102d Congress
2d Session

COMMITTEE PRINT

S.PRT.
102-95

TECHNICAL EXPLANATION OF THE AMENDMENT TO TITLE XIX OF H.R. 776 (Comprehensive National Energy Act)

COMMITTEE ON FINANCE
UNITED STATES SENATE

JUNE 18, 1992

U.S. GOVERNMENT PRINTING OFFICE
56-541 WASHINGTON : 1992

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-038735-3

5362-22.

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I. LEGISLATIVE BACKGROUND

H.R. 776 ("Comprehensive National Energy Policy Act") was passed by the House of Representatives on May 27, 1992. The bill was referred to the Senate Committee on Finance on June 4, 1992, for consideration of the revenue-related provisions. On February 19, 1992, the Senate passed S. 2166 ("National Energy Security Act of 1992"), which did not include tax provisions. S. 2166 was debated by the Senate on February 5-7 and 18-19, 1992.[1]

The Subcommittee on Energy and Agricultural Taxation of the Committee on Finance held hearings on June 13-14, 1991, on proposals relating to renewable energy and energy conservation tax incentives. The Subcommittee hearings included the following energy-related tax bills: (1) S. 26 (exclusion for certain employer-provided transportation); (2) S. 83 (exclusion for public utility payments for energy or water conservation measures); (3) S. 129 (exclusion for certain employer-provided transportation); (4) S. 141 (extension of business energy tax credits); (5) S. 201 (increase in gas guzzler excise tax and tax credit for purchase of fuel-efficient automobiles); (6) S. 326 (exclusion for public utility payments for energy conservation measures, tax credit for retrofit of residential oil heaters, and employer deduction for employer parking); (7) S. 466 (tax credit for production of qualified electricity and extension of business energy tax credits); (8) S. 661 (tax credit for production of qualified electricity, extension of business energy tax credits, and tax credit for telecommuting); (9) S. 679 (exclusion for public utility payments for residential energy conservation measures); and (10) S. 731 (extension of business energy tax credits).

The Subcommittee on Medicare and Long-Term Care held a hearing on September 25, 1991, on retired miners' health benefits.

The Subcommittee on Taxation held a hearing on February 19, 1992, on the effects of the alternative minimum tax.

The Committee on Finance marked up the tax title of H.R. 776 (Title XIX) on June 16, 1992, and ordered a committee amendment to the bill ("the bill") favorably reported as a substitute for Title XIX.

[1] S. 1220 was the predecessor bill to S. 2166. S. 1220 was reported by the Senate Committee on Energy and Natural Resources on June 5, 1991 (S. Rept. 102-72).

II. EXPLANATION OF PROVISIONS

A. Energy Conservation and Production Incentives

1. Exclusion for Employer-Provided Transportation Benefits (sec. 1911 of the bill and sec. 132 of the Code)

Present Law

Under Treasury regulations, transit passes, tokens, fare cards, vouchers, and cash reimbursements provided by an employer to defray an employee's commuting costs are excludable from the employee's income (for both income and payroll tax purposes) as a de minimis fringe benefit if the total value of the benefit does not exceed $21. If the total value of the benefit exceeds $21 per month, the full value of the benefit is includible in income.

Parking at or near the employer's business premises that is paid for by the employer is excludable from the gross income of the employee (for both income and payroll tax purposes) as a working condition fringe benefit, regardless of the value of the parking. This exclusion does not apply to any parking facility or space located on property owned or leased by the employee for residential purposes.

Reasons for Change

Present law favors the provision of fringe benefits in the form of employer-provided parking over the provision of fringe benefits in the form of employer-provided transit benefits. This disparity may discourage employers from providing transit benefits as opposed to parking benefits. The committee believes that a significant increase in the amount and type of employer-provided public transit commuting benefits that may be excluded from income, together with a limit on the exclusion for employer-provided parking, will create a more meaningful incentive for employers to support commuting by public transit than the present-law exclusion. The committee believes that increased use of mass transit could provide substantial benefits to society, such as reduced traffic congestion and reduced environmental degradation.

Explanation of Provision

Under the bill, gross income and wages (for both income and payroll tax purposes) does not include qualified transportation fringe benefits. In general, a qualified transportation fringe is (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment, (2) a transit pass, or (3) qualified parking. The maximum amount of qualified parking that is excludable from an employee's gross income and wages is $145 per month (regardless of the total value of the parking). Other qualified transportation fringes are excludable from gross income to the extent that the aggregate value of the benefits does not exceed $60 per month (regardless of the total value of the benefits). The $60 and $145 limits are indexed for inflation in $5 increments.

A commuter highway vehicle is a highway vehicle the seating capacity of which is at least 6 adults (not including the driver) and at least 80 percent of the mileage use of which can reasonably be expected to be for purposes of transporting employees between their residences and their place of employment on trips during which the number of employees transported for such purpose is at least one-half of the adult seating capacity of the vehicle (not including the driver). Transportation furnished in a commuter highway vehicle operated by or for the employer is considered provided by the employer. Cash reimbursements made by an employer to an employee to cover the cost of commuting in a commuter highway vehicle also qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement.

A transit pass includes any pass, token, fare card, voucher, or similar item entitling a person to transportation on mass transit facilities (whether publicly or privately owned). Types of transit facilities that qualify for the exclusion include, for example, rail, bus, and ferry. Cash reimbursements made by an employer to an employee to cover the cost of purchasing a transit pass generally qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement. However, cash reimbursements do not qualify for the exclusion if vouchers (or similar items) that are exchangeable only for transit passes are readily available to the employer.

Qualified parking is parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by mass transit, in a commuter highway vehicle, or by carpool. However, the exclusion does not apply to any parking facility or space located on or near property used by the employee for residential purposes. Cash reimbursements made by an employer to an employee to cover the cost of qualified parking qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement.

Effective Date

The provision applies to benefits provided by the employer after December 31, 1992.

2. Exclusion of Energy Conservation Subsidies Provided by Public Utilities (sec. 1912 of the bill and new sec. 136 of the Code)

Present Law

Section 8217(i) of the National Energy Conservation Policy Act provided that the value of any subsidy provided by a utility to a residential customer for the purchase or installation of a residential energy conservation measure was excluded from gross income. That exclusion expired on June 30, 1989.

In Technical Advice Memorandum 8924002, the IRS ruled that a cash payment by a utility to a customer to encourage the installation of an alternative heating system by a third-party vendor was includible in the gross income of the customer. In the ruling, the IRS distinguished the taxable utility subsidy from a nontaxable automobile manufacturer rebate (which is treated as a reduction in the purchase price of the automobile).

Further, in Rev. Rul. 91-36, 1991-2 C.B. 17, the IRS held that if a customer of an electric utility company participates in an energy conservation program for which the customer receives a rate reduction or nonrefundable credit on the customer's bill, the amount of the rate reduction or nonrefundable credit is not included in the customer's gross income. In the ruling, the IRS reasoned that the rate reduction or nonrefundable credit represented a reduction in the purchase price of electricity and, therefore, did not constitute taxable income.

Finally, in Rev. Rul. 78-170, 1978-2 C.B. 24, the IRS held that qualified low-income individuals could exclude from gross income the value of subsidies provided pursuant to State law to reduce the cost of winter energy consumption. In the ruling, the IRS reasoned that the subsidies were not subject to tax because they were in the nature of payments made for the promotion of the general welfare.

Reasons for Change

The committee believes that it is appropriate to provide tax-free treatment for the receipt of subsidies relating to energy conservation measures in order to encourage customers of public utilities to participate in energy conservation programs sponsored by the utilities.

Explanation of Provision

In general

For taxable years beginning after 1992, the bill provides an exclusion from the gross income of a residential customer of a public utility for the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to a dwelling unit.

In addition, for taxable years beginning after 1993, the bill provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 80 percent of the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit.

Definitions

The term "energy conservation measure" means an installation or modification of an installation which is primarily designed to reduce consumption of electricity or natural gas or improve the management of energy demand. Energy conservation measures provided with respect to property that is not a dwelling unit includes the purchase or installation of specially defined energy property. "Specially defined energy property" includes a recuperator, a heat wheel, a regenerator, a heat exchanger, a waste heat boiler, a heat pipe, an automatic energy control system, a turbulator, a preheater, a combustible gas recovery system, an economizer, modifications to alumina electrolytic cells, modifications to chlor-alkali electrolytic cells, and other property that the Secretary of the Treasury may specify by regulations, the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

The term "public utility" means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. The term includes regulated public utilities, rural electric cooperatives, and utilities that are owned and operated by the Federal Government or a State or local government or any instrumentality or political subdivision thereof.

The term "dwelling unit" has the meaning given by section 280A(f)(1) of the Code. The value of any subsidy provided with respect to a building or structure that contains both dwelling units and units that are not dwelling units shall be properly allocated between the dwelling units and the units that are not dwelling units.

