

115TH CONGRESS
2D SESSION

H. R. 4977

To amend the Internal Revenue Code of 1986 to allow a credit for certain facilities that remediate and reclaim coal refuse sites in the United States by producing electricity from coal refuse.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2018

Mr. BARLETTA 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 allow a credit for certain facilities that remediate and reclaim coal refuse sites in the United States by producing electricity from coal refuse.

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 “Coal Refuse Reclama-
5 tion Act”.

1 **SEC. 2. CREDIT FOR COAL REFUSE USED TO PRODUCE**
2 **ELECTRICITY AT CERTAIN FACILITIES.**

3 (a) IN GENERAL.—Section 45(e) of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following new paragraph:

6 “(12) COAL REFUSE FACILITIES.—

7 “(A) DETERMINATION OF CREDIT
8 AMOUNT.—The credit determined under this
9 section (without regard to this subparagraph)
10 for any taxable year shall be increased by an
11 amount equal to \$12 per ton of coal refuse used
12 at a coal refuse facility to produce electricity at
13 such facility during the 10-year period begin-
14 ning on January 1, 2018.

15 “(B) TONS OF COAL REFUSE.—For pur-
16 poses of subparagraph (A), the tons of coal
17 refuse used by an owner of a coal refuse facility
18 shall be as set forth in Schedule 4, Part A
19 (Fossil Fuel Stocks at the End of the Reporting
20 Period and the Data Balance) of the U.S. En-
21 ergy Information Administration Form-EIA923
22 Power Plant Operations Report (or any amend-
23 ed, successor, or similar form).

24 “(C) CREDIT ELIGIBILITY.—In the case of
25 a facility described in subparagraph (A), if the
26 owner of such facility is not the producer of the

1 electricity, the person eligible for the increase in
 2 credit determined under subparagraph (A) shall
 3 be the lessee or the operator of such facility.

4 “(D) APPLICATION OF RULES.—Rules
 5 similar to the rules of paragraphs (1), (3), and
 6 (5) of this subsection shall apply for purposes
 7 of determining the amount of any increase
 8 under this paragraph.

9 “(E) EXEMPTION FROM PASSIVE AND AT-
 10 RISK LIMITATIONS.—Sections 465 and 469
 11 shall not apply with respect to any increase
 12 under this paragraph.”.

13 (b) COAL REFUSE FACILITY DEFINED.—Section
 14 45(d) of such Code is amended by adding at the end the
 15 following new paragraph:

16 “(12) COAL REFUSE FACILITY.—In the case of
 17 a facility using coal refuse to produce electricity, the
 18 term ‘coal refuse facility’ means any facility—

19 “(A) which was originally placed in service
 20 prior to January 1, 2018, and combusts coal
 21 refuse or fuel composed of at least 75 percent
 22 coal refuse by BTU energy value, and

23 “(B) uses—

24 “(i) at a minimum, a circulating fluid-
 25 ized bed combustion unit or a pressurized

1 fluidized bed combustion unit equipped
2 with a limestone injection system, for con-
3 trol of acid gases, and

4 “(ii) a fabric filter particulate emis-
5 sion control system.”.

6 (c) COAL REFUSE.—Section 45(c) of such Code is
7 amended by adding at the end the following new para-
8 graph:

9 “(11) COAL REFUSE.—The term ‘coal refuse’
10 means any waste coal, rock, shale, slurry, culm, gob,
11 boney, slate, clay and related materials associated
12 with or near a coal seam that are either brought
13 aboveground or otherwise removed from a coal mine
14 in the process of mining coal or that are separated
15 from coal during the cleaning or preparation oper-
16 ations. Such term includes underground development
17 wastes, coal processing wastes and excess spoil, but
18 does not include overburden from surface mining ac-
19 tivities.”.

20 (d) ALLOWANCE OF CREDIT AGAINST ALTERNATIVE
21 MINIMUM TAX.—Section 38(c)(4)(B)(v) of such Code is
22 amended by inserting “or section 45(e)(12) (relating to
23 coal refuse facilities)” before the comma at the end.

