[COMMITTEE PRINT]

ENERGY TAX ACT OF 1977

SUMMARY OF TITLE II OF H.R. 6831

AS REPORTED BY THE

COMMITTEE ON WAYS AND MEANS

AND A COMPARISON WITH

THE ADMINISTRATION'S ENERGY TAX PROPOSALS

PREPARED FOR THE

AD HOC COMMITTEE ON ENERGY
HOUSE OF REPRESENTATIVES

BY THE STAFF OF THE

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1

2

CONTENTS

1

2

INTRODUCTION

This pamphlet provides a description of title II of H.R. 6831 ("The Energy Tax Act of 1977"), as reported by the Committee on Ways and Means (H. Rept. No. 95–496, Part III; July 13, 1977).

The first part gives a summary of the energy tax provisions adopted by the Ways and Means Committee. The second part compares the Ways and Means Committee Amendment with the Administration's energy tax proposals (title II of H.R. 6831, as introduced).

In addition, the third part of this pamphlet shows the estimated energy savings and the estimated budget effects of the energy tax provisions as reported by the Ways and Means Committee.

1

2

I. SUMMARY OF THE ENERGY TAX PROVISIONS

A. Residential Credits

Residential insulation and energy conservation credit

The committee amendment provides a credit of 20 percent on the first $2,000 of cumulative expenditures on home insulation and other energy conserving components for a maximum credit of $400. The credit would be available for installations made from April 20, 1977, through December 31, 1982.

Insulation means materials that will reduce the heat loss or heat gain of a residence. Attic, floor and wall insulation made of fiberglass, rock wool, cellulose or styrofoam are examples of insulating materials. Energy conserving components include a replacement burner for a furnace that provides increased combustion efficiency, devices to modify flue openings, automatic ignition systems that replace a standing gas pilot light, exterior storm or thermal doors or windows, a clock thermostat and exterior caulking or weatherstripping of doors or windows.

The expenditures must be made for a principal residence that was in existence on April 20, 1977. Vacation homes and other residences do not qualify for the credit, nor do residences that were constructed after April 20, 1977, or were substantially completed after that date. If a taxpayer moves to another principal residence after taking any credit on a previous principal residence, qualifying property would be eligible for another $400 credit for the new residence before January 1, 1983.

Owners and renters will be eligible for the credit. Cooperative and condominium housing owners are eligible for the credit up to the $400 maximum on their proportionate shares of the common qualifying expenditures. Joint occupants of a principal residence must allocate the credit.

Residential solar and wind energy equipment credit

A credit up to $2,150 would be available on the first $10,000 of expenditures on solar and wind energy equipment. The credit is 30 percent of the first $1,500 spent and 20 percent of the next $8,500 spent for installations of this equipment from April 20, 1977, through December 31, 1982.

Eligible equipment covers equipment that uses solar energy to heat or cool, or to provide hot water for a principal residence, and equipment that uses wind to generate electricity and other forms of energy. Solar and wind energy equipment only need to be installed in connection with a residence rather than in or on it, but they do not include backup systems of conventional heating or cooling equipment.

For solar and wind energy equipment, the principal residence may be either an existing or newly constructed residence. Owners and

renters are eligible for the credit. Members of cooperative and condominium associations are eligible for the credit to the maximum amount for their proportionate shares of the common qualifying expenditures.

B. Transportation

Gas guzzler tax

Imposition of the tax

The tax would apply to each sale or initial lease by the manufacturer of an automobile that falls below efficiency standards established for each model year. The efficiency standard increases for each model year 1979 through 1985. The standards start from 3 to 5.5 miles per gallon below the fleetwide average standards imposed under the Energy Policy and Conservation Act (EPCA). The tax applies to automobiles weighing less than 6,000 pounds, but it does not apply to trucks with a cargo carrying capacity less than 1,000 pounds.

A separate tax table applies to each model year 1979 through 1985; the table for 1985 applies to later model years as well. The lowest tax increases from $339 for an auto efficiency rating of 15 miles per gallon in 1979 to $397 for an efficiency rating of 23.5 miles per gallon in 1985 and later years. The highest tax each model year applies to vehicles with efficiency ratings at or below 12.5 or 13 miles per gallon and increases from $553 in 1979 to $3,856 in 1985 and later model years.

The tax will apply to new and used imported cars, according to their model years, and the tax is to be imposed on the importer.

The basis of the automobile is to be reduced by the amount of the gas guzzler tax. In other words, the amount of this tax is not eligible for depreciation, the investment tax credit or computing capital gain or loss on resale.

Trust fund

The committee amendment also establishes a Public Debt Retirement Trust Fund into which the proceeds of the gas guzzler tax will be deposited. The proceeds are to be used to retire obligations of the United States that are included in the public debt.

Repeal of personal deduction for State gasoline tax

The committee amendment repeals the personal deduction for State and local government taxes paid on the purchase of gasoline and diesel and other motor fuels for nonbusiness use after December 31, 1977.

Extension of excise tax on gasoline and other motor fuels

The current Federal excise tax of 4 cents a gallon on gasoline and other motor fuels will be continued at that rate through September 30, 1985. This tax is currently scheduled to be reduced to one and one-half cents a gallon after September 30, 1979. The committee took no action at this time on the Highway Trust Fund which will continue to receive these funds under present law through September 30, 1979.

Repeal of refund of motor boat fuel tax

The committee amendment repeals the 2-cents-a-gallon reduction (through refund, credit or exemption) of the excise tax on gasoline and special motor fuels used in a motorboat. The reduction is made under present law because motorboat use is a nonhighway use of gasoline or other fuel. The committee amendment conforms the tax on motorboat

use of fuel to the tax on highway use. The increased tax on motorboat fuel will go into the Land and Water Conservation Fund as a user tax on motorboat operators (as does the present 2-cents-a-gallon tax).

Repeal of excise taxes on buses and bus parts

The 10-percent excise tax on all buses and the 8-percent excise tax on bus parts and accessories will be repealed under the committee amendment. Parts and accessories that may be interchangeable between trucks and buses will be taxed on sale unless the purchaser provides the manufacturer with an exemption certificate which indicates that the part or accessory is purchased for use on a bus. If tax-paid parts are acquired from a dealer and are used on a bus, a credit or refund will be available.

Removal of excise taxes on items used with certain buses

The committee amendment removed the excise taxes on tires, inner tubes and tread rubber, gasoline and other motor fuels, and lubricating oil sold for use with privately owned intercity, local, and school buses. Removal of these excise taxes on private transit and private school bus operators puts them on a par—with respect to these excise taxes—with governmental and nonprofit school bus operators.

Tax credit for electric motor vehicles

New electric cars purchased for personal use will be eligible for a tax credit of 100 percent of the first $300 of the purchase price. A qualified electric motor vehicle is a 4-wheeled vehicle manufactured for use on public roads that is powered by an electric motor which receives electric current from rechargeable storage batteries or other portable sources.

C. Crude Oil and Natural Gas Liquids Equalization Taxes and Rebates

Crude oil equalization tax

Under the committee amendment, an excise tax is imposed on the first purchase (generally by the refiner) of price controlled, domestically produced crude oil. The tax increases the cost of all crude oil to the world price by 1980. The termination date of the tax is September 30, 1981.

The tax is imposed in three stages. In 1978, a tax of $3.50 per barrel is imposed on lower tier oil (old oil under current regulations). In 1979, the tax on lower tier oil will be raised so that the national average refiner acquisition cost will be identical for lower tier and upper tier oil. In 1980 and for the duration of the tax, the tax will equal the difference between the wellhead prices of uncontrolled and controlled crude oil of the same classification. As a result, the price of controlled oil plus the tax will be raised to the world price of oil in 1980.

New new oil will be subject to a special tax rate which may not exceed the difference between the uncontrolled price and highest controlled price for crude oil of the same classification. New new oil is defined in the bill as crude oil produced from a property that did not have any commercial production at any time during the 90-day period ending on April 20, 1977.

There are exemptions for oil used to extract oil and natural gas and for oil used to produce natural gas liquids.

Natural gas liquids equalization tax

The tax is imposed on sales to end users of natural gas liquids, and it is based upon the difference (the price gap) between the controlled price of the liquid and the wholesale price for No. 2 distillate in the region, adjusted for differences in Btu content. The tax will be equal to one-third of the price gap in 1978, two-thirds of the gap in 1979, and equal to the entire gap in 1980 and later years.

There are exemptions for natural gas liquids used in residences, on farms and in churches, schools and hospitals.

Presidential authority to suspend the tax

The President is granted authority to suspend any or all of any increase in the equalization tax, if he determines that there has been a significant increase in the world price of oil that will result in a higher equalzatiion tax and will have a substantial adverse economic effect. A suspension plan would have to be submitted to Congress and would be subject to a veto by either House within 15 days of submission.