Other rules

The bill denies a deduction or credit to a taxpayer (or in appropriate cases requires a reduction in the adjusted basis of property of a taxpayer) for any expenditure to the extent that a subsidy related to the expenditure was excluded from the gross income of the taxpayer. Thus, if a utility customer receives a subsidy from a utility to acquire energy-efficient equipment, the customer's adjusted basis in the equipment will be reduced by the amount of the subsidy that is excluded from the customer's gross income.

The provision applies to the value of any subsidy provided by a public utility to a third party for the purchase or installation of an energy conservation measure with respect to a customer of the utility in the same manner as if the subsidy had been provided directly to the customer. If the provision applies to a subsidy received by a third party, the rule described in the paragraph above (i.e., the denial of double benefits for amounts excluded from income) will also apply to the expenditures of the third party. For example, if in a taxable year beginning after 1993, a public utility provides a subsidy to an independent contractor to produce energy-savings with respect to the utility's industrial customers, 80 percent of the amount of the subsidy will be excluded from the gross income of the contractor. The 80 percent exclusion applies in this example because had the subsidy been provided directly to the industrial customers, the customers would have excluded 80 percent of such amount from their gross incomes. In addition, the contractor will reduce the amount of any deduction (or in appropriate cases, reduce the adjusted basis of property) for expenditures incurred in providing the energy-savings to the customer by the amount excluded from gross income under the provision.

The provision applies to payments by a public utility to a taxpayer for the acquisition of State tax benefits granted to the taxpayer by the State pursuant to a State-sponsored energy conservation program.[2] For example, assume that under a State program, a State grants investment tax credits to industrial taxpayers that acquire and place in service certain energy-efficient property. The State program provides that a taxpayer may claim the tax credit on its State income tax return or it may sell the credit to a local public utility that may then claim the credit. The provision applies to the payment received by the taxpayer from the utility if the taxpayer sells the credit to utility. The provision does not apply if the taxpayer claims the credit on its State income tax return.

The provision does not apply to payments made to or from a qualified cogeneration facility or a qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

Effective Date

The provision is effective for amounts received after December 31, 1992.

[2] In addition, it is understood that under present law, exclusions for subsidies for energy conservation measures provided to low-income individuals pursuant to State-sponsored programs may be available.

3. Treatment of Clean-Fuel Vehicles and Certain Refueling Property (sec. 1913 of the bill and new secs. 30 and 179A of the Code)

Present Law

In determining taxable income for Federal income tax purposes, taxpayers are allowed deductions for the depreciation of property that is used in a trade or business or that is held for the production of income. The depreciation deductions for tangible property generally are determined under the accelerated cost recovery system as modified by the Tax Reform Act of 1986.

Under the accelerated cost recovery system, the depreciation deductions for automobiles and light general purpose trucks are determined by using a 5-year recovery period and the 200-percent declining balance method (with a switch to the straight-line method beginning with the taxable year that the straight-line method yields a higher depreciation deduction). The depreciation deductions for other tangible personal property generally are determined by using a recovery period that is based on the class life of the property and either the 150-percent declining balance method (for 15-year and 20-year property) or the 200-percent declining balance method (for most other tangible personal property).

A taxpayer may elect, subject to certain limitations, to deduct the cost of up to $10,000 of qualifying property for the taxable year that the property is placed in service. The depreciable basis of the qualifying property is reduced by the amount of the deduction. For this purpose, qualifying property is generally defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business.

In general, no deduction is allowed under present law for personal, living, or family expenses.

Reasons for Change

The committee believes that taxpayers should be encouraged to purchase (or convert existing gasoline-powered motor vehicles to) motor vehicles that are propelled by clean-burning fuels and to invest in property that is used to refuel such vehicles in order to reduce the atmospheric pollution caused by motor vehicles and reduce the dependence of the United States on imported petroleum and imported petroleum products.

Explanation of Provision

In general

The bill provides a deduction for a portion of the cost of certain motor vehicles that may be propelled by a clean-burning fuel. In addition, the bill provides a deduction of up to $75,000 per location for the cost of certain property that is used in the storage of clean-burning fuel or the delivery of clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel. Finally, the bill provides an income tax credit equal to 15 percent of the cost of certain motor vehicles propelled by an electric motor.

Deduction for qualified clean-fuel vehicle property and qualified clean-fuel vehicle refueling property

Qualified clean-fuel vehicle property

The bill allows a deduction for a portion of the cost of qualified clean-fuel vehicle property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle property is defined as: (1) a motor vehicle that is produced by an original equipment manufacturer and that is designed so that the vehicle may be propelled by a clean-burning fuel (an "original equipment manufacturer's vehicle"); and (2) any property that is installed on a motor vehicle which is propelled by a fuel that is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel (a "retrofitted vehicle"), but only if the property is an engine (or modification thereof) which may use the clean-burning fuel or only to the extent that the property may be used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel.

In order for property to qualify as qualified clean-fuel vehicle property, the property must be acquired for use by the taxpayer (and not for resale) and the original use of the property must commence with the taxpayer. In addition, the property (or, in the case of a retrofitted vehicle, the motor vehicle of which the property is a part) must satisfy any applicable Federal or State emissions standards with respect to each fuel by which the vehicle is designed to be propelled. Finally, qualified clean-fuel vehicle property does not include an electric vehicle that qualifies for the 15-percent credit described below.

In the case of an original equipment manufacturer's vehicle,[3] the amount of the deduction is determined based on whether the motor vehicle may be propelled by (1) only a clean-burning fuel (a "dedicated clean-fuel vehicle"), or (2) both a clean-burning fuel and any other fuel (a "fuel-flexible vehicle" or "dual-fuel vehicle").

In the case of an original equipment manufacturer's vehicle that is a dedicated clean-fuel vehicle, the amount of the deduction equals the cost of the motor vehicle, but no more than the cost limitation applicable to the vehicle as described below. In the case of an original equipment manufacturer's vehicle that is a fuel-flexible or dual-fuel vehicle, the amount of the deduction equals $1,200, or, if greater, the incremental cost of permitting the use of the clean-burning fuel,[4] but no more than the cost limitation applicable to the vehicle as described below.

In the case of a retrofitted vehicle, the amount of the deduction equals (1) the cost of the engine (or modification thereof) that is installed on the motor vehicle and that permits the motor vehicle to

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[3] An original equipment manufacturer's vehicle is to include any motor vehicle that is capable of being propelled by a clean-burning fuel prior to the original use of the vehicle. Any motor vehicle that is not capable of being propelled by a clean-burning fuel prior to the original use of the vehicle but is later modified so that it may be propelled by a clean-burning fuel is to be treated as a retrofitted vehicle.

[4] The incremental cost of permitting the use of a clean-burning fuel is the excess of the cost of the vehicle over what the cost of the vehicle would have been had the vehicle been propelled solely by the fuel that is not a clean-burning fuel. It is anticipated that the manufacturer or dealer will provide a certification of such incremental cost to the person that qualifies for the deduction.

be propelled by a clean-burning fuel, and (2) the cost of any other property that is installed on the motor vehicle for purposes of permitting the motor vehicle to be propelled by a clean-burning fuel but only to the extent that the property is used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel.[5] In no event, however, is the amount of the deduction to exceed the cost limitation applicable to the vehicle as described below.

The cost that may be taken into account in determining the amount of the deduction with respect to any motor vehicle is limited based on the type of the motor vehicle. In the case of a truck [6] or van with a gross vehicle weight rating that is greater than 26,000 pounds or a bus which has a seating capacity of at least 20 adults (not including the driver), the limitation is $50,000. In the case of a truck or van with a gross vehicle weight rating that is greater than 10,000 but not greater than 26,000 pounds, the limitation is $5,000. In the case of any other motor vehicle, the limitation is $2,000.

The cost limitations are reduced for qualified clean-fuel vehicle property that is placed in service after December 31, 2001. The otherwise applicable limitations are reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No deduction is allowed with respect to qualified clean-fuel vehicle property that is placed in service after December 31, 2004.

Qualified clean-fuel vehicle refueling property

The bill allows a deduction for the cost of qualified clean-fuel vehicle refueling property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle refueling property is defined to include any property (other than a building or its structural components) that is used for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by the fuel, but only if the storage or dispensing (as the case may be) of the fuel is at the point where the fuel is delivered into the fuel tank of the motor vehicle.

In addition, qualified clean-fuel vehicle refueling property is defined to include any property (other than a building or its structural components) that is dedicated to the recharging of motor vehicles propelled by electricity but only if the property is located at the point where the motor vehicles are recharged. For this purpose, qualified clean-fuel vehicle refueling property generally includes any equipment that is used to provide electricity to the battery of a motor vehicle that is propelled by electricity (e.g., low-voltage recharging equipment, quick (high-voltage) charging equipment, or ancillary connection equipment such as inductive charging equipment) but does not include any property that is used to generate

[5] For this purpose, the cost of the original installation of the engine or any other such property is to be treated as part of the cost of the engine or such property.

