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116TH CONGRESS
1ST SESSION

H. R. 3249

To amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2019

Mr. THOMPSON of California (for himself and Mr. ESTES) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Financing Our Energy Future Act''.

SEC. 2. EXTENSION OF PUBLICLY TRADED PARTNERSHIP OWNERSHIP STRUCTURE TO ENERGY POWER GENERATION PROJECTS, TRANSPORTATION FUELS, AND RELATED ENERGY ACTIVITIES.

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''income and gains derived from the exploration'' and inserting ''income and gains derived from the following:

''(i) MINERALS, NATURAL RESOURCES, ETC.—The exploration'';

(2) by inserting ''or'' before ''industrial source'';

(3) by inserting a period after ''carbon dioxide''; and

(4) by striking '', or the transportation or storage'' and all that follows and inserting the following:

''(ii) RENEWABLE ENERGY.—The generation of electric power (including the leasing of tangible personal property used for such generation) exclusively utilizing any resource described in section 45(c)(1) or energy property described in section 48 (determined without regard to any termination date), or in the case of a facility de-

scribed in paragraph (3) or (7) of section 45(d) (determined without regard to any placed in service date or date by which construction of the facility is required to begin), the accepting or processing of such resource.

''(iii) ENERGY STORAGE PROPERTY.—The sale of electric power, capacity, resource adequacy, demand response capabilities, or ancillary services that is produced or made available from any equipment or facility (operating as a single unit or as an aggregation of units) the principal function of which is to—

''(I) use mechanical, chemical, electrochemical, hydroelectric, or thermal processes to store energy that was generated at one time for conversion to electricity at a later time, or

''(II) store thermal energy for direct use for heating or cooling at a later time in a manner that avoids the need to use electricity at that later time.

"(iv) COMBINED HEAT AND POWER.—The generation, storage, or distribution of thermal energy exclusively utilizing property described in section 48(c)(3) (determined without regard to subparagraphs (B) and (D) thereof and without regard to any placed in service date).

"(v) RENEWABLE THERMAL ENERGY.—The generation, storage, or distribution of thermal energy exclusively using any resource described in section 45(c)(1) or energy property described in clause (i) or (iii) of section 48(a)(3)(A).

"(vi) WASTE HEAT TO POWER.—The use of recoverable waste energy, as defined in section 371(5) of the Energy Policy and Conservation Act (42 U.S.C. 6341(5)) (as in effect on the date of the enactment of the Financing Our Energy Future Act).

"(vii) RENEWABLE FUEL INFRASTRUCTURE.—The storage or transportation of any fuel described in subsection (b), (c), (d), or (e) of section 6426.

"(viii) RENEWABLE FUELS.—The production, storage, or transportation of any

renewable fuel described in section 211(o)(1)(J) of the Clean Air Act (42 U.S.C. 7545(o)(1)(J)) (as in effect on the date of the enactment of the Financing Our Energy Future Act) or section 40A(d)(1).

''(ix) FUEL DERIVED FROM CAPTURED CARBON OXIDES.—The production, storage, or transportation of any fuel which—

''(I) uses carbon oxides captured from an anthropogenic source or the atmosphere as its primary feedstock, and

''(II) is determined by the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, to achieve a reduction of not less than a 60 percent in lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(H) of the Clean Air Act) compared to baseline lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(C) of such Act).

This clause shall not apply to any fuel which uses as its primary feedstock carbon oxide which is deliberately released from naturally occurring subsurface springs.

''(x) RENEWABLE CHEMICALS.—The production, storage, or transportation of any qualifying renewable chemical (as defined in paragraph (6)).

''(xi) ENERGY EFFICIENT BUILDINGS.—The audit and installation through contract or other agreement of any energy efficient building property described in section 179D(c)(1).

''(xii) GASIFICATION WITH SEQUESTRATION.—The production of any product or the generation of electric power from a project—

''(I) which meets the requirements of subparagraphs (A) and (B) of section 48B(c)(1), and

''(II) not less than 75 percent of the total carbon oxide emissions of which is qualified carbon oxide (as defined in section 45Q(c)) which is dis-

posed of or utilized as provided in paragraph (7).

''(xiii) CARBON CAPTURE AND SEQUESTRATION.—

''(I) POWER GENERATION FACILITIES.—The generation or storage of electric power (including associated income from the sale or marketing of energy, capacity, resource adequacy, and ancillary services) produced from any power generation facility which is, or from any power generation unit within, a qualified facility which is described in section 45Q(d) and not less than 50 percent (30 percent in the case of a facility or unit placed in service before January 1, 2019) of the total carbon oxide emissions of which is qualified carbon oxide which is disposed of or utilized as provided in paragraph (7).

