 fining independent transmission company) is amend-  
15 ed by striking “December 31, 2007” and inserting  
16 “the date which is 2 years after the date of such  
17 transaction”.

18 (2) EFFECTIVE DATE.—The amendment made  
19 by this subsection shall take effect as if included in  
20 the amendments made by section 909 of the Amer-  
21 ican Jobs Creation Act of 2004.

1 **TITLE II—EXTENSION OF INCEN-**  
 2 **TIVES TO IMPROVE ENERGY**  
 3 **EFFICIENCY**

4 **SEC. 201. EXTENSION AND MODIFICATION OF CREDIT FOR**  
 5 **ENERGY EFFICIENCY IMPROVEMENTS TO EX-**  
 6 **ISTING HOMES.**

7 (a) EXTENSION OF CREDIT.—Section 25C(g) (relat-  
 8 ing to termination) is amended by striking “December 31,  
 9 2007” and inserting “December 31, 2009”.

10 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

11 (1) IN GENERAL.—Section 25C(d)(3) is amend-  
 12 ed—

13 (A) by striking “and” at the end of sub-  
 14 paragraph (D),

15 (B) by striking the period at the end of  
 16 subparagraph (E) and inserting “, and”, and

17 (C) by adding at the end the following new  
 18 subparagraph:

19 “(F) a stove which uses the burning of bio-  
 20 mass fuel to heat a dwelling unit located in the  
 21 United States and used as a residence by the  
 22 taxpayer, or to heat water for use in such a  
 23 dwelling unit, and which has a thermal effi-  
 24 ciency rating of at least 75 percent.”.



1           (2) BIOMASS FUEL.—Section 25C(d) (relating  
2           to residential energy property expenditures) is  
3           amended by adding at the end the following new  
4           paragraph:

5           “(6) BIOMASS FUEL.—The term ‘biomass fuel’  
6           means any plant-derived fuel available on a renew-  
7           able or recurring basis, including agricultural crops  
8           and trees, wood and wood waste and residues (in-  
9           cluding wood pellets), plants (including aquatic  
10          plants), grasses, residues, and fibers.”.

11          (c) MODIFICATIONS OF STANDARDS FOR ENERGY-  
12          EFFICIENT BUILDING PROPERTY.—

13           (1) ELECTRIC HEAT PUMPS.—Subparagraph  
14          (B) of section 25C(d)(3) is amended to read as fol-  
15          lows:

16           “(A) an electric heat pump which achieves  
17           the highest efficiency tier established by the  
18           Consortium for Energy Efficiency, as in effect  
19           on January 1, 2008.”.

20           (2) CENTRAL AIR CONDITIONERS.—Section  
21          25C(d)(3)(D) is amended by striking “2006” and  
22          inserting “2008”.

23           (3) WATER HEATERS.—Subparagraph (E) of  
24          section 25C(d) is amended to read as follows:

1           “(E) a natural gas, propane, or oil water  
2 heater which has either an energy factor of at  
3 least 0.80 or a thermal efficiency of at least 90  
4 percent.”.

5           (4) OIL FURNACES AND HOT WATER BOIL-  
6 ERS.—Paragraph (4) of section 25C(d) is amended  
7 to read as follows:

8           “(4) QUALIFIED NATURAL GAS, PROPANE, AND  
9 OIL FURNACES AND HOT WATER BOILERS.—

10           “(A) QUALIFIED NATURAL GAS FUR-  
11 NACE.—The term ‘qualified natural gas fur-  
12 nace’ means any natural gas furnace which  
13 achieves an annual fuel utilization efficiency  
14 rate of not less than 95.

15           “(B) QUALIFIED NATURAL GAS HOT  
16 WATER BOILER.—The term ‘qualified natural  
17 gas hot water boiler’ means any natural gas hot  
18 water boiler which achieves an annual fuel utili-  
19 zation efficiency rate of not less than 90.

20           “(C) QUALIFIED PROPANE FURNACE.—  
21 The term ‘qualified propane furnace’ means any  
22 propane furnace which achieves an annual fuel  
23 utilization efficiency rate of not less than 95.

24           “(D) QUALIFIED PROPANE HOT WATER  
25 BOILER.—The term ‘qualified propane hot

1           water boiler’ means any propane hot water boil-  
 2           er which achieves an annual fuel utilization effi-  
 3           ciency rate of not less than 90.

4           “(E) QUALIFIED OIL FURNACES.—The  
 5           term ‘qualified oil furnace’ means any oil fur-  
 6           nace which achieves an annual fuel utilization  
 7           efficiency rate of not less than 90.

8           “(F) QUALIFIED OIL HOT WATER BOIL-  
 9           ER.—The term ‘qualified oil hot water boiler’  
 10          means any oil hot water boiler which achieves  
 11          an annual fuel utilization efficiency rate of not  
 12          less than 90.”.

13          (d) EFFECTIVE DATE.—The amendments made this  
 14          section shall apply to expenditures made after December  
 15          31, 2007.