[6] For purposes of the bill, a truck is to include a tractor that is used on public streets or highways to tow a vehicle such as a trailer or semi-trailer.

electricity (e.g., solar panels or windmills) and does not include the battery used in a motor vehicle propelled by electricity.

In order for property to qualify as qualified clean-fuel vehicle refueling property, the original use of the property must commence with the taxpayer and the property must be of a character that is subject to the allowance for depreciation (i.e., unlike qualified clean-fuel vehicle property, qualified clean-fuel vehicle refueling property is required to be used in a trade or business of the taxpayer).

The aggregate cost that may be taken into account in determining the amount of the deduction with respect to qualified clean-fuel vehicle refueling property that is placed in service at any location is not to exceed the excess (if any) of (1) $75,000, over (2) the aggregate amount taken into account under the provision by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years. For this purpose, a person is treated as related to another person if the person bears a relationship to the other person that is specified in section 267(b) or section 707(b)(1).

Definition of clean-burning fuel and motor vehicle

Clean-burning fuel is defined as natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel if at least 85 percent of the fuel is methanol, ethanol, any other alcohol, ether, or any combination of the foregoing. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

Other rules

The basis of any property with respect to which a deduction is allowed under this provision is reduced by the portion of the cost of the property that is taken into account in determining the amount of the deduction that is allowed with respect to the property. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the benefit of the deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property if the property ceases to be property eligible for the deduction. For example, the committee anticipates that the regulations will require the benefit of the deduction for qualified clean-fuel vehicle property to be recaptured if at any time within three years after the date that the property is placed in service, the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel.

The deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property is not allowed with respect to property that is used predominantly outside the United States or property that is used by governmental units or certain tax-exempt organizations. In addition, the deduction for such property is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.

The deduction for qualified clean-fuel vehicle property is not subject to the luxury automobile depreciation limitations of section

280F (unlike the deduction allowed under section 179).[7] In addition, the deduction for qualified clean-fuel vehicle property is allowed as an adjustment to gross income rather than as an itemized deduction. Consequently, the deduction is not subject to the 2-percent adjusted gross income floor that otherwise applies to miscellaneous itemized deductions or to the limitation on itemized deductions that applies to taxpayers with adjusted gross income in excess of a specified amount ($105,250 for taxable years beginning in 1992).

Income tax credit for qualified electric vehicles

In general

The bill provides an income tax credit equal to 15 percent of the cost of a qualified electric vehicle for the taxable year that the vehicle is placed in service.[8] A qualified electric vehicle is defined as a motor vehicle (1) that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current; (2) the original use of which commences with the taxpayer; and (3) that is acquired for use by the taxpayer and not for resale. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

The credit for qualified electric vehicles for any taxable year is not to exceed the excess (if any) of (1) the regular tax for the taxable year reduced by the credits allowable under Subpart A and sections 27, 28 and 29 of the Code, over (2) the tentative minimum tax for the taxable year.

Other rules

The basis of a qualified electric vehicle is reduced by the amount of the credit that is allowable with respect to the vehicle. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the credit if the vehicle ceases to be a qualified electric vehicle. For example, the committee anticipates that the regulations will require the credit to be recaptured if at any time within three years after the date that the vehicle is placed in service, the vehicle is modified so that it is no longer a qualified electric vehicle.

The credit for a qualified electric vehicle is not allowed with respect to property that is used predominantly outside the United States or property that is used by governmental units or certain tax-exempt organizations. In addition, the credit is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.[9]

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[7] The depreciation deductions allowed with respect to any such property, however, continue to be subject to the limitations of section 280F.

[8] The credit is phased out for qualified electric vehicles placed in service after December 31, 2001. The otherwise allowable credit is reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No credit is allowed with respect to a qualified electric vehicle that is placed in service after December 31, 2004.

[9] The credit is to equal 15 percent of the excess of (1) the cost of the motor vehicle, over (2) the cost of such motor vehicle that is taken into account under section 179.

Effective Date

The provision applies to property that is placed in service after June 30, 1993, and before January 1, 2005.

4. Income Tax Credit for Electricity Generated Using Certain Renewable Resources (sec. 1914 of the bill and new sec. 45 of the Code)

Present Law

An investment-type tax credit is allowed against income tax liability for investments in property producing energy from certain specified renewable sources. The nonrefundable credit, which is referred to as the business energy credit, equals 10 percent of the cost of qualified solar or geothermal energy property. Solar energy property that qualifies for this tax credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but in the case of electricity generated by geothermal power, only property used up to (but not including) the transmission stage.[10]

The business energy credit is a component of the general business credit. The general business credit may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of: (1) 25 percent of net regular tax liability above $25,000; or (2) the tentative minimum tax. Any unused general business credit generally may be carried back to the three previous taxable years and carried forward to the subsequent 15 taxable years.

A production-type tax credit is allowed against income tax liability for the production of certain nonconventional fuels. For 1991, the credit amount is equal to $5.35 per barrel of oil or BTU oil equivalent. (This credit amount is adjusted for inflation.) Qualified fuels must be produced from a well drilled, or facility placed in service, before January 1, 1993, and must be sold before January 1, 2003. Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressurized brine, Devonian shale, coal seams, a tight formation, or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

Reasons for Change

The committee believes that the development and utilization of certain renewable energy sources should be encouraged through the tax laws. A production-type credit is believed to target exactly the activity that the committee seeks to subsidize (the production of electricity using specified renewable energy sources). The credit is intended to enhance the development of technology to utilize the

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[10] For purposes of the business energy credit, a geothermal energy deposit is defined as a domestic geothermal reservoir of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

specified renewable energy sources and to promote competition between renewable energy sources and conventional energy sources.

Explanation of Provision

The bill provides for a production-type credit against income tax liability for electricity produced from either qualified wind energy or qualified "closed-loop biomass" facilities. The credit equals 1.5 cents (adjusted for inflation) per kilowatt hour of electricity produced from these qualified sources during the 10-year period after the facility is placed in service. In order to claim the credit, a taxpayer must sell the electricity to an unrelated party. The committee intends that a public utility which owns and operates a qualified facility be able to claim the credit to the extent that the utility ultimately sells the electricity generated to unrelated parties. This production credit is part of the general business credit, subject to the carryforward, carryback, and the limitation rules of the general business credit (except that the production credit from closed-loop biomass facilities may not be carried back to a taxable year ending before January 1, 1993, and the production credit from qualified wind energy facilities may not be carried back to a taxable year ending before January 1, 1994).

Closed-loop biomass is defined as the use of plant matter on a renewable basis as an energy source to generate electricity, where the plants are grown for the sole purpose of being used to generate electricity. Accordingly, the credit is not available for the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste) to generate electricity. Moreover, the credit is not available to a taxpayer who uses standing timber to produce electricity.

The credit is proportionately phased out over a three-cent per kilowatt hour range if the national average price of electricity from the renewable source sold in accordance with contracts entered into after December 31, 1989, exceeds a threshold price of 8 cents per kilowatt hour. (This threshold is adjusted for inflation.) Thus, the credit will not be available if the national average price of electricity from the renewable source is greater than three cents per kilowatt hour above the threshold price.

A facility which has received the business energy credit or the investment credit is not eligible for the production credit. In addition, the credit is reduced proportionately for any governmental grants or subsidized financing received (including the use of tax-exempt bonds).

Effective Date

The credit applies to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before July 1, 1999, and to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before July 1, 1999.

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5. Repeal of Certain Minimum Tax Preferences Relating to Oil and Gas Production (sec. 1915 of the bill and secs. 56 and 57 of the Code)

Present Law

Taxpayers who pay or incur intangible drilling or development costs ("IDCs") in the development of domestic oil or gas properties may elect either to expense or capitalize these amounts. If an election to expense IDCs is made, the taxpayer deducts the amount of the IDCs as an expense in the taxable year the cost is paid or incurred. Generally, if IDCs are not expensed, but are capitalized, they can be recovered through depletion or depreciation, as appropriate; or at the election of the taxpayer, they may be amortized over a 60-month period.

The difference between the amount of a taxpayer's IDC deductions and the amount which would have been currently deductible had IDCs been capitalized and recovered over a 10-year period is an item of tax preference for the alternative minimum tax ("AMT") to the extent that this amount exceeds 65 percent of the taxpayer's net income from oil and gas properties for the taxable year (the "excess IDC preference"). In addition, for purposes of computing the adjusted current earnings ("ACE") adjustment to the corporate AMT, IDCs are capitalized and amortized over the 60-month period beginning with the month in which they are paid or incurred.

