

110TH CONGRESS
2D SESSION

S. 3561

To amend the Internal Revenue Code of 1986 to provide a refundable credit against income tax to assist individuals with high residential energy costs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24 (legislative day, SEPTEMBER 17), 2008

Mrs. CLINTON introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a refundable credit against income tax to assist individuals with high residential energy costs, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Home Energy Afford-
5 ability Tax Relief Act of 2008” or the “HEATR Act of
6 2008”.

1 **SEC. 2. REFUNDABLE CREDIT FOR RESIDENTIAL ENERGY**
 2 **COSTS.**

3 (a) IN GENERAL.—Subchapter B of chapter 65 of the
 4 Internal Revenue Code of 1986 (relating to rules of special
 5 application) is amended by adding at the end the following
 6 new section:

7 **“SEC. 6431. REFUNDABLE CREDIT FOR RESIDENTIAL EN-**
 8 **ERGY COSTS.**

9 “(a) GENERAL RULE.—In the case of an individual,
 10 there shall be allowed as a credit against the tax imposed
 11 by this subtitle for the taxable year an amount equal to
 12 the lesser of—

13 “(1) 33 percent of the amount of the taxpayer’s
 14 residential energy costs for such taxable year, or

15 “(2) \$500.

16 “(b) INCOME LIMITATION.—

17 “(1) IN GENERAL.—The amount allowable as a
 18 credit under subsection (a) for any taxable year shall
 19 be reduced (but not below zero) by an amount which
 20 bears the same ratio to the amount so allowable (de-
 21 termined without regard to this paragraph) as—

22 “(A) the amount (if any) by which the tax-
 23 payer’s adjusted gross income exceeds \$50,000
 24 (twice such amount in the case of a joint re-
 25 turn), bears to

1 “(B) \$10,000 (twice such amount in the
2 case of a joint return).

3 “(2) DETERMINATION OF ADJUSTED GROSS IN-
4 COME.—For purposes of paragraph (1), adjusted
5 gross income shall be determined without regard to
6 sections 911, 931, and 933.

7 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
8 poses of this section—

9 “(1) RESIDENTIAL ENERGY COSTS.—The term
10 ‘residential energy costs’ means the amount paid or
11 incurred by the taxpayer during the taxable year—

12 “(A) to any utility for electricity or natural
13 gas used in the principal residence of the tax-
14 payer during the heating season, and

15 “(B) for any qualified fuel for use in the
16 principal residence of the taxpayer but only if
17 such fuel is the primary fuel for heating such
18 residence.

19 “(2) PRINCIPAL RESIDENCE.—

20 “(A) IN GENERAL.—The term ‘principal
21 residence’ has the meaning given to such term
22 by section 121; except that no ownership re-
23 quirement shall be imposed.

24 “(B) SPECIAL RULES.—Such term shall
25 not include—

1 “(i) any residence located outside the
2 United States, and

3 “(ii) any residence not used as the
4 taxpayer’s principal place of abode
5 throughout the heating season.

6 “(3) HEATING SEASON.—The term ‘heating
7 season’ means October, November, December, Janu-
8 ary, February, and March.

9 “(4) QUALIFIED FUEL.—The term ‘qualified
10 fuel’ includes propane, heating oil, kerosene, wood,
11 and wood pellets.

12 “(d) OTHER SPECIAL RULES.—

13 “(1) INDIVIDUALS PAYING ON LEVEL PAYMENT
14 BASIS.—Amounts paid for natural gas under a level
15 payment plan for any period shall be treated as paid
16 for natural gas used during the portion (if any) of
17 the heating season during such period to the extent
18 of the amount charged for natural gas used during
19 such portion of the heating season. A similar rule
20 shall apply to electricity and any qualified fuel.

21 “(2) HOMEOWNERS ASSOCIATIONS, ETC.—The
22 application of this section to homeowners associa-
23 tions (as defined in section 528(c)(1)) or members
24 of such associations, and tenant-stockholders in co-
25 operative housing corporations (as defined in section

1 216), shall be allowed by allocation, apportionment,
 2 or otherwise, to the individuals paying, directly or
 3 indirectly, for the residential energy cost so incurred.

4 “(3) DOLLAR AMOUNT IN CASE OF JOINT OCCU-
 5 PANCY.—In the case of a dwelling unit which is the
 6 principal residence by 2 or more individuals, the dol-
 7 lar limitation under subsection (a)(2) shall be allo-
 8 cated among such individuals under regulations pre-
 9 scribed by the Secretary.