Crude oil rebates

Taxpayer credits.—The net receipts from the equalization taxes will be apportioned equally and returned to each taxpayer in 1978 through a new tax credit. Single taxpayers and married persons filing separately will receive a single payment, and married persons filing joint returns and heads of households (single persons with dependents) will receive a double payment.

The bill instructs the Secretary of the Treasury how to estimate these tax credits.

The credit will be limited to a taxpayer's tax liability, except for recipients of the earned income credit. The estimated amounts of these payments will be reflected in the withholding tax schedules for 1978.

Special payments.—Special payments will be made in 1979 to adults who are recipients of monthly benefits under social security, railroad retirement or supplemental security income. These payments will be made in the Fall of 1979 and will equal the credits rebated to individual taxpayers. Special payments will be reduced by any tax credit received, in order to avoid double payments.

Special payments also will be made to adults who receive aid to families with dependent children. Other adults who do not receive a tax credit or special payment under one of the programs referred to above may file an appropriate form with the Secretary of the Treasury in order to receive a roundup payment.

The Committee amendment also authorizes payments to the governments of Puerto Rico and the possessions, if they submit acceptable plans to the Secretary of the Treasury for distribution of amounts similar to the tax credits and special payments.

Heating oil refund

An exception is provided from the crude oil equalization tax for heating oil used in residences, churches, schools, universities and hospitals. Distributors of heating oil will receive a refund of the equalization tax for each gallon sold to one of these users, so long as the refund is passed through completely to the customers as lower prices.

D. Tax on Business Use of Oil and Gas and Credit

Excise tax on business use of oil and gas

A tax would be imposed on the use of oil or natural gas as fuel in a trade or business. Three levels of tax would be imposed: Tier 1 which would apply to an industrial use where *conservation* in fuel consumption is feasible; Tier 2 which would apply to uses of oil or natural gas in which *conversion* to another fuel is feasible; and Tier 3 would apply to electric utilities and industrial producers of electricity using boilers with a total rating of at least 100 megawatts per plant.

The committee amendment only imposes the tax on the larger industrial and utility users of oil and gas. An exemption is provided which limits the tax only to those firms which use more than 50,000 barrels of oil per year or the Btu equivalent of gas (i.e., 300 billion Btu). In cases of a regional competitive disadvantage, the Secretary of the Treasury may provide additional exempt amounts for individual plants, and he is required to publish the identification of taxpayers and plants which receive additions to their exempt amounts.

The tax on Tier 3 uses and on use of oil in Tiers 1 or 2 would be determined according to the following schedules:

	Tax on oil (per barrel)			Tax on natural gas (per million Btu)
Year of use	Conservation tier (Tier 1)	Conversion tier (Tier 2)	Electric utilities (Tier 3)	Electric utilities (Tier 3)
1979	$0.30	$0.30	None	None
1980	.60	.60	None	None
1981	1.00	1.00	None	None
1982	1.00	1.45	None	None
1983	1.00	2.00	$1.50	$0.55
1984	1.00	2.50	1.50	.65
1985 and thereafter	1.00	3.00	1.50	.75

Determination of tax amount

The committee amendment provides a variable tax on the industrial use of natural gas in Tier 1 and Tier 2 categories which would be determined by subtracting the user acquisition price (per million Btu of gas) and a cost differential from the target price (per million Btu of gas) for the region in which the gas is used. The cost differential will change each year—declining annually from $1.35 in 1979 to $.30 in 1985 and later years for Tier 1 use and from $1.05 in 1979 to zero for Tier 2 use in 1985 and later years. The natural gas target price is determined by the average regional price of all No. 2 grade distillate oil sold during the preceding calendar year in the region, adjusted for differences in energy (Btu) content between such oil and natural gas.

Beginning in 1981, the tax rates would be adjusted annually for

inflation that occurs after 1979. The implicit price deflator for the gross national product is to be used as the index of inflation. The index for the calendar year preceding the current calendar year would be used in order to inform the taxpayer as early as possible in the current year what the tax rate would be.

In the case of the tax on the use of natural gas in the production of electricity for sale, there would be a limit to the tax so that it would not exceed the amount necessary to make the firm's cost of gas (including the tax) equal to the cost of the residual oil (including the tax) in the region where the gas is used.

Suspension of tax

The President could suspend the tax for a period up to one year, if he believes it would have an adverse economic effect. A suspension plan would have to be submitted to Congress and would be subject to a veto by either House within 15 days of its submission.

Exemptions from tax

(1) Industrial process use would be exempt from the tax when the use of fuels other than oil or natural gas would materially and adversely affect the manufacturing process or the quality of the manufactured goods, and when the use would not be economically and environmentally feasible.

(2) An exemption from the tax would be provided to nonindustrial uses of oil and natural gas in residential facilities, in transportation (including pipelines), on a farm for farming purposes, in nonmanufacturing commercial buildings, and in the exploration, development and production of crude oil and natural gas.

(3) Oil and natural gas would be exempt from taxation if used in a facillty that was in existence or under construction on April 20, 1977, and which was precluded from using coal by State air pollution regulations in effect on that date or by Federal air pollution regulations. State regulations in effect on that date would also be grounds for exemption if such regulations were necessary to meet a requirement of Federal law. A regulation of a local agency having jurisdiction over a facility under an approved State Implementation Plan also would be the basis for an exemption.

(4) An industrial use would be granted an exemption from the tax for the duration of an exception provided under specified provisions of Title I of the National Energy Act.

The Secretary of the Treasury would establish a procedure for reclassifying uses to a category which is taxed at a lower rate or which is exempt from tax. Reclassification would depend on the extent to which reduction in oil and natural gas use could be achieved as a result of the tax.

Credit against tax on business use of oil and gas

A taxpayer may elect a credit against the use tax of $1 for each dollar of qualified investment, up to 100 percent of the taxpayer's oil and natural gas use taxes. If the amount of investment is in excess of the amount of use taxes for the year, a carryforward of this investment is permitted against use taxes in future years. Any use tax liability for 1979 and 1980 may be carried forward to 1980 and 1981, respectively.

Utilities would be allowed to carry forward qualifying investment expenditures to offset use tax liabilities incurred beginning in 1983. Utilities would be allowed a credit to the extent that old oil and gas boilers are replaced or phased down for peakload or standby use (1500 hours or less a calendar year).

Where a phased-down old boiler is used between 1500 and 2000 hours in a calendar year, a penalty equal to the use tax would be imposed. Taxes paid in such cases would not be available for offset by qualified investment expenditures. Where old boilers are used more than 2000 hours in a calendar year, there would be a recapture of credits against tax.

The credit would not be available after 1990, except for qualified property on which construction had begun.

Qualified energy investment which could be a credit against the use tax includes the cost of alternative energy property placed in service during the year or, if the taxpayer elects, the progress expenditures made for that property during the year. It does not include a building or its structural components and does not include property to be used in the business of leasing. It includes—

(1) a boiler whose primary fuel is an alternate substance,

(2) a burner and equipment necessary to supply fuel to a combustor other than a boiler for which the primary fuel is an alternate substance,

(3) equipment used in the production of energy by nuclear, hydroelectric, or geothermal power other than the fuel, steam, turbines or equipment beyond the turbine stage,

(4) equipment for converting an alternate substance into synthetic gas,

(5) pollution control equipment required to be installed in equipment described above (other than equipment required on April 20, 1977, to be installed on a facility using coal),

(6) equipment used for unloading, transferring, storing, reclaiming from storage and preparation of an alternate substance for use in the equipment described above or in a facility which uses coal as a feedstock for products other than coke, and

(7) the costs for plans and design for equipment described above.

An alternate substance would be a fuel that is not oil, natural gas or their products.

The taxpayer could receive the regular investment tax credit on his qualified energy investment expenditures only to the extent that a credit against the use tax was not claimed for the same investment outlay.

E. Business Energy Property Tax Credit; Investment Credit and Depreciation Changes

Business energy credit

A 10-percent business energy tax credit is allowed in addition to the investment credit provided under present law for investments by business in qualified property intended to reduce the amounts of oil, natural gas or other energy consumed in heating or cooling a building or used in an industrial process.

The credit would be available for investments in qualifying property made after April 19, 1977, and before January 1, 1983. Where credits are generated by investments in alternative energy property, they may be applied against 100 percent of the taxpayer's income tax liability, rather than the 50-percent limitation that is now generally available.

The business energy tax credit would be available for alternative energy property as an option to the use tax credit for taxpayers who would be liable for the oil and natural gas use taxes. The taxpayer could elect either the dollar-for-dollar credit of the use taxes or the business energy credit for investments in alternative energy property. A taxpayer who elected the credit against the use tax would receive the regular investment credit only on the amount of the investment that was not credited against the user tax.