16   **SEC. 202. EXTENSION AND MODIFICATION OF TAX CREDIT**  
 17                           **FOR ENERGY EFFICIENT NEW HOMES.**

18          (a) EXTENSION OF CREDIT.—Subsection (g) of sec-  
 19          tion 45L (relating to termination) is amended by striking  
 20          “December 31, 2008” and inserting “December 31,  
 21          2010”.

22          (b) ALLOWANCE FOR CONTRACTOR’S PERSONAL  
 23          RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is  
 24          amended to read as follows:

1 “(B)(i) acquired by a person from such eli-  
 2 gible contractor and used by any person as a  
 3 residence during the taxable year, or

4 “(ii) used by such eligible contractor as a  
 5 residence during the taxable year.”.

6 (c) EFFECTIVE DATE.—The amendments made by  
 7 this section shall apply to homes acquired after December  
 8 31, 2008.

9 **SEC. 203. EXTENSION AND MODIFICATION OF ENERGY EF-**  
 10 **FICIENT COMMERCIAL BUILDINGS DEDUC-**  
 11 **TION.**

12 (a) EXTENSION.—Section 179D(h) (relating to ter-  
 13 mination) is amended by striking “December 31, 2008”  
 14 and inserting “December 31, 2009”.

15 (b) ADJUSTMENT OF MAXIMUM DEDUCTION  
 16 AMOUNT.—

17 (1) IN GENERAL.—Subparagraph (A) of section  
 18 179D(b)(1) (relating to maximum amount of deduc-  
 19 tion) is amended by striking “\$1.80” and inserting  
 20 “\$2.25”.

21 (2) PARTIAL ALLOWANCE.—Paragraph (1) of  
 22 section 179D(d) is amended—

23 (A) by striking “\$.60” and inserting  
 24 “\$0.75”, and

1 (B) by striking “\$1.80” and inserting  
2 “\$2.25”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act.

6 **SEC. 204. MODIFICATION AND EXTENSION OF ENERGY EF-**  
7 **FICIENT APPLIANCE CREDIT FOR APPLI-**  
8 **ANCES PRODUCED AFTER 2007.**

9 (a) IN GENERAL.—Subsection (b) of section 45M (re-  
10 lating to applicable amount) is amended to read as follows:

11 “(b) APPLICABLE AMOUNT.—For purposes of sub-  
12 section (a)—

13 “(1) DISHWASHERS.—The applicable amount  
14 is—

15 “(A) \$45 in the case of a dishwasher which  
16 is manufactured in calendar year 2008 or 2009  
17 and which uses no more than 324 kilowatt  
18 hours per year and 5.8 gallons per cycle, and

19 “(B) \$75 in the case of a dishwasher  
20 which is manufactured in calendar year 2008,  
21 2009, or 2010 and which uses no more than  
22 307 kilowatt hours per year and 5.0 gallons per  
23 cycle (5.5 gallons per cycle for dishwashers de-  
24 signed for greater than 12 place settings).

1           “(2) CLOTHES WASHERS.—The applicable  
2 amount is—

3           “(A) \$75 in the case of a residential top-  
4 loading clothes washer manufactured in cal-  
5 endar year 2008 which meets or exceeds a 1.72  
6 modified energy factor and does not exceed a  
7 8.0 water consumption factor,

8           “(B) \$125 in the case of a residential top-  
9 loading clothes washer manufactured in cal-  
10 endar year 2008 or 2009 which meets or ex-  
11 ceeds a 1.8 modified energy factor and does not  
12 exceed a 7.5 water consumption factor,

13           “(C) \$150 in the case of a residential or  
14 commercial clothes washer manufactured in cal-  
15 endar year 2008, 2009, or 2010 which meets or  
16 exceeds 2.0 modified energy factor and does not  
17 exceed a 6.0 water consumption factor, and

18           “(D) \$250 in the case of a residential or  
19 commercial clothes washer manufactured in cal-  
20 endar year 2008, 2009, or 2010 which meets or  
21 exceeds 2.2 modified energy factor and does not  
22 exceed a 4.5 water consumption factor.

23           “(3) REFRIGERATORS.—The applicable amount  
24 is—

1           “(A) \$50 in the case of a refrigerator  
2           which is manufactured in calendar year 2008,  
3           and consumes at least 20 percent but not more  
4           than 22.9 percent less kilowatt hours per year  
5           than the 2001 energy conservation standards,

6           “(B) \$75 in the case of a refrigerator  
7           which is manufactured in calendar year 2008 or  
8           2009, and consumes at least 23 percent but no  
9           more than 24.9 percent less kilowatt hours per  
10          year than the 2001 energy conservation stand-  
11          ards,

12          “(C) \$100 in the case of a refrigerator  
13          which is manufactured in calendar year 2008,  
14          2009, or 2010, and consumes at least 25 per-  
15          cent but not more than 29.9 percent less kilo-  
16          watt hours per year than the 2001 energy con-  
17          servation standards, and

18          “(D) \$200 in the case of a refrigerator  
19          manufactured in calendar year 2008, 2009, or  
20          2010 and which consumes at least 30 percent  
21          less energy than the 2001 energy conservation  
22          standards.”.