Independent producers and royalty owners generally are allowed a deduction for percentage depletion (generally equal to 15 percent of gross revenue) in computing their taxable income. A taxpayer's overall deduction for percentage depletion is limited to an amount that is equal to 65 percent of the taxpayer's pre-depletion taxable income for the taxable year. The amount by which the depletion deduction exceeds the adjusted basis of the property is an AMT preference (the "excess percentage depletion preference"). Corporations must use cost depletion in computing their ACE adjustment.

A taxpayer other than an integrated oil company is entitled to an "energy deduction" for certain IDC and depletion items. The energy deduction is the sum of 75 percent of the portion of the IDC preference [11] attributable to qualified exploratory costs and 15 percent of the remaining IDC preference plus 50 percent of the marginal production depletion preference.[12] The energy deduction may not reduce the taxpayer's alternative minimum taxable income by more than 40 percent.

Reasons for Change

The committee believes that it is appropriate to provide relief from the AMT preferences and adjustments to certain taxpayers with oil and gas operations. The committee believes the effectiveness of oil and gas incentives for domestic drilling and production

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[11] The IDC preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess IDC preference and the ACE IDC adjustment.

[12] The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess depletion preference and the ACE depletion adjustment related to marginal property.

is reduced to the extent that taxpayers in the oil and gas industry are subject to the AMT. Consequently, to increase the effectiveness of certain oil and gas incentives, the committee desires to make these incentives generally applicable to the AMT.

Explanation of Provision

For taxpayers other than integrated oil companies, the bill repeals (1) the excess IDC preference for IDCs related to oil and gas wells and (2) the excess percentage depletion preference for oil and gas. The repeal of the excess IDC preference may not result in the reduction of the amount of the taxpayer's alternative minimum taxable income by more than 40 percent (30 percent for taxable years beginning in 1993) of the amount that the taxpayer's alternative minimum taxable income would have been had the present-law excess IDC preference not been repealed.

In addition, for corporations other than integrated oil companies, the bill repeals the ACE adjustments [13] for (1) IDCs paid or incurred in taxable years beginning after December 31, 1992, with respect to oil and gas wells and (2) percentage depletion for oil and gas.

The bill also repeals the minimum tax energy deduction.

Effective Date

Except as provided above regarding the repeal of the ACE treatment of IDCs, the provision applies to taxable years beginning after December 31, 1992.

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[13] Under the provision the adjustment described in sec. 56(g)(4)(C)(i) (with respect to the disallowance of deductions for items not deductible for earnings and profits purposes) will not apply to percentage depletion for oil and gas.

6. Increase Excise Tax on Certain Ozone-Depleting Chemicals (secs. 1916–1917 of the bill and secs. 4681–4682 of the Code)

Present Law

An excise tax is imposed on certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to the chemical. Certain chemicals are subject to a reduced rate of tax for years prior to 1994.

Between 1992 and 1995 there are two base tax amounts applicable, depending upon whether the chemicals were initially listed in the Omnibus Budget Reconciliation Act of 1989 or whether they were newly listed in the Omnibus Budget Reconciliation Act of 1990. The base tax amount applicable to initially listed chemicals is $1.67 per pound for 1992, $2.65 per pound for 1993 and 1994, and an additional 45 cents per pound per year for each year thereafter. The base tax amount applicable to newly listed chemicals is $1.37 per pound for 1992, $1.67 per pound for 1993, $3.00 per pound for 1994, $3.10 per pound for 1995, and an additional 45 cents per pound per year for each year thereafter.

Reasons for Change

On February 11, 1992, President Bush announced that, in response to recent scientific findings, the United States unilaterally will accelerate the phaseout of substances that deplete the Earth's ozone layer. The President announced that the production of major CFCs, halons, methyl chloroform, and carbon tetrachloride generally will be eliminated by December 31, 1995. The President noted that the tax on ozone-depleting chemicals has helped the United States achieve a more rapid reduction in use of such chemicals than that called for under the Montreal Protocol on Substances that Deplete the Ozone Layer ("Montreal Protocol").

In light of the recent scientific evidence, the President's action, and in recognition of the importance of the tax on ozone-depleting chemicals as an economic incentive, the committee believes it is important to enhance the conservation effort and speed the search for safe substitutes by increasing the base rate of tax on ozone-depleting chemicals. The committee believes an increase in the base rate of tax will help market forces in finding substitutes. In addition, the committee is concerned that the market prices for ozone-depleting chemicals currently do not reflect many of the environmental and other social costs associated with their use. As a result, the quantities of these chemicals being produced and used may be greater than optimal. The committee believes the tax on ozone-depleting chemicals helps foster reduced use of ozone-depleting chemicals. However, the committee believes it is appropriate to retain the reduced rates of tax applicable to ozone-depleting chemicals used in foam insulation and halons through 1993.

The committee also is concerned that an increase in the price of ozone-depleting chemicals used as medical sterilants may have an undue effect in discouraging the use of these chemicals and could lead to an increase in staphylococci and other bacterial infections.

Explanation of Provision

Base tax amount.—The bill increases and conforms the base tax amount of both initially listed chemicals and newly listed chemicals. The bill increases the base tax amount of initially listed chemicals by $0.18 per pound for 1992, by $0.10 per pound for 1993, by $1.00 per pound for 1994, and by $1.45 per pound for 1995. The bill increases the base tax amount of newly listed chemicals by $0.48 per pound for 1992, by $1.08 per pound for 1993, by $0.65 per pound for 1994, and by $1.45 per pound for 1995. For each year after 1995, the increase in the base tax amount for both initially and newly listed chemicals is $1.45 per pound. These increases in the base tax amounts are in addition to those currently scheduled to occur under present law, including the $0.45 per pound per year increases for years after 1994 for initially listed chemicals and the $0.45 per pound per year increases for years after 1995 for newly listed chemicals.

Medical sterilants.—The bill provides for a reduced rate of tax for 1992 (for sale or use on or after October 1, 1992) and 1993 for certain ozone-depleting chemicals used to sterilize medical devices. The tax applicable to such chemicals is determined by multiplying the otherwise applicable tax rate by the applicable percentage. The applicable percentage is 90.3 percent for sale or use in 1992 occurring on or after October 1, 1992 and 60.7 percent for calendar year 1993. A taxpayer who has paid tax on ozone-depleting chemicals used to sterilize medical devices at a rate higher than that required will receive a credit or refund (without interest) of such excess.

Rigid foam insulation and halons.—In addition, the bill reduces the applicable percentage used in the computation of the tax applied to chemicals used in rigid foam insulation in 1992 and 1993. The bill reduces the applicable percentage from 15 percent to 13.5 percent for 1992, and reduces the applicable percentage from 10 percent to 9.6 percent for 1993. Similarly, the bill reduces the applicable percentage applied to Halon-1211, Halon-1301, and Halon-2402 in 1992 and 1993. The following table contains the new applicable percentages.

	Applicable percentage	
	1992	1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2402	2.3	1.5

The applicable percentages for 1992 apply only to sale or use after the effective date. The effect of this provision is to continue present-law rates on these chemicals for 1992 and 1993.

Effective Date

The provision is effective for taxable chemicals sold (or used) on or after October 1, 1992. Floor stocks taxes are imposed on taxable chemicals held on the effective dates of changes in the base tax amount.

7. Business Energy Tax Credits for Solar, Geothermal and Ocean Thermal Property (sec. 1918 of the bill and sec. 48(a) of the Code)

Present Law

Nonrefundable business energy tax credits are allowed for 10 percent of the cost of qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission stage.[14]

The business energy tax credits currently are scheduled to expire with respect to property placed in service after June 30, 1992.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

Reasons for Change

The committee believes it is important to provide tax-based support for the development of alternative energy sources. In this regard, the committee believes that making the credits for investments in solar and geothermal property permanent will provide potential investors in long-term projects an additional degree of certainty as to the availability of the credits that may have been lacking in the past.

The committee further believes that tax incentives should be provided to encourage the production of energy from ocean thermal sources. Thus, the committee believes it is appropriate to provide, as part of the business energy tax credits, a credit for qualified investments in ocean thermal property.

Explanation of Provision

Under the bill, the business credits for qualified investments in solar and geothermal property are made permanent. In addition, the bill adds a credit equal to 10 percent of the cost of qualified ocean thermal property placed in service by a taxpayer after June 30, 1992. For this purpose, qualified ocean thermal property is equipment which converts ocean thermal energy to usable energy. Qualified ocean thermal property is property located at either of

[14] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

two locations designated by the Secretary of Treasury after consultation with the Secretary of Energy.

Effective Date

The provision is effective after June 30, 1992.

