116TH CONGRESS
2D SESSION

S. 4966

To amend the Internal Revenue Code of 1986 to provide for a 5-year extension of the carbon oxide sequestration credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2020

Mrs. CAPITO (for herself, Mr. WHITEHOUSE, Mr. BARRASSO, Mr. CRAMER, Mr. HOEVEN, Ms. SMITH, and Mr. MANCHIN) 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 a 5-year extension of the carbon oxide sequestration credit, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "45Q Carbon Capture, Utilization, and Storage Tax Credit Amendments Act of 2020".

SEC. 2. EXTENSION OF CREDIT FOR CARBON OXIDE SEQUESTRATION.

Section 45Q(d)(1) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2024'' and inserting ''January 1, 2029''.

SEC. 3. ELECTIVE PAYMENT FOR CARBON OXIDE SEQUESTRATION AND QUALIFYING ADVANCED COAL PROJECTS.

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 6431. ELECTIVE PAYMENT FOR CARBON OXIDE SEQUESTRATION AND QUALIFYING ADVANCED COAL PROJECTS.

''(a) ENERGY PROPERTY.—In the case of a taxpayer making an election (at such time and in such manner as the Secretary may provide) under this section with respect to any portion of—

''(1) a carbon oxide sequestration credit which would (without regard to this section) be determined under section 45Q with respect to such taxpayer, or

''(2) a qualifying advanced coal project credit which would (without regard to this section) be determined under section 48A with respect to such taxpayer, such taxpayer shall be treated as making a payment against the tax imposed by subtitle A for the taxable year equal to the amount of such portion.

"(b) TIMING.—The payment described in subsection (a) shall be treated as made on the later of the due date of the return of tax for such taxable year or the date on which such return is filed.

"(c) EXCLUSION FROM GROSS INCOME.—Gross income of the taxpayer shall be determined without regard to this section.

"(d) DENIAL OF DOUBLE BENEFIT.—Solely for purposes of section 38, in the case of a taxpayer making an election under this section, the carbon oxide sequestration credit determined under section 45Q or the qualifying advanced coal project credit determined under section 48A shall be reduced by the amount of the portion of such credit with respect to which the taxpayer makes such election.

"(e) SPECIAL RULES.—In the case of a taxpayer making an election under this section with respect to the qualifying advanced coal project credit determined under section 48A, the credit subject to such an election shall be determined notwithstanding—

"(1) section 50(b)(3), and

"(2) in the case of any entity described in section 50(b)(4)(A)(i), section 50(b)(4).".

(b) SPECIAL RULE FOR PROCEEDS OF TRANSFERS FOR MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—Section 501(c)(12)(I) of the Internal Revenue Code of 1986 is amended by inserting "or 6431(a)" after "section 45J(e)(1)".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end the following new item:

"Sec. 6431. Elective payment for carbon oxide sequestration and qualifying advanced coal projects.".

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

SEC. 4. ALLOWANCE OF CERTAIN CARBON SEQUESTRATION CREDITS AGAINST THE BASE EROSION MINIMUM TAX.

(a) IN GENERAL.—Section 59A(b)(1)(B)(ii) of the Internal Revenue Code of 1986 is amended by striking "plus" and the end of subclause (I), by redesignating subclause (II) as subclause (IV), and by inserting after subclause (I) the following new subclauses:

"(II) the credit allowed under section 38 for the taxable year which is properly allocable to the carbon dioxide sequestration credit determined under section 45Q(a),

"(III) the credit allowed under section 38 for the taxable year which is properly allocable to the investment credit determined under section 46, but only to the extent properly allocable to the qualifying advanced coal project credit determined under section 48A, plus".

(b) APPLICATION TO TAXABLE YEARS BEGINNING AFTER 2025.—Subparagraph (B) of section 59A(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) by applying subparagraph (B)(ii) thereof without regard to subclauses (I) and (IV).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to base erosion payments (as defined in section 59A(d) of the Internal Revenue Code of 1986) paid or incurred in taxable years beginning after December 31, 2017.

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