23       (b) ELIGIBLE PRODUCTION.—

1           (1) SIMILAR TREATMENT FOR ALL APPLI-  
 2           ANCES.—Subsection (c) of section 45M (relating to  
 3           eligible production) is amended—

4                   (A) by striking paragraph (2),

5                   (B) by striking “(1) IN GENERAL” and all  
 6           that follows through “the eligible” and inserting  
 7           “The eligible”, and

8                   (C) by moving the text of such subsection  
 9           in line with the subsection heading and redesign-  
 10          nating subparagraphs (A) and (B) as para-  
 11          graphs (1) and (2), respectively.

12          (2) MODIFICATION OF BASE PERIOD.—Para-  
 13          graph (2) of section 45M(c), as amended by para-  
 14          graph (1) of this section, is amended by striking “3-  
 15          calendar year” and inserting “2-calendar year”.

16          (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—  
 17          Subsection (d) of section 45M (defining types of energy  
 18          efficient appliances) is amended to read as follows:

19          “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—  
 20          For purposes of this section, the types of energy efficient  
 21          appliances are—

22                   “(1) dishwashers described in subsection (b)(1),

23                   “(2) clothes washers described in subsection  
 24                   (b)(2), and



1 “(3) refrigerators described in subsection  
2 (b)(3).”.

3 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

4 (1) INCREASE IN LIMIT.—Paragraph (1) of sec-  
5 tion 45M(e) (relating to aggregate credit amount al-  
6 lowed) is amended to read as follows:

7 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—  
8 The aggregate amount of credit allowed under sub-  
9 section (a) with respect to a taxpayer for any tax-  
10 able year shall not exceed \$75,000,000 reduced by  
11 the amount of the credit allowed under subsection  
12 (a) to the taxpayer (or any predecessor) for all prior  
13 taxable years beginning after December 31, 2007.”.

14 (2) EXCEPTION FOR CERTAIN REFRIGERATOR  
15 AND CLOTHES WASHERS.—Paragraph (2) of section  
16 45M(e) is amended to read as follows:

17 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-  
18 ERATORS AND CLOTHES WASHERS.—Refrigerators  
19 described in subsection (b)(3)(D) and clothes wash-  
20 ers described in subsection (b)(2)(D) shall not be  
21 taken into account under paragraph (1).”.

22 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

23 (1) IN GENERAL.—Paragraph (1) of section  
24 45M(f) (defining qualified energy efficient appliance)  
25 is amended to read as follows:

1           “(1) QUALIFIED ENERGY EFFICIENT APPLI-  
 2           ANCE.—The term ‘qualified energy efficient appli-  
 3           ance’ means—

4                   “(A) any dishwasher described in sub-  
 5                   section (b)(1),

6                   “(B) any clothes washer described in sub-  
 7                   section (b)(2), and

8                   “(C) any refrigerator described in sub-  
 9                   section (b)(3).”.

10           (2) CLOTHES WASHER.—Section 45M(f)(3) (de-  
 11           fining clothes washer) is amended by inserting  
 12           “commercial” before “residential” the second place  
 13           it appears.

14           (3) TOP-LOADING CLOTHES WASHER.—Sub-  
 15           section (f) of section 45M (relating to definitions) is  
 16           amended by redesignating paragraphs (4), (5), (6),  
 17           and (7) as paragraphs (5), (6), (7), and (8), respec-  
 18           tively, and by inserting after paragraph (3) the fol-  
 19           lowing new paragraph:

20                   “(4) TOP-LOADING CLOTHES WASHER.—The  
 21                   term ‘top-loading clothes washer’ means a clothes  
 22                   washer which has the clothes container compartment  
 23                   access located on the top of the machine and which  
 24                   operates on a vertical axis.”.

1           (4) REPLACEMENT OF ENERGY FACTOR.—Sec-  
 2           tion 45M(f)(6), as redesignated by paragraph (3), is  
 3           amended to read as follows:

4           “(6) MODIFIED ENERGY FACTOR.—The term  
 5           ‘modified energy factor’ means the modified energy  
 6           factor established by the Department of Energy for  
 7           compliance with the Federal energy conservation  
 8           standard.”.

9           (5) GALLONS PER CYCLE; WATER CONSUMP-  
 10          TION FACTOR.—Section 45M(f) (relating to defini-  
 11          tions), as amended by paragraph (3), is amended by  
 12          adding at the end the following:

13          “(9) GALLONS PER CYCLE.—The term ‘gallons  
 14          per cycle’ means, with respect to a dishwasher, the  
 15          amount of water, expressed in gallons, required to  
 16          complete a normal cycle of a dishwasher.

17          “(10) WATER CONSUMPTION FACTOR.—The  
 18          term ‘water consumption factor’ means, with respect  
 19          to a clothes washer, the quotient of the total weight-  
 20          ed per-cycle water consumption divided by the cubic  
 21          foot (or liter) capacity of the clothes washer.”.

22          (f) EFFECTIVE DATE.—The amendments made by  
 23          this section shall apply to appliances produced after De-  
 24          cember 31, 2007.