8. Repeal of Investment Restrictions Applicable to Nuclear Decommissioning Funds (sec. 1919 of the bill and sec. 468A of the Code)

Present Law

A taxpayer that is required to decommission a nuclear power plant may elect to deduct certain contributions that are made to a nuclear decommissioning fund. A nuclear decommissioning fund is a segregated fund the assets of which are to be used exclusively to pay nuclear decommissioning costs, taxes on fund income, and certain administrative costs. The assets of a nuclear decommissioning fund that are not currently required for these purposes must be invested in (1) public debt securities of the United States, (2) obligations of a State or local government that are not in default as to principal or interest, or (3) time or demand deposits in a bank or an insured credit union located in the United States. These investment restrictions are the same restrictions which apply to Black Lung trusts that are established under section 501(c)(21) of the Code.

Reasons for Change

The committee believes that a nuclear decommissioning fund should be allowed to invest in any asset that is considered appropriate by the applicable public utility commission or other State regulatory body.

Explanation of Provision

The bill repeals the present-law investment restrictions that apply to nuclear decommissioning funds.

Effective Date

The provision applies to taxable years beginning after December 31, 1992.

9. Partial Excise Tax Exemption for Certain Gasoline Mixtures with Ethanol or other Alcohol (sec. 1920(a) of the bill and sec. 4081 of the Code)

Present Law

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation and by motorboats (14.1 cents per gallon). A Federal excise tax also is imposed on diesel fuel used in highway transportation (20.1 cents per gallon).

A 5.4-cents-per-gallon excise tax exemption is allowed from the excise taxes on gasoline, diesel fuel, and special motor fuels for mixtures of any of these fuels with at least 10-percent ethanol. A 6-cents-per-gallon excise tax exemption is allowed for mixtures with at least 10-percent alcohol that is other than ethanol. Because blended fuels are generally 10 percent alcohol, a reduction of 5.4 or 6 cents per gallon of gasohol or other blend is equivalent to a subsidy of 54 or 60 cents per gallon of qualifying alcohol.

For purposes of the partial excise tax exemption, the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 190.

The partial excise tax exemption is scheduled to expire after September 30, 2000.

Reasons for Change

Oxygenated agents are required to be added to fuel to meet certain emission targets under the 1990 amendments to the Clean Air Act. The committee intends to provide taxpayers with greater flexibility to mix alcohol with gasoline to meet these mandated targets. The committee does not intend to increase the per-gallon tax subsidy rate for ethanol or other alcohol.

Explanation of Provision

The bill amends the partial excise tax exemption for gasoline that is mixed with ethanol or other alcohol to extend its application to 5.7-or 7.7-percent alcohol blends. The current 5.4- and 6-cents-per-gallon exemptions for alcohol mixtures is pro-rated to maintain the subsidy level of 54 or 60 cents per gallon, respectively, for ethanol or other alcohol that is mixed with gasoline.

Effective Date

The provision is effective for gasoline removed or entered after September 30, 1992.

10. Application of Alcohol Fuels Tax Credit Against Alternative Minimum Tax (sec. 1920(b) of the bill and sec. 38 of the Code)

Present Law

An income tax credit is provided for alcohol used in certain mixtures of alcohol and gasoline (e.g., gasohol), diesel fuel, or any other liquid fuel which is suitable for use in an internal combustion engine if the mixture is sold by the producer in a trade or business for use as a fuel or is so used by the producer (sec. 40). The credit also is permitted for alcohol (e.g., qualified methanol fuel) which is not in a mixture with gasoline, diesel, or other liquid fuel which is suitable for use in an internal combustion engine, provided that the alcohol is used by the taxpayer as a fuel in a trade or business or is sold by the taxpayer at retail to a person and placed in the fuel tank of the purchaser's vehicle. The credit generally is equal to 60 cents for each gallon of alcohol (at least 190 proof) used by the taxpayer in the production of a qualified mixture or as a fuel; the credit generally is 45 cents per gallon of 150 to 190 proof alcohol fuel.[15] The credit is scheduled to expire with respect to sales or uses after December 31, 2000.

In addition, a 10-cents-per-gallon income tax credit is allowed to eligible small ethanol producers. For this purpose, a small ethanol producer is any fuel ethanol producer with productive capacity to produce less than 30 million gallons of alcohol per year. This credit is limited to the first 15 million gallons of ethanol for use as a fuel produced per year by such a small producer.

The amount of any taxpayer's alcohol fuels tax credit is reduced to take into account any benefit received with respect to the alcohol under the special reduced excise tax rates for alcohol fuel mixtures of alcohol fuels. For purposes of the credit (other than with respect to the determination of the productive capacity of an ethanol producer), the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 150.

The alcohol fuels tax credit is a component of the general business credit (sec. 38(b)(1)). The alcohol fuels tax credit, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

Reasons for Change

The committee believes that the minimum tax liability limitation may conflict with the goal of the Clean Air Act which mandates the use of oxygenated fuel in so called non-attainment areas, and EPA and other governmental restrictions on various types of automobile emissions. This minimum tax limitation may result in

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[15] In the case of any credit with respect to any alcohol which is ethanol, a rate of 54 cents per gallon applies instead of the 60-cent-per-gallon rate, and a rate of 40 cents per gallon applies instead of the 45-cent-per-gallon rate (sec. 40(h)).

taxpayers being unwilling to use alcohol in fuels or construct small ethanol plants. In this regard, the committee believes that it is appropriate to provide some level of relief to those taxpayers from the application of the alternative minimum tax. The committee is concerned, however, that taxpayers not be permitted to completely eliminate their alternative minimum tax liabilities as a result of such incentive provisions. Thus, the committee has placed a limitation on the maximum level of reduction of alternative minimum tax that may be realized as a result of this provision.

Explanation of Provision

The bill provides that taxpayers claiming the alcohol fuels tax credit may utilize that credit to offset a portion of their alternative minimum tax liability. Specifically, the bill allows the alcohol fuels credit to offset up to 50 percent of a taxpayer's pre-credit alternative minimum tax.[16] As under present law, any unused credit would be available for a 3-year carryback and a 15-year carryover.

To illustrate the operation of this provision of the bill, assume a taxpayer has $10 million of regular tax, $8 million of tentative minimum tax, $5 million of alcohol fuels credit, and $3 million of other general business credits. $6 million of the general business credit would be allowed for the taxable year—$2 million by reason of the general rule of section 38(c)(1) allowing the general business credit to offset the excess of the net income tax over the tentative minimum tax and $4 million by reason of the provision added by the bill allowing the alcohol fuels credit to offset 50 percent of the tentative minimum tax. The above result would occur without regard to the taxable years in which the various credits arose (assuming the alcohol fuels credit arose in a taxable year beginning after September 30, 1992).

Effective Date

The provision is effective for taxable years beginning after September 30, 1992. In addition, the provision is limited to alcohol fuels credits actually generated in those years. That is, the provision does not allow an alcohol fuels credit generated in a taxable year beginning on or before September 30, 1992 and carried forward to a taxable year beginning after September 30, 1992 to offset alternative minimum tax in that later year. Similarly, the provision does not allow an alcohol fuels tax credit generated in a taxable year beginning after September 30, 1992 to be carried back and used to reduce alternative minimum tax in a taxable year beginning on or before September 30, 1992.

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[16] Other components of the general business credit would not be permitted to offset the alternative minimum tax under the bill.

11. Determination of Independent Oil and Gas Producer (sec. 1921 of the bill and sec. 613A(c) of the Code)

Present Law

Under present law, persons owning economic interests in oil and gas producing properties may deduct an allowance for depletion in computing taxable income. Independent producers and royalty owners are permitted to claim the greater of cost or percentage depletion on the production of up to 1,000 barrels per day of crude oil and natural gas produced from domestic sources. The percentage depletion allowance for oil and gas is computed as a fixed percentage (i.e., 15 percent) of the taxpayer's gross income from the oil or gas property, subject to net income and taxable income limitations.

Also under present law, taxpayers are permitted the option to elect to deduct intangible drilling and development costs (IDCs) in the case of domestically located oil and gas wells (sec. 263(c)). For taxpayers other than independent oil and gas producers (i.e., integrated producers), however, 30 percent of the otherwise deductible amount of IDCs must be capitalized and recovered over a 60-month period.

Present law also provides a deduction from alternative minimum taxable income for a portion of a taxpayer's AMT preferences and adjustments related to IDCs and percentage depletion from marginal properties. This AMT energy deduction is available to independent producers, but not to integrated companies.

A producer of oil or natural gas is considered an independent producer unless that person (or a related person) also is engaged in a significant amount of either retailing or refining activity. A taxpayer meets the retailing exception (sec. 613A(d)(2)), and is thus not considered an independent producer, if the taxpayer directly, or through a related person, sells oil or natural gas (excluding bulk sales of such items to commercial or industrial users) or any product derived from oil or natural gas (excluding bulk sales of aviation fuels to the Department of Defense) through a retail outlet operated by the taxpayer (or a related person).[17] The retailer exception does not apply to a taxpayer with combined gross receipts from retail sales of oil, natural gas, or petroleum products for a taxable year of not more than $5 million.

