

116TH CONGRESS
1ST SESSION

H. R. 4735

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

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2019

Mr. MEUSER (for himself and Mr. CARTWRIGHT) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mine Affected Commu-
5 nity Energy and Environment Act”.

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

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

6 “(12) COAL REFUSE FACILITIES.—

7 “(A) DETERMINATION OF CREDIT
8 AMOUNT.—

9 “(i) IN GENERAL.—The credit deter-
10 mined under this section (without regard
11 to this subparagraph) for any taxable year
12 shall be an amount equal to the product
13 of—

14 “(I) \$12.50, multiplied by

15 “(II) the tons of coal refuse used
16 at a coal refuse facility to produce
17 electricity at such facility during the
18 10-year period beginning on January
19 1, 2019.

20 “(ii) EXCLUSION.—Other than coal
21 refuse removed from sites that are subject
22 to the current remediation and reclamation
23 activities of a coal refuse facility, coal
24 refuse generated from sites where coal is
25 mined after the effective date of this legis-

1 lation is excluded from the determination
2 of the credit amount in this section.

3 “(B) ELIGIBLE RECIPIENT.—For purposes
4 of this subsection, the term ‘eligible recipient’
5 means, with respect to a coal refuse facility for
6 a taxable year, a taxpayer who, for each ton of
7 eligible coal refuse described in subparagraph
8 (A) for such taxpayer for the previous taxable
9 year, contributed \$0.50 to the State in which
10 such facility is located for restoring riparian
11 buffers within the communities where the coal
12 refuse is being removed or consumed, or in
13 communities located downstream of that activ-
14 ity, for the purpose of improving water quality
15 downstream of the communities affected by
16 such coal refuse and reducing carbon emissions
17 in such communities.

18 “(C) CREDIT ELIGIBILITY.—In the case of
19 a facility described in subparagraph (A), if the
20 owner of such facility is not the producer of the
21 electricity, the person eligible for the credit de-
22 termined under subparagraph (A) shall be the
23 lessee or the operator of such facility.

24 “(D) APPLICATION OF RULES.—Rules
25 similar to the rules of paragraphs (1), (3), and

1 (5) of this subsection shall apply for purposes
2 of determining the amount of any increase
3 under this paragraph.”.

4 (b) COAL REFUSE FACILITY DEFINED.—Section
5 45(d) of such Code is amended by adding at the end the
6 following new paragraph:

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

10 “(A) which was originally placed in service
11 prior to January 1, 2019, and combusts coal
12 refuse or fuel composed of at least 75 percent
13 coal refuse by BTU energy value, and

14 “(B) uses—

15 “(i) at a minimum, a circulating fluid-
16 ized bed combustion unit or a pressurized
17 fluidized bed combustion unit, equipped
18 with a limestone injection system for con-
19 trol of acid gases, and

20 “(ii) a fabric filter particulate emis-
21 sion control system.”.

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

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

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

16 (e) CREDIT REFUNDABLE.—For purposes of this
17 title, the credit allowed by reason of this section shall be
18 treated as a credit allowed under subpart C (and not this
19 subpart).

20 (f) PASSIVE ACTIVITY LOSSES.—Section 469(d) of
21 the Internal Revenue Code of 1986 is amended by adding
22 to section 469(d)(2)(A)(ii) (other than section 27 “and
23 section 45(e)(12))”.

1 (g) CREDIT MADE PART OF GENERAL BUSINESS
2 CREDIT.—Subsection (b) of section 38 of the Internal
3 Revenue Code of 1986 is amended by—

4 (1) striking “plus” at the end of paragraph
5 (31);

6 (2) striking the period at the end of paragraph
7 (32) and inserting “, plus”; and

8 (3) adding at the end the following new para-
9 graph:

10 “(33) the coal refuse facility credit determined
11 under section 45(e)(12).”.

12 (h) ADVANCE PAYMENT OF CREDIT.—Subchapter B
13 of chapter 65 of such Code is amended by adding at the
14 end the following new section:

15 **“SEC. 6433. ELECTIVE PAYMENT FOR COAL REFUSE FACILI-**
16 **TIES.**

17 “(a) IN GENERAL.—Any person electing the applica-
18 tion of this section with respect to any eligible coal refuse
19 facility shall be treated as making a payment against the
20 tax imposed by subtitle A for the taxable year equal to
21 the amount of the credit that would be determined under
22 section 45(e)(12) for such facility for such year. Except
23 as provided in subsection (b), such payment shall be treat-
24 ed as made on the later of the due date of the return of
25 such tax or the date on which such return is filed.

1 “(b) QUARTERLY ELECTION.—

2 “(1) IN GENERAL.—At the close of any quarter
3 of the taxable year of any taxpayer entitled to a
4 credit with respect to an eligible coal refuse facility,
5 if a claim is filed under this section, the Secretary
6 shall pay (without interest) an amount equal to the
7 credit determined under section 45 for such quarter,
8 calculated as if such credit were determined on a
9 quarterly basis.

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

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

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

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

4 “(2) such partnership or S corporation shall be
5 treated as making the payment referred to in sub-
6 section (a) only to the extent of the proportionate
7 share of such partnership or S corporation as is
8 owned by persons who would be treated as making
9 such payment if the property were owned or used by
10 such persons, and

11 “(3) the return required to be made by such
12 partnership or S corporation under section 6031 or
13 6037 (as the case may be) shall be treated as a re-
14 turn of tax for purposes of subsection (a).

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

21 “(e) ELIGIBLE COAL REFUSE FACILITY.—The term
22 ‘eligible coal refuse facility’ means a facility eligible for
23 a credit during the taxable year pursuant to section
24 45(d)(12).

1 “(f) EXCLUSION FROM GROSS INCOME.—Any credit
2 or refund allowed or made by reason of this section shall
3 not be includible in gross income or alternative minimum
4 taxable income.

5 “(g) REGULATIONS.—The Secretary may by regula-
6 tions prescribe the conditions, not inconsistent with the
7 provisions of this section, under which payments may be
8 made under this section.”.

9 (i) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to coal refuse used to produce elec-
11 tricity after December 31, 2018, in taxable years begin-
12 ning after such date.

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