Qualifying property.—For the business energy tax credit, qualifying property includes alternative energy property which is described above. Other types of property which would receive the 10-percent additional energy investment credit are:

(1) installation or expansion of cogeneration property in an existing facility;

(2) advanced technology property which would use solar, geothermal, or wind energy to provide heat, cooling or electricity;

(3) specified items of equipment (such as recuperators, heat wheels, and energy control systems) which would recover waste heat and gases or otherwise reduce energy consumption, and also equipment to modify existing facilities to allow the use of oil or natural gas and at least 25 percent of some other substance in a combustor or to produce an industrial feedstock; and

(4) equipment to recycle solid waste and to sort and prepare solid wastes for recycling.

In order to qualify, property or equipment in these categories generally must be new property which would be used in connection with a building or facility in existence or substantially completed by April 20, 1977. Where the property would be added to an industrial process, this process must have been carried on as of April 20, 1977.

Business insulation

For purposes of the regular investment credit, insulation installed in connection with an existing building or industrial facility would be qualifying property through 1982. Insulation includes storm doors and windows, thermal glass and double glazing.

Denial of regular investment tax credit and accelerated depreciation

The regular investment credit would be denied for air conditioners and space heaters.

The regular investment credit also would be denied for new oil and gas boilers. In addition, straight-time depreciation would be required for these boilers, and the 20-percent variance from the guideline lives for depreciable property under ADR would not be available for these boilers. These limitations, however, would not apply where the use of coal as an alternative fuel is precluded by Federal or State regula-

tions or where the use of oil or natural gas qualifies as an exempt process use.

These rules would be prospective with exemptions only for binding contracts in existence on April 20, 1977.

Depreciation adjustment for planned retirement of boilers

If a taxpayer certifies that he plans to replace or retire a boiler or other combustor which uses oil or natural gas as a fuel before a specified date, the undepreciated value of the equipment would be deductible using the straight line method and a useful life equal to the period from certification to the specified date for retirement. Interest would be charged on the tax benefit that would accrue as a result of this provision, if the retirement takes place later than the specified date.

F. Miscellaneous Provisions

Tax treatment of geothermal expenses

A current deduction would be allowed for intangible drilling costs related to the exploration and development of geothermal resources. To the extent that these intangible drilling costs exceed the taxpayer's income from the production of geothermal resources, these costs would be subject to the minimum tax on preference items.

In addition, the committee provided percentage depletion at a 10-percent rate for all geothermal resources, subject to the limitation that the total amount of depletion allowed with respect to any property is not to exceed the taxpayer's adjusted cost basis in that property.

Minimum tax on intangible drilling costs for oil and gas wells

The committee extended beyond 1977 the provision in present law relating to the minimum tax on intangible drilling costs. As a result, the minimum tax on preference items applicable to intangible drilling costs for oil and gas wells would be modified to treat these intangible costs as preference items only to the extent they exceed the taxpayer's oil and gas production income.

Rerefined lubricating oil

New lubricating oil would be exempt from the 6-cents-per-gallon excise tax, if it is combined with rerefined oil and the new oil makes up 55 percent or less of the mixture. If the new oil in the mixture exceeds 55 percent of the contents, the exemption would apply only to the new oil that would make up 55 percent of the mixture. In any case, the mixture must contain at least 25 percent waste or rerefined lubricating oil in order to qualify for the exemption.

Annual report on energy savings and revenue effects

Beginning in August 1978, the President will report each year to the Congress on the savings in energy use accomplished, the revenue received, and the revenue disbursed under each specific program contained in Title II of H.R. 6831, The Energy Tax Act of 1977.

1

2

II. COMPARISON OF THE ADMINISTRATION'S ENERGY TAX PROPOSALS WITH THE ENERGY TAX PROVISIONS OF TITLE II OF H.R. 6831, AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

A. Residential Energy Credits

Residential insulation and other energy-conserving component credit (sec. 2011 of the committee amendment)

Nature, amount, and period of credit

The Administration proposal provides a nonrefundable income tax credit (i.e., the credit cannot exceed the taxpayer's tax liability) for 25 percent of the first $800 ($200) and 15 percent of the next $1,400 ($210) of qualifying expenditures for insulation and other energy-conserving components, for a maximum credit of $410. The maximum expenditure amount of $2,200 is reduced by expenditures which were taken into account in computing a credit for an earlier year.

The Ways and Means Committee Amendment is substantially the same except for the amount of the credit, which is to be 20 percent of the first $2,000 of qualifying expenditures for insulation and other energy-conserving components. The maximum credit is to be $400.

The Administration proposal makes the credit available for expenditures made on or after April 20, 1977 and before January 1, 1985. The Ways and Means Committee Amendment contains the same beginning date for the period of the credit, April 20, 1977, but provides for a 2-year earlier termination date (at the end of 1982 instead of 1984).

Qualifying residences

Under both the Administration proposal and the Ways and Means Committee Amendment, qualifying installations must be in or on the taxpayer's principal residence, and that residence must be located in the United States. Both extend the credit to stockholders in a cooperative housing association. However, the Ways and Means Committee Amendment also makes the credit available to a member of a condominimum management association.

Both the Administration proposal and the Ways and Means Committee Amendment provide the credit only for residences existing on April 20, 1977.

Minimum credit amount

In order to alleviate administrative burdens, the Ways and Means Committee Amendment requires a minimum credit amount of $10 for any taxable year before any credit may be allowed. The Administration proposal contains no comparable provision.

Qualifying property

Under the Administration proposal, qualifying insulation is an item specifically and primarily designed to reduce, when installed in or on a dwelling or water heater, the heat loss or gain of that dwelling or water heater. A qualifying energy-conserving component is any item (other than insulation) which is:

(1) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(2) a device for modifying flue openings designed to increase the efficiency of operation of the heating system;

(3) an electrical or mechanical furnace ignition system which replaces a gas pilot light;

(4) a storm or thermal window for the exterior of the dwelling;

(5) a clock thermostat;

(6) an item of a kind which the Secretary of the Treasury specifies by regulations as increasing the energy efficiency of the dwelling; or

(7) caulking or weatherstripping of an exterior door or window (if done in conjunction with the installation of one of the items specified above).

In the case of both insulation and other energy-conserving components, the original use of the property must commence with the taxpayer. Both must also be reasonably expected to remain in operation for at least three years.

The Ways and Means Committee Amendment is essentially the same, except that storm doors are provided for and caulking and weatherstripping need not have to be done in conjunction with the installation of one of the other specified items in order to qualify for the credit.

Expenditures by joint occupants

Under the Ways and Means Committee Amendment, in the case of qualifying expenditures for the same dwelling by two or more individuals, each of whom is using the dwelling as his principal residence, each individual is to receive a proportionate share of the credit. The amount of the credit allowed to each occupant is to be apportioned according to the same ratio as the amount of qualifying expenditures made by that occupant bears to the total amount of qualifying expenditures made by all the occupants. The Administration proposal does not contain any comparable provision relating to expenditures by joint occupants.

Effect on tax basis of the residence

Under both the Administration proposal and the Ways and Means Committee Amendment, the amount of the tax basis increase in a taxpayer's residence as a result of qualifying expenditures is to be reduced by the amount of the credit allowed with respect to those expenditures.

2. *Residential solar and wind energy equipment credit (sec. 2011 of the committee amendment)*

Nature, amount, and period of credit

The Administration proposal provides a nonrefundable income tax credit (i.e., the credit cannot exceed the taxpayer's tax liability) for qualifying solar energy expenditures only, structured as follows:

	Expenditures of (percent)—		
	0 to $1,000	Over $1,000	
Years	Credit	Percentage	Maximum credit
1977–79	40	35	$2, 000
1980–81	30	20	1, 580
1982–84	25	15	1, 210

The Ways and Means Committee Amendment provides a nonrefundable income tax credit of 30 percent for the first $1,500 of qualifying solar and wind energy expenditures and 20 percent for the next $8,500 of these expenditures. The maximum credit would therefore be $2,150.

Under both the Administration proposal and the Ways and Means Committee Amendment, the maximum expenditure amount is to be reduced by expenditures which were taken into account in computing a credit for an earlier tax year.

The Administration proposal makes the credit available for expenditures made on or after April 20, 1977, and before January 1, 1985. The Ways and Means Committee Amendment contains the same beginning date for the period of the credit, April 20, 1977, but provides for a 2-year earlier termination date (at the end of 1982 instead of 1984).

Qualifying residences

Under both the Administration proposal and the Ways and Means Committee Amendment, qualifying installations must be in connection with the taxpayer's principal residence, and that residence must be located in the United States. Both extend the credit to stockholders in a cooperative housing association. However, the Ways and Means Committee Amendment also makes the credit available to a member of a condominium management association.

Both the Administration proposal and the Ways and Means Committee Amendment provide the credit for both newly constructed and existing residences.

Minimum credit amount

In order to alleviate administrative burdens, the Ways and Means Committee Amendment requires a minimum credit amount of $10 for any taxable year before any credit may be allowed. The Administration proposal contain no comparable provision.