A taxpayer is treated as a refiner, and thus is excluded from independent producer status, if the taxpayer or a related person engages in the refining of crude oil and on any day during the taxable year the refinery runs of the taxpayer (and related persons) exceed 50,000 barrels.

For purposes of the retailer and refiner exceptions, a person is a related person with respect to the taxpayer if a significant ownership interest (i.e., 5 percent or more) in either the taxpayer or such

[17] In addition, sales by the taxpayer to any person (1) obligated under an agreement or contract with the taxpayer to use a trademark, trade name, or service mark or name of the taxpayer in marketing the oil, natural gas, or product derived therefrom, or (2) given authority, pursuant to an agreement or contract with the taxpayer (or related person) to occupy any retail outlet owned, leased, or controlled by the taxpayer, are treated as retail sales made by the taxpayer for this purpose.

person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person.

Reasons for Change

The committee believes that in setting parameters for determining whether a taxpayer qualifies as an independent oil and gas producer, Congress may have excluded certain taxpayers who should qualify for the tax incentives that are allowed to independent producers. For example, in determining whether a taxpayer is engaged in a significant level of retailing activity, the committee believes that taxpayers who only sell natural gas (or related products), the price of which is regulated by public service commissions, at the retail level should be treated as independent producers rather than integrated companies. The committee believes that only the retail sale of oil and oil-related products and the retail sale of natural gas (and related products) in an unregulated environment should be considered relevant in determining whether a taxpayer is an independent producer for these purposes.

Similarly, the committee believes that the requirement that a taxpayer be treated as an integrated company if it refines more than 50,000 barrels of oil on any day during the year may inadvertently exclude certain taxpayers from the benefits of percentage depletion and IDC deductions. It is the belief of the committee that a more equitable approach would be to allow a taxpayer to be treated as an independent producer unless it refines on the average more than 50,000 barrels a day during a taxable year.

Explanation of Provision

The bill amends the operation of both the retailer and refiner exceptions in determining whether a taxpayer is an independent oil and gas producer. With respect to the retailer exception, the bill permits gross receipts from retail sales of natural gas by a regulated public utility to be disregarded in determining whether a taxpayer is a retailer. For example, the bill treats a producer that has retail sales of natural gas by a regulated public utility during a taxable year of $10 million, but has no other retail sales of natural gas or of oil or petroleum product, as an independent oil and gas producer since the taxpayer's regulated public utility retail sales of natural gas are disregarded and thus, its retail sales for the year do not exceed $5 million.[18] As such, the taxpayer would be eligible to claim oil and gas percentage depletion deductions and fully deduct its IDCs for the taxable year.[19] For this purpose, a regulated public utility is as defined in section 7701(a)(33) of the Code, except that the company must generate at least one-half of its gross income for the taxable year from sources described in subparagraphs (A), (B), and (C) of that section.

Under the bill, for purposes of determining significant refining activity under the refining exception, the requirement that a refin-

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[18] This example assumes that the taxpayer (or a related person) does not otherwise engage in significant levels of refining.

[19] In addition, the taxpayer would qualify for alternative minimum tax relief under section 1915 of the bill.

ery run in excess of 50,000 barrels occur *on any day* during the taxable year is eliminated. Instead, the bill requires that the taxpayer's *average daily refinery runs* for the taxable year exceed 50,000 barrels in order not to treat the taxpayer as an independent producer under the refiner exception.

Effective Date

The provision is effective for taxable years beginning after December 31, 1992.

12. Tax-Exempt Bonds for Environmental Enhancements of Certain Governmental Hydroelectric Generating Facilities (sec. 1922 of the bill and sec. 142 of the Code)

Present Law

Interest on State and local government bonds generally is exempt from Federal regular individual and corporate income taxes. However, interest on "private activity bonds" is exempt only if the financed facilities are specified in the Internal Revenue Code (the "Code"). Private activity bonds generally are obligations issued by State and local governmental units acting as a conduit to provide financing for private parties.

A bond is a private activity bond if more than 10 percent of the proceeds are to be used in a trade or business of any person other than a State or local government and debt service on the bonds is directly or indirectly to be paid or secured by payments from such a person. Additionally, a bond is a private activity bond if more than five percent ($5 million, if less) is to be used to make loans to persons other than States or local governments.

Interest on the following private activity bonds qualifies for tax-exemption:

(1) Exempt-facility bonds;
(2) Qualified mortgage and qualified veterans' mortgage bonds;
(3) Qualified small-issue bonds;
(4) Qualified student-loan bonds;
(5) Qualified redevelopment bonds; and
(6) Qualified 501(c)(3) bonds.

Exempt-facility bonds are bonds the proceeds of which are used to finance the following: airports, docks and wharves, mass commuting facilities or high-speed intercity rail facilities; facilities for the local furnishing of electricity or gas; local district heating or cooling facilities; and certain low-income rental housing projects.

Most private activity bonds are subject to annual State volume limitations equal to the greater of $50 per resident of the State or $150 million.

Reasons for Change

The committee believes that new environmental mandates for governmental hydroelectric facilities reflect a deepened concern for the effects of these facilities on their natural surroundings, and that it is appropriate to extend tax-exempt financing to assist in addressing these concerns notwithstanding possible private business use of the output of the hydroelectric facilities. Additionally, because many of the facilities generate electricity to be used in more than one State, the committee believes it appropriate to exempt these bonds from the State private activity bond volume limitation requirement applicable to most private activity bonds.

Explanation of Provision

The bill creates a new category of exempt-facility bonds: environmental enhancements of hydroelectric generating facilities. Bonds for these facilities are not subject to the State private activity bond volume limitations. Environmental enhancements financed with these bonds are limited to property the use of which is related to a Federally licensed hydroelectric facility which is owned and operated by a governmental unit. For purposes of this provision, a pumped storage generating facility is not treated as a hydroelectric generating facility.

All property financed with these bonds must be owned by a State or local governmental unit. Further, at least 95 percent of the net proceeds of each bond issue must be used to finance property which (a) promotes fisheries or other wildlife resources, or (b) is a recreational facility or other improvement required by Federal licensing terms and conditions for the operation of a hydroelectric generating facility described above. Examples of property that will be treated as promoting fisheries include property such as fish ladders, fish by-pass facilities and fish hatcheries.

Qualifying expenditures of these bond proceeds do not include expenditures related to a project of repair, maintenance, renewal, safety enhancement, replacement, or any improvement which increases, or allows an increase in, the capacity, efficiency, or productivity of existing generating equipment.

Finally, at least 80 percent of the net proceeds of each bond issue must be used to finance qualifying property for the promotion of fisheries or other wildlife resources.

Effective Date

The provision is effective for bonds issued after the date of its enactment.

B. Other Revenue-Raising Provisions

1. Deny Deduction for Club Dues (sec. 1931 of the bill and sec. 162 of the Code)

Present Law

No deduction is permitted for club dues unless the taxpayer establishes that his or her use of the club was primarily for the furtherance of the taxpayer's trade or business and the specific expense was directly related to the active conduct of that trade or business. Luncheon club dues are deductible to the same extent and subject to the same rules as business meals in a restaurant and are not subject to these special rules for club dues. No deduction is permitted for an initiation or similar fee that is payable only upon joining a club if the useful life of the fee extends over more than one year. Such initiation fees are nondeductible capital expenditures.[20]

Reasons for Change

Under present law, taxpayers can obtain a tax deduction for dues for a club (such as a country club) with respect to which a significant element of personal pleasure and enjoyment is present. The committee believes that it is inappropriate to permit a deduction for such expenditures. Denying all deductions for club dues also simplifies present law, in that a strict nondeductibility rule is easier to comply with than the present-law rule requiring an assessment of the primary purpose of the use of the club.

Explanation of Provision

Under the bill, no deduction is permitted for club dues. This rule applies to all types of clubs: business, social, athletic, luncheon, or sporting clubs. Specific business expenses (e.g., meals) incurred at a club would be deductible only to the extent they otherwise satisfy present-law standards for deductibility.

Effective Date

The provision is effective for club dues paid after the date of enactment.

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[20] *Kenneth D. Smith*, 24 TCM 899 (1965).

2. Excise Tax on Certain Insurance Premiums Paid to Certain Foreign Persons (sec. 1932 of the bill and sec. 4371 of the Code)

Present Law

Under present law, an excise tax generally is imposed on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer to or for or in the name of a domestic corporation or partnership, or a U.S. resident individual with respect to risks wholly or partly within the United Staes, or to or for or in the name of any foreign person engaged in business within the United States with respect to risks within the United States (sec. 4371). The tax does not apply, however, to any amount effectively connected with the conduct of a trade or business within the United States (unless such amount is exempt from the net-basis U.S. tax under a treaty) (sec. 4373(1)).