1 (e) ADVANCE PAYMENT OF CREDIT.—Subchapter B
2 of chapter 65 of such Code is amended by adding at the
3 end the following new section:

4 **“SEC. 6433. ELECTIVE PAYMENT FOR COAL REFUSE FACILI-**
5 **TIES.**

6 “(a) IN GENERAL.—Any person electing the applica-
7 tion of this section with respect to any eligible coal refuse
8 facility shall be treated as making a payment against the
9 tax imposed by subtitle A for the taxable year equal to
10 the amount of the credit that would be determined under
11 section 45 for such facility for such year. Except as pro-
12 vided in subsection (b), such payment shall be treated as
13 made on the later of the due date of the return of such
14 tax or the date on which such return is filed.

15 “(b) QUARTERLY ELECTION.—

16 “(1) IN GENERAL.—At the close of any quarter
17 of the taxable year of any taxpayer entitled to a
18 credit with respect to an eligible coal refuse facility,
19 if a claim is filed under this section, the Secretary
20 shall pay (without interest) an amount equal to the
21 credit determined under section 45 for such quarter,
22 calculated as if such credit were determined on a
23 quarterly basis and as if the tons of coal refuse
24 under section 45(e)(12)(B) were reported quarterly
25 on Schedule 4, Part A (Fossil Fuel Stocks at the

1 End of the Reporting Period and the Data Balance)
2 of the U.S. Energy Information Administration
3 Form-EIA923 Power Plant Operations Report (or
4 any amended, successor, or similar form).

5 “(2) TIME FOR FILING CLAIM.—No claim filed
6 under this subsection (b) shall be allowed unless
7 filed during the first quarter following the last quar-
8 ter included in the claim.

9 “(3) PAYMENT OF CLAIM.—Notwithstanding
10 paragraph (1) of this subsection, if the Secretary
11 has not paid pursuant to a claim filed under this
12 section within 45 days of the date of the filing of
13 such claim (20 days in the case of an electronic
14 claim), the claim shall be paid with interest from
15 such date determined by using the overpayment rate
16 and method under section 6621.

17 “(c) SPECIAL RULES FOR PARTNERSHIPS AND S
18 CORPORATIONS.—In the case of an eligible coal refuse fa-
19 cility owned or used by a partnership or an S corpora-
20 tion—

21 “(1) the elections under subsection (a) or (b)
22 may be made only by such partnership or S corpora-
23 tion,

24 “(2) such partnership or S corporation shall be
25 treated as making the payment referred to in sub-

1 section (a) only to the extent of the proportionate
2 share of such partnership or S corporation as is
3 owned by persons who would be treated as making
4 such payment if the property were owned or used by
5 such persons, and

6 “(3) the return required to be made by such
7 partnership or S corporation under section 6031 or
8 6037 (as the case may be) shall be treated as a re-
9 turn of tax for purposes of subsection (a).

10 “(d) COORDINATION WITH PRODUCTION CREDITS.—
11 In the case of any eligible coal refuse facility with respect
12 to which an election is made under subsection (a) or (b),
13 no credit shall be determined under section 45 with re-
14 spect to such facility for the taxable year in which such
15 election is made.

16 “(e) ELIGIBLE COAL REFUSE FACILITY.—The term
17 ‘eligible coal refuse facility’ means a facility eligible for
18 a credit during the taxable year pursuant to section
19 45(d)(12).

20 “(f) EXCLUSION FROM GROSS INCOME.—Any credit
21 or refund allowed or made by reason of this section shall
22 not be includible in gross income or alternative minimum
23 taxable income.

24 “(g) REGULATIONS.—The Secretary may by regula-
25 tions prescribe the conditions, not inconsistent with the

1 provisions of this section, under which payments may be
2 made under this section.”.

3 (f) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to coal refuse used to produce elec-
5 tricity after December 31, 2017, in taxable years begin-
6 ning after such date.

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