Qualifying property

Both the Administration proposal and the Ways and Means Committee Amendment provide the credit for qualifying solar energy equipment which, essentially, is equipment which uses solar energy to heat or cool a dwelling or to provide hot water for use within the dwelling. The Ways and Means Committee Amendment extends the credit to qualifying wind energy equipment which uses wind to generate energy in any form for personal residential purposes.

Under both the Administration proposal and the Ways and Means Committee Amendment, the original use of the equipment must commence with the taxpayer and be reasonably expected to remain in operation at least five years.

Expenditures by joint occupants

Under the Ways and Means Committee Amendment, in the case of qualifying expenditures for the same dwelling by two or more individuals, each of whom is using the dwelling as his principal residence, each individual is to receive a proportionate share of the credit. The amount of the credit allowed to each occupant is to be apportioned according to the same ratio as the amount of qualifying expenditures made by that occupant bears to the total amount of qualifying expenditures made by all the occupants.

Effect on tax basis of the residence

Under both the Administration proposal and the Ways and Means Committee Amendment, the amount of the tax basis increase in a taxpayer's residence as a result of qualifying expenditures is to be reduced by the amount of the credit allowed with respect to those expenditures.

B. Transportation Tax Provisions (secs. 2021–2029 of the Committee Amendment)

1. Gas guzzler tax and use of proceeds

Nature and extent of tax

In general, both the Administration proposal and the Ways and Means Committee Amendment provide for an excise tax on inefficient automobiles. In each case, this tax becomes steeper as the automobile becomes less efficient.

The Administration proposal would impose a gas guzzler tax on the sale or initial lease by the manufacturer (or importer) of automobiles having a gross vehicle weight up to 6,000 pounds whose fuel economy fails to meet the fleetwide average economy standards under the Energy Policy and Conservation Act (P.L. 94–163, "EPCA"). The amount of the tax would increase for each mile per gallon decrease in fuel efficiency below the EPCA standard for the year involved. The Secretary of the Treasury is also given authority to add vehicles weighing between 6,000 and 10,000 pounds if the Department of Transportation provided mileage standards for them. The Administration proposal would apply to 1978 model year automobiles and later model year automobiles.

Under the Ways and Means Committee Amendment, a gas guzzler tax would apply to the sale or initial lease by the manufacturer (or importer) of automobiles having a gross vehicle weight of no more than 6,000 pounds which fall below certain fuel efficiency standards established by the Committee. The tax would apply to 1979 and later model year automobiles, but it would not apply to trucks with a cargo capacity of 1,000 pounds or more. The Committee decided not to apply the tax to the 1978 model year because the automobile industry had already set, and could not change, the design and tooling for that model year. Fuel efficiency standards below which an automobile will be taxed will generally start from 3 to 5.5 miles below (depending on the year involved) fleetwide average standards of EPCA. The amount of the tax applicable to an inefficient automobile is provided in separate rate tables.

While the Administration proposal imposes a tax at lesser levels of inefficiency than the Ways and Means Committee Amendment, the rates of tax in the Committee Amendment are higher from 1981 on (except in the case of the vehicle within 1 mile per gallon ("mpg") of the nontaxable threshold) than the rates of tax in the Administration proposal and progress more steeply for very inefficient automobiles.

Unavailability of certain governmental exemptions

Under both the Administration proposal and the Ways and Means Committee Amendment, the exemptions from the manufacturers ex-

cise taxes generally provided for State and local governments and nonprofit educational institutions would not be available in the case of the gas guzzler tax.

The Ways and Means Committee Amendment also provides that the Secretary of the Treasury will not have the authority to waive application of the tax in the case of a sale or lease of a vehicle to the United States.

Reduction in basis of automobile by amount of gas guzzler tax

Under the Ways and Means Committee Amendment (but not the Administration proposal), the basis of an automobile subject to a gas guzzler tax would be reduced by the amount of the tax for all purposes (including depreciation, the investment credit and gain or loss upon resale). This provision was added to the bill because it was felt inequitable to allow the purchaser of a gas guzzling automobile to recoup a part of the tax from the United States Treasury for a gas guzzler which is used for business purposes.

Use of proceeds of gas guzzler tax

Under the Administration proposal, graduated rebates would be given with respect to sales or initial leases after May 1, 1977, of new domestically manufactured automobiles whose fuel economy exceeds the applicable EPCA fuel economy standards. The rebate would be payable to the manufacturer only if it has passed on the amount of the rebate to the ultimate purchaser of the automobile and has evidence of payment in its possession. The rebate would be based on the amount by which the automobile exceeded the applicable year's fleetwide fuel economy standard, but the total amount of the rebates could not exceed the net proceeds of the gas guzzler tax. With respect to vehicles manufactured in foreign countries other than Canada, rebates would be available on the basis of executive agreements entered into between these countries and the United States. Purchasers of electric motor vehicles would be entitled to the highest applicable rebate.

Under the Ways and Means Committee Amendment, there is no rebate for fuel efficient automobiles; under the Committee Amendment, the proceeds of the gas guzzler tax are to be placed in a trust fund to be used for the purpose of reducing the national debt.

2. Repeal of personal deduction for State and local taxes on gasoline

Under present law, an individual who itemizes his deductions may deduct State and local taxes imposed with respect to gasoline, diesel fuel, and other motor fuels purchased by him. The Administration proposal contains no provision concerning this item.

The Ways and Means Committee Amendment repeals this deduction for State and local taxes imposed with respect to gasoline, diesel fuel, and other motor fuels which are purchased by a taxpayer for a nonbusiness use. This repeal applies to purchases made after December 31, 1977.

3. Federal taxes on gasoline and other motor fuels

Standby gasoline tax

Under the Administration proposal, a standby gas tax would go into effect, starting in 1979, if a specified gasoline consumption target for the year involved were not met. Under this proposal,

where domestic gasoline consumption for any fiscal year exceeds a stated target set for that year by 1 percent or more, a gasoline tax would be imposed, starting on January 1 of the following year, at the rate of 5 cents per gallon multiplied by each full percentage point above the target. However, the tax could not be increased or decreased more than 5 cents from the tax imposed in the previous year, and the cumulative amount of tax applicable in any one year could not exceed 50 cents per gallon. The funds collected from the standby gasoline tax would have been rebated on a per capita basis.

The Ways and Means Committee Amendment does not contain a provision for a standby gasoline tax or rebate.

Extension of current rate of Federal taxes on gasoline and other motor fuels

Except for the standby gasoline tax noted above, the Administration proposal contains no provision relating to Federal excise taxes on gasoline, diesel fuel or other motor fuels. The Ways and Means Committee Amendment extends the current 4-cents-a-gallon excise taxes on gasoline, diesel fuel, and other motor fuel (which are currently scheduled to drop to 1½ cents per gallon on October 1, 1979) for six years—that is until September 30, 1985. The Ways and Means Committee Amendment, however, does not extend the Highway Trust Fund, which is currently scheduled to expire as of September 30, 1979. Also, the Ways and Means Committee Amendment does not address the question of the specific use of these motor fuel tax revenues after September 30, 1979.

4. Removal of refund or credit for certain motorboat fuel use

Both the Administration proposal and the Ways and Means Committee Amendment provide that the present law 2-cent reduction (or credit or refund) of the Federal excise tax on gasoline or special motor fuels used for nonhighway purposes will not be available if the gasoline or special motor fuel is used in a motorboat. This provision is effective for gasoline or motor fuel sold after October 1, 1977.

5. Repeal of the excise tax on buses

Both the Administration proposal and the Ways and Means Committee Amendment would repeal the 10-percent manufacturers excise tax on all buses for sales made on or after April 20, 1977.

6. Repeal of the excise tax on bus parts and accessories

The Administration proposal contains no provision with respect to the excise tax on bus parts and accessories.

Under the Ways and Means Committee Amendment, the 8-percent manufacturers excise tax on bus parts and accessories (but not on truck parts and accessories) would be repealed. This tax is not to apply to any part or accessory which is "sold for use" or used on or in connection with a bus. Thus, parts and accessories that may be interchangeable between trucks and buses will continue to be subject to the tax where not used or sold for use with respect to buses.

7. Removal of excise tax on certain items used on or in connection with intercity, local or school buses

The Administration proposal contains no provisions relating to excise taxes on items used on or in connection with intercity, local or school buses.

The Ways and Means Committee Amendment provides an exemption from (or a credit or refund of) the tax on highway tires, inner tubes and tread rubber for sales by a manufacturer, producer, or importer of such items used, or sold for use by the purchaser, on or in connection with an intercity, local, or school bus.

The Committee Amendment provides an exemption from (or a credit or refund of) the tax on highway tires, inner tubes and tread rubber for sales by a manufacturer, producer, or importer of such items used, or sold for use by the purchaser, on or in connection with an intercity, local, or school bus.