10 “(4) TREATMENT AS REFUNDABLE CREDIT.—
 11 For purposes of this title, the credit allowed by this
 12 section shall be treated as a credit allowed under
 13 subpart C of part IV of subchapter A of chapter 1
 14 (relating to refundable credits).

15 “(e) INFLATION ADJUSTMENT.—

16 “(1) IN GENERAL.—In the case of any taxable
 17 year beginning in 2009, each of the dollar amounts
 18 contained in subsections (a)(2) and (b)(1)(A) shall
 19 be increased by an amount equal to—

20 “(A) such dollar amount, multiplied by

21 “(B) in the case of—

22 “(i) the dollar amount contained in
 23 subsection (a)(2), the fuel price inflation
 24 adjustment for 2009, and

1 “(ii) the dollar amount contained in
 2 subsection (b)(1)(A), the cost-of-living ad-
 3 justment determined under section 1(f)(3)
 4 for 2009 by substituting ‘calendar year
 5 2007’ for ‘calendar year 1992’ in subpara-
 6 graph (B) thereof.

7 “(2) FUEL PRICE INFLATION ADJUSTMENT.—
 8 For purposes of paragraph (1)(B)(i)—

9 “(A) IN GENERAL.—The fuel price infla-
 10 tion adjustment for 2009 is the percentage (if
 11 any) by which—

12 “(i) the CPI fuel component for Octo-
 13 ber of 2008, exceeds

14 “(ii) the CPI fuel component for Oc-
 15 tober of 2007.

16 “(B) CPI FUEL COMPONENT.—The term
 17 ‘CPI fuel component’ means the fuel component
 18 of the Consumer Price Index for All Urban
 19 Consumers published by the Department of
 20 Labor.

21 “(3) ROUNDING.—

22 “(A) CREDIT AMOUNT.—

23 “(i) CREDIT AMOUNT.—If the dollar
 24 amount in subsection (a)(2) (after being
 25 increased under paragraph (1)), is not a

1 multiple of \$10, such dollar amount shall
 2 be rounded to the nearest multiple of \$10.

3 “(ii) INCOME THRESHOLD.—If the
 4 dollar amount in subsection (b)(1)(A)
 5 (after being increased under paragraph
 6 (1)), is not a multiple of \$50, such dollar
 7 amount shall be rounded to the next lowest
 8 multiple of \$50.

9 “(f) APPLICATION OF SECTION.—This section shall
 10 apply to residential energy costs paid or incurred after the
 11 date of the enactment of this section, in taxable years end-
 12 ing after such date, and before January 1, 2010.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Paragraph (2) of section 1324(b) of title
 15 31, United States Code, is amended by striking “or
 16 6428 or” and inserting “, 6428, 6431, or”.

17 (2) The table of sections for subchapter B of
 18 chapter 65 of such Code is amended by adding at
 19 the end the following new item:

“Sec. 6431. Refundable credit for residential energy costs.”.

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to taxable years ending after the
 22 date of the enactment of this Act.

1 **SEC. 3. ELIMINATION OF DEDUCTION FOR INTANGIBLE**
2 **DRILLING AND DEVELOPMENT COSTS FOR**
3 **MAJOR OIL COMPANIES.**

4 (a) IN GENERAL.—Section 263(c) of the Internal
5 Revenue Code of 1986 is amended by adding at the end
6 the following new sentences: “This subsection shall not
7 apply during any taxable year with respect to an applica-
8 ble taxpayer (as defined in section 901(m)(2)) if during
9 the preceding taxable year for the production of oil, the
10 average price of crude oil in the United States is greater
11 than \$34.71 per barrel, and for the production of natural
12 gas, the average wellhead price of natural gas in the
13 United States is greater than \$4.34 per 1,000 cubic feet.
14 For purposes of the preceding sentence, the Secretary
15 shall determine average prices, taking into consideration
16 the most recent data reported by the Energy Information
17 Administration. For taxable years beginning after Decem-
18 ber 31, 2008, each dollar amount specified in this sub-
19 section shall be adjusted to reflect changes for the 12-
20 month period ending the preceding September 30 in the
21 Consumer Price Index for All Urban Consumers published
22 by the Bureau of Labor Statistics of the Department of
23 Labor.”

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to taxable years beginning after
26 the date of the enactment of this Act.