The tax is imposed at the following rates: (1) 4 percent of the premium paid on a casualty insurance policy or indemnity bond; (2) 1 percent of the premium paid on a policy of life, sickness, or accident insurance, or annuity contracts on the lives or hazards to the person of a U.S. citizen or resident; and (3) 1 percent of the premium paid on a policy of reinsurance covering any of the contracts taxable under (1) or (2).

The tax is waived in United States tax treaties with the United Kingdom, France, Germany, Spain, Italy, Cyprus, India, and certain other countries. These treaty waivers generally include an anti-conduit rule denying the benefit of the exemption to premiums covering risks that are reinsured with a person not entitled to a similar treaty exemption. Notably, however, the U.K. treaty has no anti-conduit rule. However, present law imposes a tax both on any direct insurance transaction with a foreign insurer (not subject to U.S. income tax), and also on any reinsurance transaction with a foreign insurer, if the transaction involved the insurance or reinsurance of a U.S. risk. A policy of reinsurance issued by a foreign insurer covering U.S. risks is subject to the tax imposed on reinsurance policies, whether the direct insurer is a domestic or foreign insurer.[21]

The Code itself (sec. 4373) provides exemptions from the tax in the case of (1) any amount effectively connected with the conduct of a trade or business within the United States (unless such amount is exempt from the net-basis U.S. tax under a treaty), or (2) any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check issued by the United States.

Section 4374 provides that the excise tax imposed by section 4371 shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes, or for whose use or benefit the same are made, signed,

[21] See Rev. Rul. 58-612, 1958-2 C.B. 850; see also *American Bankers Insurance Co. of Florida v. United States*, 388 F.2d 304 (5th Cir. 1968).

issued, or sold. Thus, the liability for the tax falls jointly on all the parties to the insurance or reinsurance transaction.

Under regulations, the tax must be remitted by the resident person who actually pays the premium to a foreign insurer, reinsurer, or nonresident agent, solicitor or broker (Treas. Reg. sec. 46.4374-1(a)). The Treasury has stated that where a treaty permits an exemption from tax to the extent that the foreign insurer or reinsurer does not reinsure the risks covered by the policy with a person that would not be entitled to an exemption from the tax on such policy, the person otherwise required to remit the tax may consider the policy exempt only if, prior to filing the return for the taxable period, such person has knowledge that there was in effect for such taxable period a certain type of closing agreement between the insurer or reinsurer and the IRS (Rev. Proc. 84–82, 1984–2 C.B. 779). Under the required closing agreement, the foreign insurer or reinsurer makes a secured promise to pay to the IRS any excise tax liability arising due to reinsurance of the risk with a non-treaty-protected reinsurer.

Reasons for Change

The committee previously considered changes to the excise tax on insurance policies provided by foreign persons in 1984. Changes were also contemplated by the conferees to the Tax Reform Act of 1986. In March 1990 the Treasury Department issued its *Report to Congress on the Effect on U.S. Reinsurance Corporations of the Waiver by Treaty of the Excise Tax on Certain Reinsurance Premiums,* a study mandated under the 1986 Act in lieu of adopting statutory changes at that time. In light of the analysis provided in that report, the committee is concerned that the purposes of the excise tax are inadequately served by a reinsurance tax rate of only 1 percent, in a case where the primary policy reinsured is of a type that would bear a 4-percent excise tax rate under the statute, and where the foreign reinsurer takes advantage of a tax haven. In such a case, the committee is concerned that the present tax rate differentiation between direct insurance and reinsurance of U.S. casualty risks allows the proper level of excise tax to be avoided by careful structuring of insurance and reinsurance transactions.

The committee is also concerned that certain U.S. income tax treaties (i.e., those without an anti-conduit clause) are used to avoid excise tax on the reinsurance of U.S. risks in transactions between foreign insurers protected under such a treaty and third-country foreign insurers or reinsurers that are not so protected under a treaty between the United States and their country of residence. The committee is concerned that such third-country reinsurers may under present law obtain a substantial part of the economic benefit of the treaty excise tax waiver. The committee believes it appropriate to enhance compliance with respect to taxes imposed on insurance and reinsurance issued by these third-country persons—taxes which the United States has the power to impose and collect under any U.S. income tax treaty.

Explanation of Provision

The bill raises to 4 percent the excise tax on certain premiums paid to foreign persons for reinsurance covering casualty insurance and indemnity bonds. Such reinsurance premiums are subject to only the existing 1-percent rate, however, if (1) the premiums are paid to a foreign insurer or reinsurer that is a resident of a foreign country, (2) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed under the Code on similar premiums received by U.S. reinsurers, and (3) the insured risk is not reinsured (whether directly or through a series of transactions, which is intended to include for these purposes business relationships or practices having the same effect) by a resident of another foreign country who is not subject to a substantial tax (as defined in condition (2)) on the income. The committee intends that an effective rate of taxation equal to at least 50 percent of the applicable U.S. effective tax rate generally will be necessary for foreign taxation to be considered to be substantial in relation to U.S. taxation.

The bill authorizes the Treasury to issue regulations providing for such procedures as it deems appropriate to ensure that only those premiums actually entitled to the reduced 1-percent rate under the above rules are excused from the bill's 4-percent rate tax. The committee anticipates, for example, that the availability of the reduced (1-percent) excise tax rate will be made subject to compliance requirements analogous to those that apply to waivers of the excise tax under U.S. tax treaties. Thus, the committee anticipates that the bill's anti-conduit condition for obtaining the 1-percent rate could be enforced by entering into closing agreements similar to those under present law. The committee intends that persons liable for the tax will bear the burden of proving that foreign taxes imposed on insurance income are such that premiums are entitled to be taxed at the reduced 1-percent rate.

In addition, the Treasury would be entitled under the bill to waive the above anti-conduit rule in such circumstances and subject to such conditions as it deems to be appropriate. The committee intends that this authority will apply in a situation where a foreign person establishes that it is subject to a substantial tax, but it is later determined that a risk reinsured by that person has been further reinsured by another person not subject to a substantial tax, and the Secretary is satisfied that, in light of all the facts and circumstances, reinsurance by the latter person was not contemplated or anticipated by the first person.

The bill specifies that, in applying rules for the statutory reduced excise tax rate or any treaty excise tax waiver, no person shall be relieved of the requirement to remit the excise tax to the IRS unless the parties to the transaction satisfy such requirements as the Secretary may prescribe to ensure collection of tax due on any reinsurance of the risk with respect to which the premium was paid. For example, this provision requires the Secretary to ensure that, when a premium on U.S. risk insurance is paid by a U.S. person to a foreign insurer (including a foreign insurer entitled to treaty benefits under a treaty waiving the excise tax, with or without a treaty anti-conduit clause), and that risk is covered by a policy of reinsurance issued by a foreign reinsurer not entitled to treaty benefits, or not entitled to the 1-percent reduced statutory rate, the U.S. person will satisfy such requirements as will enable the Treasury to collect the U.S. tax imposed on the reinsurance policy. The committee anticipates that the Secretary will apply the same or similar requirements as are currently applied under Rev. Proc. 84-82 to ensure compliance with anti-conduit clauses of waivers of the excise tax under U.S. tax treaties.

The committee understands that the obligation to remit tax is not affected by treaty provisions that may waive the foreign recipient's ultimate *liability* for the excise tax. This provision of the bill only collects a tax that the United States has the power to impose and collect under any U.S. income tax treaty and, thus, the committee believes that the bill is consistent with all existing U.S. treaty obligations, whether or not the treaty provides an explicit anti-conduit rule.

Taking into account the collection procedures described above, the bill is intended to yield to any existing tax treaties to which the United States is a party. The bill is intended to raise the excise tax rate on certain policies covered by the statute and not protected by treaty. By changing the excise tax rate, the committee does not intend to override prior treaties that preclude imposition of the tax.

Effective Date

The provision applies to premiums paid after the date of the bill's enactment, but only to the extent that they are allocable to reinsurance coverage for periods after December 31, 1992.

C. Health Benefits for Retired Coal Miners (secs. 1941-1943 of the bill and new secs. 9701-9704, 9711-9715, and 9721-9724 of the Code)

Present Law

The United Mine Workers of America (UMWA) health and retirement funds were established in 1974 pursuant to an agreement between the UMWA and the Bituminous Coal Operator's Association (BCOA) to provide pension and health benefits to retired coal miners. The funds have been maintained for this purpose through a series of collective bargaining agreements. The funds created in 1974 were a restructuring of the original benefit fund, which was established in 1946.