An "intercity or local bus" means any bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public, if either (1) the transportation is scheduled and along regular routes, or (2) the passenger seating capacity of the bus is at least 20 adults (not including the driver). A "school bus" means any bus with respect to which substantially all of the use involves transporting students and employees of schools. The exemption from these taxes applies to use by both tax-exempt and taxable schools. Also, it applies to a private contractor who operates a bus for tax-exempt or taxable schools.

The Ways and Means Committee Amendment also provides for the refund or credit of the taxes paid with respect to lubricating oil used in an intercity, local or school bus.

In addition, the Ways and Means Committee Amendment provides for the refund or credit of the taxes paid on gasoline and other motor fuels, but only to the extent these fuels are used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations. The allocation of fuel to these nontaxable uses may be determined on a mileage basis or on an actual fuel use basis.

8. Tax credit for electric motor vehicles

Although the Administration proposal did not provide an income tax credit for the purchase of electric motor vehicles, such vehicles would have been eligible for the maximum rebates provided for fuel efficient cars under its gas guzzler tax and rebate proposal.

The Ways and Means Committee Amendment provides a nonrefundable tax credit for the first $300 of the cost of a qualified electric motor vehicle. This credit is available only for an individual who acquires a new electric motor vehicle exclusively for his personal use or the personal use of a member of his family.

9. Tax on aviation fuel

Under the Administration proposal, the present 7-cents-a-gallon tax on aviation fuel used in noncommercial aviation would be increased to 11 cents per gallon effective October 1, 1977. The additional 4 cents per gallon would not be appropriated to the Airport and Airways Trust Fund (although the proceeds of the present tax are appropriated to this fund).

The Ways and Means Committee Amendment contains no provision relating to the tax on aviation fuel.

C. Crude Oil Equalization Taxes

In general

As a general matter, both the Administration proposal and the Ways and Means Committee amendment are the same. Both increase the price of domestically produced crude oil to world prices over the three-year period 1978 to 1980 by means of the tax on crude oil and return the net revenues to the economy. (However, see discussion below under "Other refunds.")

Amount of tax

In both the Administration proposal and the Ways and Means Committee amendment, the tax in 1978 is imposed only on lower tier oil and is equal to $3.50 per barrel. In 1979, both the proposal and the committee amendment impose the tax only on lower tier oil and increase its price to the national average price of upper tier oil. In 1980 and thereafter, both the proposal and the committee amendment generally increase the price of all controlled oil to world prices.

Technical differences

Nonetheless, there are some technical differences between the Administration proposal and the Ways and Means Committee amendment. In the Administration proposal, the tax is imposed upon the delivery of the crude oil to the refiner. In the committee amendment, the tax is imposed upon the first purchase of the crude oil. In the Administration proposal, the tax for 1980 and thereafter is computed on the average price of all classifications of crude oil. However, the tax under the committee amendment is separately determined for each classification of crude oil.

Exemptions

The Administration proposal provided no direct exemptions from the crude oil equalization tax. However, under the Ways and Means Committee amendment, an exemption is provided for crude oil and certain refined products that are used to extract crude oil and natural gas, and another exemption is provided for crude oil that is used to produce natural gas liquids and natural gas liquid products.

Natural gas liquids

The Administration proposal did not impose an equalization tax on natural gas liquids. The Ways and Means Committee amendment does impose an equalization tax on the sale for end use of natural gas liquids and natural gas liquid products. However, the natural gas liquids tax does not apply to natural gas liquids used as a feedstock to produce natural gas liquid products, for use in a residence, church, school, or hospital, or for use on a farm for farming purposes.

Suspension of taxes

Both the Administration proposal and the Ways and Means Committee amendment authorize the President to suspend increases in the equalization taxes. However, under the committee amendment, the power to suspend is limited to a one-year limitation and is subject to veto by either House of Congress.

Other rules

The committee amendment provides a 90 day study by the Secretary of Energy of the effect of the crude oil equalization tax and any phase-out of the entitlements program on the small refiners. Also, the committee amendment provides that the crude oil equalization taxes shall not affect the price of natural gas under contracts entered before enactment of this bill.

Termination date

The Administration proposal did not provide for an expiration date for the tax. The tax, under the Ways and Means Committee amendment, terminates on September 30, 1981.

Heating oil rebate

Both the Administration proposal and the Ways and Means Committee amendment provide that users of heating oil in residences will be rebated the amount of the crude oil equalization tax on heating oil. In addition, the committee amendment provides for refunds on heating oil used in a church, hospital, or school.

Individual rebates

Both the Administration proposal and the Ways and Means Committee amendment provide that the net revenues from the equalization taxes will be returned to the economy. The Administration proposal would have returned the money on a per-person basis. However, the committee amendment returns only the net revenues for 1978 and these revenues are returned on a per-adult basis.

D. Tax on Business Use of Oil and Natural Gas; Credit Against Tax

1. Excise tax on business use of oil

Oil users tax

In the case of petroleum and petroleum products, the Administration proposal and the Ways and Means Committee Amendment would subject industrial users to a tax determined in accordance with the following schedule:

	Tax per barrel—		
	Ways and Means		
	Tier 1 use	Tier 2 use	Administration [1]
Year of use—			
1979	$0.30	$0.30	$0.90
1980	.60	.60	1.80
1981	1.00	1.00	1.80
1982	1.00	1.45	2.10
1983	1.00	2.00	2.40
1984	1.00	2.50	2.70
1985 and thereafter	1.00	3.00	3.00

[1] Under the Administration's bill, the tax would actually be imposed on the basis of the Btu content of the oil; refined petroleum products, on the average, contain about 6,000,000 Btu's per barrel.

Under the Ways and Means Committee amendment, Tier 2 use includes any use in a boiler or in a turbine or other internal combustion engine, and Tier 1 includes process uses.

Under both the Administration proposal and the committee amendment, electric utilities would be subject to a flat tax beginning in 1983 of $1.50 per barrel (subject to an inflation adjustment). The committee amendment includes as electric utility use, fuel consumed in the production of electricity by larger industrial users (100 megawatts or more).

Under the Administration proposal, the inflation adjustment would begin in 1979 using 1975 as a base year; the Ways and Means Committee amendment begins in 1981 and uses 1979 as a base year.

Natural gas users tax

In the case of natural gas (including liquified gases), all industrial users under the Administration proposal and Tier 2 users under the Ways and Means Committee amendment would be subject to a tax

which—when fully phased in—would have the effect of making natural gas cost equivalent per Btu to the cost of Number 2 distillate oil (not including the oil users tax). For industrial users, the tax would first be imposed in 1979. For that year, the tax, when added to the user's cost of the natural gas, would bring the total effective cost to a level of $1.05 per million Btu's (that is, per thousand cubic feet or "mcf" of natural gas) below the price of the same amount of energy in the form of oil (the "Btu equivalency price")[1]. The cost differential per million Btu would decrease in accordance with the following schedule in the Ways and Means Committee amendment and the Administration proposal (subject to an inflation adjustment):

	Ways and Means		Administration
	Tier 1	Tier 2	
Year of use—			
1979	$1.35	$1.05	$1.05
1980	.70	.40	.40
1981	.60	.35	.35
1982	.55	.25	.25
1983	.50	.20	.20
1984	.45	.15	.15
1985 and thereafter	.30	Zero	Zero

Under the committee amendment, the tax on natural gas purchased on interruptible contracts is reduced by 10 percent.

Under the Administration proposal, a similar use tax would be imposed on electric utilities, except that the tax would be first imposed in 1983 and would be imposed in accordance with the following schedule (subject to inflation adjustments):

Years of use:	*Cost differential (per million Btu's)*
1983, 1984, 1985	$0.50
1986, 1987	.25
1988 and thereafter	Zero

Under the Ways and Means Committee amendment, the tax on electric utilities is first imposed in 1983, and the rate would be $.55 per million Btu in 1983, $.65 in 1984, and $.75 in 1985 and thereafter. These rates would also be adjusted for inflation. This tax is subject to a cap, so that it cannot bring the cost of gas above the Btu equivalency price of residual fuel oil, including the users tax on such oil.

Exempt amount

Under the Administration proposal, an exemption from tax based on combined use of oil and natural gas would be provided for small industrial users who use less than approximately 85,000 barrels of oil

[1] The "Btu equivalency price" would be determined annually by the Administrator of the Federal Energy Administration. It would be the average regional price (exclusive of the oil users tax) of all No. 2 distillate oil sold for use in the region.

or the equivalent amount of natural gas annually. The exemption would be phased out so that no exemption would be allowed for those who use more than approximately 250,000 barrels annually.

Under the Ways and Means Committee amendment, all users (including utilities) would be exempt from taxation on the equivalent of 50,000 barrels of oil annually. An additional exempt amount could be provided by the Secretary of the Treasury to plants subject to a disadvantage because they compete with small firms not subject to the tax.