''(II) OTHER FACILITIES.—The sale of any good or service from any facility (other than a power generation facility) which is a qualified facility

described in section 45Q(d) and the captured qualified carbon oxide (as so defined) of which is disposed of as provided in paragraph (7).''.

(b) RENEWABLE CHEMICAL.—

(1) IN GENERAL.—Section 7704(d) of such Code is amended by adding at the end the following new paragraph:

''(6) QUALIFYING RENEWABLE CHEMICAL.—

''(A) IN GENERAL.—The term 'qualifying renewable chemical' means any renewable chemical (as defined in section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101))—

''(i) which is produced by the taxpayer in the United States or in a territory or possession of the United States,

''(ii) which is the product of, or reliant upon, biological conversion, thermal conversion, or a combination of biological and thermal conversion, of renewable biomass (as defined in section 9001(13) of the Farm Security and Rural Investment Act of 2002),

''(iii) the biobased content of which is 95 percent or higher,

''(iv) which is sold or used by the taxpayer—

''(I) for the production of chemical products, polymers, plastics, or formulated products, or

''(II) as chemicals, polymers, plastics, or formulated products,

''(v) which is not sold or used for the production of any food, feed, or fuel, and

''(vi) which is—

''(I) acetic acid, acetone, acrylic acid, acyl glutamate, adipic acid, algae oils, algae sugars, 1,4-butanediol (BDO), iso-butanol, n-butanol, C3-C9 aldehydes, C3-C9 ketones, C10 and higher hydrocarbons produced from olefin metathesis, carboxylic acids produced from olefin metathesis, cellulosic sugar, diethyl methylene malonate, dodecanedioic acid (DDDA), esters produced from olefin metathesis, ethyl acetate, ethylene glycol, farnesene, 2,5-furandicarboxylic acid,

gamma-butyrolactone, glucaric acid, hexamethylenediamine (HMD), 3-hydroxy propionic acid, isoamylene, isobutene, isoprene, isopropanol, itaconic acid, lactide, levulinic acid, modified vegetable oils (oligomers or polymers) as produced from olefin metathesis, polyhydroxyalkonate (PHA), polylactic acid (PLA), polyethylene furanoate (PEF), polyethylene terephthalate (PET), polyitaconic acid, polyols from vegetable oils, poly(xylitan levulinate ketal), 1,3-propanediol, 1,2-propanediol, rhamnolipids, short and medium chain carboxylic acids produced from anaerobic digestion, succinic acid, terephthalic acid, vegetable fatty acid derived from ethyl esters containing vegetable oil, or p-Xylene, or

"(II) any chemical not described in clause (i) which is a chemical listed by the Secretary for purposes of this paragraph.

"(B) BIOBASED CONTENT.—For purposes of subparagraph (A)(iii), the term 'biobased

content percentage' means, with respect to any renewable chemical, the biobased content of such chemical (expressed as a percentage) determined by testing representative samples using the American Society for Testing and Materials (ASTM) D6866.''.

(2) LIST OF OTHER QUALIFYING RENEWABLE CHEMICALS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary's delegate), in consultation with the Secretary of Agriculture, shall establish a program to consider applications from taxpayers for the listing of chemicals under section 7704(d)(6)(A)(vi)(II) of the Internal Revenue Code of 1986 (as added by paragraph (1)).

(c) DISPOSAL AND UTILIZATION OF CAPTURED CARBON OXIDE.—Section 7704(d) of such Code, as amended by subsection (b), is amended by adding at the end the following new paragraph:

''(7) DISPOSAL AND UTILIZATION OF CAPTURED CARBON OXIDE.—For purposes of clauses (xii)(III) and (xiii)(I) of paragraph (1)(E), carbon oxide is disposed of or utilized as provided in this paragraph if such carbon oxide is—

"(A) placed into secure geological storage (as determined under section 45Q(f)(2)),

"(B) used as a tertiary injectant (as defined in section 45Q(e)(3)) in a qualified enhanced oil or natural gas recovery project (as defined in section 45Q(e)(2)) and placed into secure geological storage (as so determined), or

"(C) utilized in a manner described in section 45Q(f)(5).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, in taxable years ending after such date.

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