The funds consists of four different plans, each of which is funded through a separate trust. The 1950 Pension Plan provides retirement benefits to miners who retired on or before December 31, 1975, and their beneficiaries. The 1950 Benefit Plan provides health benefits for retired mine workers who receive pensions from the 1950 Pension Plan and their dependents. The 1974 Pension Plan provides retirement benefits to miners who retired after December 31, 1975, and their beneficiaries. The 1974 Benefit Plan provides health benefits to miners who retired after December 31, 1975. It also provides benefits to miners whose last employers are no longer in business or, in some cases, no longer signatory to the applicable bargaining agreement. These miners are generally referred to as "orphan" retirees.

Reasons for Change

The committee believes it is appropriate to provide a statutory means of financing the benefits of certain retired coal miners.

Explanation of Provisions

Retiree health benefits.—The bill creates a Coal Industry Retiree Health Benefit Corporation (the Corporation), a government corporation, to provide retiree health benefits for certain retired mine workers (and their spouses and dependents) — generally retirees whose last employer is out of business or not currently paying for retiree health benefits.

Financing of health plan.—The Corporation's health plan is financed by a per-hour tax on certain coal production, a per-ton tax on imported coal, and a per-participant tax on certain former signatories to bargaining agreements who were the last employer of someone covered under the Corporation plan. The bill also (1) creates a new fund (the United Mine Workers of America (UMWA) 1991 Benefit Fund) to provide retiree health benefits to retirees of current signatories to the UMWA agreements, and (2) authorizes the tax-free transfer of excess assets from UMWA pension trusts to the Corporation and the 1991 Benefit Fund.

Effective Date

The provisions generally are effective on the date of enactment. The taxes imposed under the bill and the benefit payouts under the bill are effective on July 1, 1992.

III. BUDGET EFFECTS OF THE BILL

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the estimated budget effects of the bill (Title XIX) as reported by the Committee on Finance.

The budget effects of the bill (Title XIX) for fiscal years 1992-1997 are shown in the following table:

Estimated Revenue Effects of Title XIX of H.R. 776, as Reported by the Committee on Finance

Fiscal Years 1992–1997

[Billions of Dollars]

Item	Effective	1992	1993	1994	1995	1996	1997	1992–97
Revenue-Losing Provisions:								
1. Utility rebate exclusion for residential, commercial, and industrial customers.	(1)		−0.012	−0.145	−0.231	−0.235	−0.240	−0.863
2. Allow a deduction for a portion of the cost of clean-burning motor vehicles and refueling property.	July 1, 1993		−0.019	−0.055	−0.083	−0.118	−0.176	−0.451
3. a. Provide 1.5-cent-per-kilowatt-hour tax credit for wind energy (2).	Jan. 1, 1994			−0.005	−0.012	−0.022	−0.028	−0.067
b. Provide 1.5-cent-per-kilowatt-hour tax credit for biomass energy from "closed loop" systems.	Jan. 1, 1993		−0.001	−0.003	−0.006	−0.009	−0.010	−0.029
4. For independent producers and royalty owners only, repeal percentage depletion preference and ACE adjustments for IDCs and percentage depletion; repeal IDC preference, limiting AMTI reduction to 30% in 1993 and 40% in 1994 and thereafter.	tyba Dec. 31, 1992		−0.172	−0.244	−0.222	−0.202	−0.183	−1.024
5. Permanent extension of business energy tax credits (solar, geothermal, and ocean thermal).	July 1, 1992	−0.011	−0.034	−0.053	−0.063	−0.067	−0.072	−0.300
6. Remove investment restrictions from nuclear decommissioning funds.	Jan. 1, 1993							

Estimated Revenue Effects of Title XIX of H.R. 776, as Reported by the Committee on Finance—Continued

[Billions of Dollars]

Item	Effective	1992	1993	1994	1995	1996	1997	1992–97
7. Tax-exempt bonds for environmental improvements to hydroelectric-generating facilities.	bio/a DoE	(3)	(3)	(3)	−0.001	−0.001	−0.001	−0.003
8. a. Proportional excise tax exemptions for alcohol fuels containing 5.7% or 7.7% alcohol.	July 1, 1992		−0.009	−0.014	−0.028	−0.043	−0.057	−0.151
b. Allow alcohol fuels tax credits to offset 50% of AMT with carryforward.	tyba Sept. 30, 1992		(3)	−0.001	−0.002	−0.003	−0.004	−0.011
9. Retiree health benefits for coal miners: Outlays (4).	July 1, 1992	−0.045	−0.275	−0.282	−0.289	−0.295	−0.302	−1.488
10. a. Allow natural gas retailers to qualify as independent producers.	tyba Dec. 31, 1992		−0.029	−0.042	−0.031	−0.020	−0.008	−0.130
b. Modify 50,000-barrel-per-day refinery run limitation on independent producers to apply on an average-per-day basis.	tyba Dec. 31, 1992		−0.008	−0.011	−0.010	−0.006	−0.003	−0.038
Subtotals: Revenue-Losing Provisions		**−0.056**	**−0.559**	**−0.855**	**−0.978**	**−1.021**	**−1.084**	**−4.555**
Revenue-Raising Provisions:								
1. Employer-provided transportation benefits (5).	Jan. 1, 1993		−0.062	−0.058	−0.035	−0.022	−0.018	−0.195
2. Repeal club dues deduction	July 1, 1992	0.031	0.268	0.280	0.293	0.306	0.320	1.498
3. Increase excise tax on certain ozone-depleting chemicals (6).	Oct. 1, 1992		0.057	0.199	0.295	0.253	0.180	0.984

4. Retire health benefits for coal miners: Net receipts—.								
a. Per-beneficiary premiums (4)	July 1, 1992	0.014	0.089	0.092	0.094	0.096	0.098	0.483
b. Gross labor tax/import	July 1, 1992	0.041	0.205	0.207	0.214	0.216	0.216	1.099
c. Indirect tax effects	July 1, 1992	−0.008	−0.018	−0.019	−0.017	−0.015	−0.012	−0.089
d. Payment from pension fund (4)	July 1, 1992	0.050						0.050
5. Increase excise tax on certain foreign reinsurance policies from 1% to 4%.	Jan. 1, 1993		0.075	0.110	0.100	0.090	0.080	0.455
Subtotals: Revenue-Raising Provisions		**0.128**	**0.738**	**0.927**	**1.014**	**0.968**	**0.900**	**4.675**
Grand totals		**0.072**	**0.179**	**0.072**	**0.036**	**−0.053**	**−0.184**	**0.120**

(1) Effective 1/1/93 for residential customers; 1/1/94 for commercial and industrial customers. For commercial and industrial customers, the exclusion is limited to 80% of the rebate amount.

(2) Reference price shall be determined with reference to energy sold under contracts entered into after 12/31/89.

(3) Loss of less than $500,000.

(4) Estimates prepared by the Congressional Budget Office.

(5) Estimates [1] does not include an additional gain of $84 million over the period to the Social Trust Fund; [2] assumes inflation indexing in $5 increments, certain exclusion of cash reimbursements from transit provision, and $145 parking cap.

(6) Increase base tax rate per pound for originally listed chemicals by $0.18 for 1992, $0.10 for 1993, $1.00 for 1994, $1.45 for 1995 and for each year thereafter. Increase base tax rate per pound for newly listed chemicals by $0.48 for 1992, $1.08 for 1993, $0.65 for 1994, $1.45 for 1995 and for each year thereafter. Exempt chemicals used as medical sterilants from increases for 1992 and 1993. Reduce applicable percentages for chemicals used in rigid foam insulation and for halons.

Note: Details may not add to totals due to rounding. Legend for "Effective" column: tyba=taxable years beginning after; bio/a DoE=Bonds issued on or after date of enactment.

Source: Joint Committee on Taxation.

IV. REGULATORY IMPACT AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

A. Regulatory Impact

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the bill as reported by the Committee on Finance (relating to Title XIX).

The bill provides tax incentives for energy conservation and production, and provides health care provisions for retired coal miners. To make the bill deficit neutral for fiscal years 1992 and 1993 and over the fiscal year 1992-1997 period, the bill includes an increase in the excise tax rate on ozone-depleting chemicals, disallows a deduction for club dues, increases the excise tax on certain foreign reinsurance policies, and provides revenue offsets from the coal industry for the coal miners' health care provisions.

B. Other Matters

Vote of the Committee

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote of the committee on the motion to report the committee amendment to the bill (relating to Title XIX). The bill, as amended, was ordered reported by voice vote.

Tax Expenditures

In compliance with Section 308(a)(2) of the Budget Act, the committee states that the bill as amended involves increased tax expenditures with respect to the income tax decrease provisions and a reduction in tax expenditures with respect to the denial of the deduction for club dues. (See revenue table in Part III of this report.)

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