Exempt uses

Under the Administration proposal, the exempt products and uses would be as follows: gasoline, lubricating oils, greases, waxes, petroleum coke, pitch, and asphalt; use in aircraft or for rail or water transportation, use on a farm for farming purposes, use in production of anhydrous ammonia or ammonia liquor (except use of natural gas as a fuel), use in production of refined petroleum products (other than use as a fuel), natural gas reinjected for repressuring or cycling use, and natural gas used at the point of consumption which is not practically marketable.

Under the committee amendment, exempt products and uses are as follows: all feedstock and raw material uses, gasoline, any substance of a kind which is not generally marketable for use as a fuel, use in residential facilities, use in a vehicle, aircraft, or vessel or in transportation by pipeline, use on a farm for farming purposes, use in a facility which is not an integral part of manufacturing, processing, or mining, and use in the exploration for, or the development, extraction, or storage of, crude oil, natural gas, or natural gas liquids. Also exempt is fuel used in any manufacturing process in which there is no substitute fuel which can be used without adversely affecting the manufacturing process or the quality of the manufactured goods, and the use of which is economically and environmentally feasible. Use in an existing facility if the use of coal in such facility is precluded by Federal regulations or State regulations in effect on April 20, 1977 is exempt. The Secretary is to have the authority to reclassify firms, plants, or uses to a Tier with a lower tax or to an exempt use category; such reclassifications would take into account the potential for conservation and conversion. Temporary exemptions from the tax are also granted to new facilities and to qualifying cogenerators which are granted exemptions under the Energy Supply and Environmental Coordination Act (ESECA) as amended by H.R. 6831.

Suspension of tax

Under the Ways and Means Committee amendment, the President may submit to the Congress a plan providing for the suspension of all or part of the tax for up to one year. The suspension would take place only if neither House of Congress adopts a resolution of disapproval within 15 days of its submission.

2. *Credits against tax on business use of oil and natural gas*

In general

As a general matter, both the Administration proposal and the Ways and Means Committee amendment are essentially the same with respect to the credit offset against the use tax. Under both provisions,

all taxpayers may elect between a rebate of 100 percent of their investment in alternative energy property against their oil and gas consumption tax, or the additional energy tax credit against their income tax.

Under both the Administration proposal and the committee amendment, the amount rebated against the oil or gas consumption taxes may not exceed the tax imposed for the calendar year. Any excess investment in alternative energy property for the year not allowed as an offset against tax for the current year may be carried over to the next calendar year and treated as an investment in alternative energy property.

Property eligible for the credit

Property eligible for the credit against the use tax under the committee amendment is the same as under the Administration proposal except that the committee amendment also covers certain geothermal and hydroelectric power property and equipment for the conversion of alternate substances into high Btu gas. The committee amendment also allows a partial credit for certain property which reduces boilers' use of oil and gas fuels to a maximum of 50 percent but not less than 25 percent of the boilers' total fuel.

Utilities

Both the Administration proposal and the committee amendment allow the rebate to utilities only to the extent existing boilers are replaced. The committee amendment provides guidelines for determining when an old boiler is replaced or phased down. Generally, a boiler used not more than 1500 hours per year is considered to be phased down. In addition, the committee amendment provides ratemaking limitations on utilities that receive the credit similar to the limitation relating to the existing investment tax credit.

Technical differences

The committee amendment adds a provision allowing a carryover of the users tax for 1979 and 1980 until 1981. The committee amendment also limits the credit to 50 percent of the investment where the investment is financed by tax-exempt industrial development bonds.

Unlike the Administration proposal, the committee amendment denies the regular investment tax credit for any investment on which the rebate against the users tax is claimed. The committee amendment, however, allows a taxpayer the regular investment credit to the extent the rebate is not used.

E. Business Energy Investment Credit

The Administration proposed an additional 10-percent investment tax credit on several classes of equipment that would conserve energy use or stimulate conversion from oil and natural gas to using coal as a fuel.

Qualifying property

Under the Administration proposal qualifying property would include alternative energy property (where the use tax credit was not elected), cogeneration property, solar energy equipment installed in an existing facility, and insulation and heat recovery equipment installed in an existing facility.

The Ways and Means Committee amendment eliminates differences between alternative energy property for which the use tax credit would be claimed and for which the business energy tax credit would be claimed. The committee amendment also clarifies that this property includes boilers, combustors and their counterparts used in producing energy by nuclear, hydroelectric and geothermal power. Conversion to the use of fuel sources other than oil, natural gas or their products is identified as the common denominator of alternative energy property.

The committee amendment also adds to the list of qualifying property the kind of equipment which modifies existing oil and gas facilities to use at least 25 percent coal or another fuel and equipment used exclusively in the recycling of solid waste or to sort and prepare solid waste for recycling.

Tax credit rate

The Administration proposal included a 10-percent additional investment credit for business energy property placed in service from April 20, 1977, through December 31, 1982. This would make the total investment credit 20 percent for property that presently is eligible for the regular investment credit through December 31, 1980, and 17 percent in 1981 and 1982. For alternative energy property and cogeneration equipment, the Administration proposed that the total investment tax credit remain at 20 percent through December 31, 1982. A taxpayer could not claim either depreciation or the investment credit to the extent investment in alternative energy property was offset by the use tax credit.

In the Ways and Means Committee amendment, an additional business energy investment credit of 10 percent is allowed for all eligible property through December 31, 1982. As a result, all property eligible for the investment credit under present law, including alternative energy property and cogeneration equipment, would be eligible for a 17-percent credit in 1981 and 1982, under the committee amendment. It is also required that the taxpayer elect either this special investment credit or the use tax credit for investments in alternative energy

property. However, if the use tax credit is elected, the regular investment credit may be claimed for the investment to the extent it is not offset by the use tax credit. Insulation which is a structural component of a commercial and industrial building or facility and lodging property, however, would receive only regular investment credit under both the Administration proposal and the committee amendment. In addition, the investment credit available for pollution control equipment acquired with the proceeds of the tax-exempt industrial development bonds was increased to 5 percent under the committee amendment.

The general requirement under the Administration proposal that all categories of property be used in connection with an existing building and with existing industrial process (where applicable) is eliminated for alternative energy property and recycling equipment under the committee amendment.

In other respects, the Administration proposal and the committee amendment are substantively identical.

Other provisions

The Ways and Means Committee amendment also resulted in the following additions to the section of business energy tax credits that were not included in the Administration proposal.

Limitations on investment credit and accelerated depreciation.—Under the committee amenedment, the regular investment credit is denied for portable air conditioners and heaters, which tend to use energy inefficiently. Similarly, the investment credit and rapid depreciation (under accelerated methods and shortened useful lives) are also denied for new oil and gas boilers and other combustors in those cases where the taxpayer is not prevented by State or Federal air pollution regulations from burning coal as a fuel and where this use of oil or natural gas is not an exempt use for purposes of the oil and natural gas use tax.

Rapid depreciation for retired or replaced oil and natural gas combustors.—Under the committee amendment, a taxpayer that expects to retire or replace an existing oil or gas boiler or other combustor before the end of its useful life could depreciate unrecovered costs for this combustor over this shortened period. In order to qualify for this provision, the taxpayer must establish to the satisfaction of the Secretary that this early retirement will in fact occur. If the early retirement does not occur by the expected date, the taxpayer is required to repay, with interest, any tax benefit it realized through increased depreciation deductions under this provision.

F. Energy Tax Incentives

1. Intangible drilling costs for oil and gas wells

The Administration proposal would include intangible drilling cost deductions for oil and gas in the minimum tax base of individuals only to the extent that the intangible drilling and development costs (over the amount amortizable) exceed the taxpayer's income from oil and gas properties.

The Ways and Means Committee amendment is the same as the Administration proposal.

2. Intangible drilling costs for geothermal resources

a. Deduction of costs

The Administration's proposal would allow intangible drilling cost deductions in the case of wells drilled for geothermal steam and geothermal resources to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells. The deduction would be allowed for wells commenced after April 30, 1977.

The Ways and Means Committee amendment is the same as the Administration's proposal.

b. Application of the minimum tax

The Administration's proposal would include the excess of intangible drilling cost deductions for geothermal wells over the income from interests in geothermal wells in the minimum tax base for individuals.

The Ways and Means Committee amendment is the same as the Administration's proposal.

c. Gain on sale or other disposition of geothermal property

The Administration's proposal would require that gain on the disposition of geothermal properties would be recaptured (that is, treated as ordinary income rather than capital gain) to the extent that such gain does not exceed the amount by which the intangible drilling cost deductions exceed the amount of such deductions which would have been allowable had the costs been capitalized and amortized over 120 months.

The Ways and Means Committee amendment is the same as the Adminstration's proposal.

d. *Deduction of losses*

The Administration's proposal contains no limitation on the amount of any loss which may be deducted in connection with the exploration for, or the exploitation of, geothermal resources.

The Ways and Means Committee Amendment provides that the amount of any loss (otherwise allowable for the year) which may be deducted in connection with exploring for, or exploiting, geothermal resources cannot exceed the aggregate amount with respect to which the taxpayer is at risk at the close of the taxable year.