1 **SEC. 4. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
 2 **APPLICABLE TO MAJOR OIL COMPANIES**
 3 **WHICH ARE DUAL CAPACITY TAXPAYERS.**

4 (a) IN GENERAL.—Section 901 of the Internal Rev-
 5 enue Code of 1986 (relating to credit for taxes of foreign
 6 countries and of possessions of the United States) is
 7 amended by redesignating subsection (m) as (n) and by
 8 inserting after subsection (l) the following new subsection:

9 “(m) SPECIAL RULES RELATING TO MAJOR OIL
 10 COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

11 “(1) GENERAL RULE.—Notwithstanding any
 12 other provision of this chapter, any amount paid or
 13 accrued by a dual capacity taxpayer which is an ap-
 14 plicable taxpayer (as defined in section 5896(b)) to
 15 a foreign country or possession of the United States
 16 for any period shall not be considered a tax—

17 “(A) if, for such period, the foreign coun-
 18 try or possession does not impose a generally
 19 applicable income tax, or

20 “(B) to the extent such amount exceeds
 21 the amount (determined in accordance with reg-
 22 ulations) which—

23 “(i) is paid by such dual capacity tax-
 24 payer pursuant to the generally applicable
 25 income tax imposed by the country or pos-
 26 session, or

1 “(ii) would be paid if the generally ap-
2 plicable income tax imposed by the country
3 or possession were applicable to such dual
4 capacity taxpayer.

5 Nothing in this paragraph shall be construed to
6 imply the proper treatment of any such amount
7 not in excess of the amount determined under
8 subparagraph (B).

9 “(2) APPLICABLE TAXPAYER.—For purposes of
10 this subsection, the term ‘applicable taxpayer’
11 means, with respect to operations in the United
12 States—

13 “(A) any integrated oil company (as de-
14 fined in section 291(b)(4)), and

15 “(B) any other producer or refiner of
16 crude oil with gross receipts from the sale of
17 such crude oil or refined oil products for the
18 taxable year exceeding \$100,000,000.

19 “(3) DUAL CAPACITY TAXPAYER.—For pur-
20 poses of this subsection, the term ‘dual capacity tax-
21 payer’ means, with respect to any foreign country or
22 possession of the United States, a person who—

23 “(A) is subject to a levy of such country or
24 possession, and

1 “(B) receives (or will receive) directly or
 2 indirectly a specific economic benefit (as deter-
 3 mined in accordance with regulations) from
 4 such country or possession.

5 “(4) GENERALLY APPLICABLE INCOME TAX.—
 6 For purposes of this subsection—

7 “(A) IN GENERAL.—The term ‘generally
 8 applicable income tax’ means an income tax (or
 9 a series of income taxes) which is generally im-
 10 posed under the laws of a foreign country or
 11 possession on income derived from the conduct
 12 of a trade or business within such country or
 13 possession.

14 “(B) EXCEPTIONS.—Such term shall not
 15 include a tax unless it has substantial applica-
 16 tion, by its terms and in practice, to—

17 “(i) persons who are not dual capacity
 18 taxpayers, and

19 “(ii) persons who are citizens or resi-
 20 dents of the foreign country or posses-
 21 sion.”.

22 (b) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by
 24 this section shall apply to taxes paid or accrued in

1 taxable years beginning after the date of the enact-
2 ment of this Act.

3 (2) CONTRARY TREATY OBLIGATIONS
4 UPHELD.—The amendments made by this section
5 shall not apply to the extent contrary to any treaty
6 obligation of the United States.

7 **SEC. 5. ELIMINATION OF ENHANCED OIL RECOVERY CRED-**
8 **IT FOR MAJOR OIL COMPANIES.**

9 (a) IN GENERAL.—Section 43 of the Internal Rev-
10 enue Code of 1986 is amended by adding at the end the
11 following new subsection:

12 “(f) NONAPPLICATION OF SECTION.—This section
13 shall not apply during any taxable year with respect to
14 an applicable taxpayer (as defined in section 901(m)(2))
15 if during the preceding taxable year for the production of
16 oil, the average price of crude oil in the United States is
17 greater than \$34.71 per barrel. For purposes of the pre-
18 ceding sentence, the Secretary shall determine average
19 prices, taking into consideration the most recent data re-
20 ported by the Energy Information Administration. For
21 taxable years beginning after December 31, 2008, the dol-
22 lar amount specified in this paragraph shall be adjusted
23 to reflect changes for the 12-month period ending the pre-
24 ceding September 30 in the Consumer Price Index for All

1 Urban Consumers published by the Bureau of Labor Sta-
2 tistics of the Department of Labor.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 the date of the enactment of this Act.

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