3. *Percentage depletion for geothermal resources*

The Administration's proposal contains no provision for a depletion allowance for geothermal resources.

The Ways and Means Committee amendment provides a 10-percent allowance for percentage depletion for all geothermal resources, regardless of whether the resource would qualify for depletion under present law or whether the resource in fact is renewable. However, the amount of allowable depletion with respect to any property in any year may not exceed the taxpayer's adjusted cost basis in that property.

G. Rerefined Lubricating Oil

The Administration's proposal contained no provision with regard to the excise tax on lubricating oil.

The Ways and Means Committee amendment exempts the sale of new lubricating oil from the manufacturer's excise tax, under certain conditions, where the lubricating oil is sold for use in mixing with previously used or waste lubricating oil which has been cleaned, renovated, or rerefined.

The provision exempts the sale of lubricating oil from the 6-cents-per-gallon manufacturer's excise tax where the lubricating oil is sold for use in mixing with previously used or waste lubricating oil which has been cleaned, renovated, or rerefined. For the exemption to apply, the blend of old and new oil must consist of 25 percent or more of waste or rerefined oil. All of the new oil in a mixture is to be exempt from the excise tax if the blend contains 55 percent or less new oil. If the mixture contains more than 55 percent new oil, the excise tax exemption applies only with regard to the portion of the new oil that does not exceed 55 percent of the mixture.

H. Annual Report on Energy and Revenue Effects of the Energy Tax Provisions

The Administration's proposal contained no provision with respect to an annual report on the energy and revenue effects of the energy tax provisions.

The Ways and Means Committee amendment requires the President to submit an annual report to the Congress every August after 1977. The report is to provide estimates of the amount of revenue increases or decreases resulting from each of the energy tax provisions, and an evaluation of the extent to which each of the provisions has resulted in increased energy conservation and production. The committee amendment also requires that the President provide such other information as he determines is relevant for an evaluation of the provisions of the bill. The committee report states that the Committee on Ways and Means expects the President to include in his report the petroleum (or natural gas) savings resulting from each provision and the extent to which shifts from petroleum and natural gas to other materials has occurred as a result of each provision.

III. ENERY SAVINGS AND BUDGET EFFECTS OF ENERGY TAX PROVISIONS

A. Energy Savings Estimates

It is estimated that as a result of the Ways and Means Committee's reported version of title II of H.R. 6831 with respect to energy taxes and tax incentives. there will be an overall reduction in the amount of petroleum consumed. In 1985, it is estimated that petroleum consumption will be 2.2 million barrels per day less than there would be without the bill's energy taxes and tax incentives (see Table 1). Also, it is estimated that natural gas consumption will be somewhat smaller as a result of the committee's action. In 1985 it is estimated that natural gas consumption will be lower by the equivalent of 31,000 barrels of oil per day.[1]

Coal consumption, on the other hand, rises by an estimated amount equivalent to 634,000 barrels of oil per day. Overall energy consumption will be lower as a result of the committee's action by the equivalent of 1.5 million barrels of oil per day by 1985.

The impact of the committee amendment in 1985 by major provision is set forth in table 2. It is estimated that in 1985 the residential energy tax credit will reduce the use of petroleum and natural gas by the oil equivalent of 250,000 to 310,000 barrels per day. The transportation tax provisions will reduce the use of petroleum and natural gas by the equivalent of 160,000 to 240,000 barrels per day in 1985. The crude oil equalization tax and rebate are estimated to reduce the use of petroleum and natural gas by the oil equivalent of 430,000 to 650,000 barrels per day in 1985. It is estimated that the excise tax on business use of oil and gas and the energy investment tax credits will reduce the consumption of oil and natural gas by the equivalent of 580,000 to 850,000 barrels of oil per day in 1985.

It is estimated that the additional energy that would be made available due to the provision for the expensing of intangible drilling cost for geothermal discovery and development would reduce energy demand for fossil fuels in 1985 by the equivalent oil amount of from 6,000 to 11,000 barrels per day.

Table 3 compares the energy savings in 1985 under the Ways and Means Committee amendment to that proposed by the Administration and the base case. Overall, the pattern of reductions in fuel consumption is rather similar: by 1985, there is a switch out of petroleum and to a lesser extent out of natural gas, and an increase in the consumption of coal. In the case of petroleum, the Administration proposal would

[1] The staff believes that this figure may understate the beneficial effect of the bill on the natural gas problem. The energy tax provisions could reduce demand for natural gas by more than this, which would reduce the severity of the natural gas shortages which would otherwise occur.

save somewhat more oil in 1985 (18.484 million barrels per day are consumed) than the Ways and Means Committee amendment (18.713 million barrels per day are consumed). Natural gas consumption is essentially the same under the Administration proposal and the committee amendment, while coal consumption is somewhat greater under the committee amendment.

These estimated energy savings and conversions were performed with the use of the Data Resources, Inc., long term macroeconomic and energy models.

Table 1.—Estimated Impact of Ways and Means Committee Amendment on Fuel Consumption[1] by Type (1977–85)

[In millions of barrels of oil per day equivalents]

Fuel	Calendar year—							
	1978	1979	1980	1981	1982	1983	1984	1985
Petroleum:								
Committee action	18.392	18.733	19.149	19.255	18.957	19.049	18.880	18.713
Base case	18.446	19.280	20.091	20.499	20.459	20.746	20.768	20.863
Difference	**−.054**	**−.547**	**−.942**	**−1.244**	**−1.502**	**−1.697**	**−1.888**	**−2.150**
Natural gas:								
Committee action	8.534	8.271	8.130	8.144	8.741	8.798	8.835	8.827
Base case	8.534	8.274	8.136	8.153	8.755	8.814	8.866	8.858
Difference	**0**	**−.003**	**−.006**	**−.009**	**−.014**	**−.015**	**−.031**	**−.031**
Coal:								
Committee action	7.604	8.210	8.823	9.391	9.871	10.456	10.952	11.591
Base case	7.402	8.021	8.609	9.081	9.478	9.991	10.399	10.957
Difference	**+.202**	**+.189**	**+.214**	**+.310**	**+.393**	**+.462**	**+.553**	**+.634**

[1] Includes assumptions for nontax portion of H.R. 6831.

Table 2.—Estimated Energy Savings of Oil and National Gas Under Ways and Means Committee Amendment in 1985 by Major Provisions

[In thousands of barrels of oil equivalent per day]

Provision	*No. of barrels*
Residential energy credit (insulation and solar)	250 to 310
Transportation (gas guzzler tax, extension of 4-cent gas tax) and other provisions	160 to 240
Crude oil and natural gas liquids equalization taxes	430 to 650
Excise tax on business use of oil and gas and energy investment tax credits	580 to 850
Other energy tax incentives (geothermal)	6 to 11
Total	**1,426 to 2,061**

Table 3.—Comparison of Estimated Fuel Consumption under Administration Proposal and Ways and Means Committee Amendment, 1978–85 [1]

[In millions of barrels of oil per day equivalent]

Category	1978	1979	1980	1958
Petroleum				
Administration	18.390	18.484	19.142	18.484
Committee	18.392	18.733	19.149	18.713
Base case	18.446	19.280	20.091	20.863
Natural gas				
Administration	8.507	8.272	8.131	8.836
Committee	8.534	8.271	8.130	8.827
Base case	8.534	8.274	8.136	8.858
Coal				
Administration	7.614	8.225	8.836	11.562
Committee	7.604	8.210	8.823	11.591
Base case	7.402	8.021	8.609	10.957

[1] Based on analysis with Data Resources, Inc., long-term macro and energy models.

B. Budget Effects of Energy Tax Provisions

Table 1 summarizes the budget effects of title II of H.R. 6831, as reported by the Ways and Means Committee, for fiscal years 1978 through 1985; it also shows the cumulative budget effect through 1985 by part of title II.

By the end of fiscal year 1985, the net revenues raised under the Committee's energy tax provisions are estimated at $53.9 billion. The major revenue raising provisions during this period are in part II of title II (Transportation Tax Provisions) and part III (Crude Oil Equalization and Natural Gas Liquids Taxes), which are expected to yield $29.5 billion and $26.4 billion, respectively. In addition, the excise tax on business use of oil and natural gas is expected to yield $2.6 billion after the rebate allowed to encourage conversion from oil and gas to coal. The major revenue losing provisions of title II, totaling $4.5 billion for fiscal years 1978–85, are in part I (Residential Energy Tax Credit), part VI (Changes in Business Investment Credit), and part VII (Miscellaneous Provisions). The overall net budget effect of title II of H.R. 6831, as reported, on fiscal year receipts is $1 billion decrease in 1978, and increase of $3.1 billion in 1979, $12.4 billion in 1980, $15.0 billion in 1981, $7.2 billion in 1982, $4.6 billion in 1983, $6.1 billion in 1984 and $6.4 billion in 1985.

Table 2 shows the budget effects of the committee amendment in greater detail and classifies them by section or by major provision.

Table 3 shows the relationship of the gross crude oil and natural gas liquids equalization tax to the amount available for credits and payments.

Table 4 shows the relationship of the gross excise tax on industrial use of oil and natural gas to its net effect on receipts.

Table 5 shows the revenue impact of the business energy conservation, conversion and advanced technology tax credits by type of credit.

Table 1.—Summary of Estimated Budget Effects of Title II of H.R. 6831, as Reported, by Part, Fiscal Years 1978–85

[In millions of dollars]

	1978	1979	1980	1981	1982	1983	1984	1985	Total, 1978–1985
Part:									
I. Residential energy tax credits	−387	−520	−553	−589	−633	−597			−3,279
II. Transportation tax provisions	87	859	4,239	4,426	4,647	4,853	5,073	5,304	29,488
III. Crude oil equalization and natural gas liquids taxes [1]	−341	3,120	8,623	11,420	3,584				26,406
IV, V. Excise tax on business use of oil and natural gas after business income tax offset and rebate		−23	383	99	169	528	697	727	2,580
VI. Changes in business investment credit	−316	−247	−211	−321	−455	−97	464	502	−681
VII. Miscellaneous provisions	−9	−46	−58	−68	−73	−81	−102	−133	−570
Total, all parts	**−966**	**3,143**	**12,423**	**14,967**	**7,239**	**4,606**	**6,132**	**6,400**	**53,944**

[1] The amounts shown for fiscal years 1978 and 1979 are net of business income tax offset and refunds and after per taxpayer rebates and special payments to rebate the tax collected from 1978 calendar year liability to the general public.

Table 2.—Estimated Budget Effects of Title II of H.R. 6831, as Reported, by Provision, Fiscal Years 1978–85

[In millions of dollars]

Part and section	1978	1979	1980	1981	1982	1983	1984	1985	Total 1978–85
Part I. Residential energy tax credits:									
Sec. 2011:									
Credit for insulation and other energy-conserving components	−361	−466	−491	−518	−546	−486			−2,868
Credit for solar and wind energy expenditures	−26	−54	−62	−71	−87	−111			−411
Total, Part I	**−387**	**−520**	**−553**	**−589**	**−633**	**−597**			**−3,279**
Part II. Transportation tax provisions:									
Sec. 2021–22: Gas guzzler tax		100	100	100	135	150	160	170	915
Sec. 2023: Repeal of deduction for State and local tax on gasoline	115	780	859	944	1,039	1,143	1,257	1,383	7,520
Sec. 2024: Extension of existing tax rate on gasoline and other motor fuels		3,302	3,404	3,496	3,585	3,677	3,772		21,236
Sec. 2025: Amendment of motorboat fuel provisions	1	4	4	4	4	4	4	4	29
Sec. 2026: Repeal of excise tax on buses	−13	−9	−9	−9	−9	−9	−9	−9	−76
Sec. 2027: Repeal of excise tax on bus parts	−3	−3	−3	−3	−3	−3	−3	−3	−24
Sec. 2028: Removal of excise tax on certain items used in connection with buses	−13	−13	−13	−13	−13	−13	−13	−13	−104
Sec. 2029: Credit for qualified electric motor vehicles	(*)	(*)	−1	−1	−2	−4			−8
Total, Part II	**87**	**859**	**4,239**	**4,426**	**4,647**	**4,853**	**5,073**	**5,304**	**29,488**

Table 2.—Estimated Budget Effects of Title II of H.R. 6831, as Reported, by Provision, Fiscal Years 1978–85—Continued

[In millions of dollars]

Part and section	1978	1979	1980	1981	1982	1983	1984	1985	Total 1978–85
Part III. Crude oil equalization and natural gas liquids tax after rebate [1] [2]	−341	3,120	8,623	11,420	3,584				26,406
Parts IV, V. Excise tax on business use of oil and natural gas after income offset and rebate:									
Industrial [3]		−23	383	99	169	528	599	633	2,388
Utilities							98	94	192
Total, Parts IV, V		**−23**	**383**	**99**	**169**	**528**	**697**	**727**	**2,580**
Part VI. Changes in business investment credit to encourage conservation of or conversion from oil and gas or to encourage new energy technology:									
Alternative conservation and new technology credits [4]	−409	−415	−516	−673	−789	−491			−3,293
Investment credit disallowed on property financed with credits:									
Industrial		57	184	238	231	261	298	345	1,614
Utilities						34	73	69	176
Investment credit denied, and depreciation limited to straight-line on oil or gas burning equipment, and air-conditioning and space heaters	93	111	121	114	103	99	93	88	822
Total, Part VI	**−316**	**−247**	**−211**	**−321**	**−455**	**−97**	**464**	**502**	**−681**

Part VII. Miscellaneous provisions:									
Sec. 2071. Treatment of intangible drilling costs for purposes of minimum tax		−32	−37	−42	−48	−56	−65	−74	−354
Sec. 2072. Option to deduct intangible drilling costs on geothermal deposits	−5	−10	−17	−21	−20	−20	−32	−54	−179
Sec. 2073. 10-percent depletion in case of geothermal deposits	−1	−1	−1	−2	−2	−2	−2	−2	−13
Sec. 2074. Rerefined lubricating oil	−3	−3	−3	−3	−3	−3	−3	−3	−24
Total, Part VII	**−9**	**−46**	**−58**	**−68**	**−73**	**−81**	**−102**	**−133**	**−570**
Total, Parts I–VII	**−966**	**3,143**	**12,423**	**14,967**	**7,239**	**4,606**	**6,132**	**6,400**	**53,944**

[1] The amounts shown are net of business income tax offset and refunds and after per taxpayer credits and special payments to rebate the tax collected from 1978 calendar year liability to the general public.

[2] For additional detail see table 3.
[3] For additional detail see table 4.
[4] For additional detail see table 5.

*Less than $500,000.

Table 3.—Crude Oil and Natural Gas Liquids Equalization Tax Under Title II of HR. 6831, as Reported: Relationship of Gross Tax to the Amounts Available for Credits and Payments, Fiscal Years, 1978–82

[In millions of dollars]

	1978	1979	1980	1981	1982	Total, 1978–82
Gross crude oil equalization tax collections	1,859	6,328	11,271	14,424	4,737	38,619
Reduction in income tax liabilities of businesses resulting from less than full pass-through of tax to prices	−299	−969	−1,716	−1,921	−888	−5,793
Refund for oil used to produce natural gas liquids at refineries	−29	−97	−167	−209	−67	−569
Refund for oil used to heat:						
Homes	−80	−474	−686	−784	−178	−2,202
Hospitals, schools and churches	−9	−54	−79	−90	−20	−252
Estimated per taxpayer credits	−1,783	−765				−2,548
Net effect on budget receipts	**−341**	**3,969**	**8,623**	**11,420**	**3,584**	**27,255**
Special payments to refund tax collected from 1978 liabilities to qualified recipients		−849				−849
Amount available for return to general public in future years from equalization tax liability incurred after 1978	−341	3,120	8,623	11,420	3,584	26,406

Table 4.—Excise on Tax Business Use of Oil and Natural Gas Under Title II of H.R. 6831, as Reported: Relationship of Gross Tax to Net Effect on Budget Receipts, Fiscal Years, 1979–85

[In millions of dollars]

	1979	1980	1981	1982	1983	1984	1985	Total, 1979–85
Gross tax before rebate for qualified investment		1,689	2,652	3,332	4,131	4,672	5,337	21,813
Rebate for qualified investment		−1,271	−2,538	−3,121	−3,523	−3,984	−4,594	−19,031
Reduction in income tax liabilities of businesses resulting from less than full passthrough of tax to prices	−23	−35	−15	−42	−80	−89	−110	−394
Net effect on budget receipts	**−23**	**383**	**99**	**169**	**528**	**599**	**633**	**2,388**

Table 5.—Business Energy Conservation, and Advanced Technology Tax Credits Under Title II of H.R. 6831, as Reported, Fiscal Years 1978–85

[In millions of dollars]

Credit provision	1978	1979	1980	1981	1982	1983	1984	1985	Total, 1978–85
Credit for nonrebate alternative energy property	−23	−21	−32	−50	−58	−34			−218
Credit for cogeneration property [1]	−28	−41	−80	−127	−159	−91			−526
Credit for advanced technology property (solar, geothermal, and wind-related equipment) [1]	−15	−19	−26	−42	−58	−37			−197
Credit for specially defined energy property (primarily heat recovery equipment; also includes mixed fuel burning equipment) [1]	−224	−218	−250	−306	−350	−225			−1,573
Credit for recycling equipment	−29	−28	−30	−34	−37	−21			−179
Credit for business insulation property [1]	−90	−88	−98	−114	−127	−83			−600
Total	**−409**	**−415**	**−516**	**−673**	**−789**	**−491**			**−3,293**

[1] Only if applied to or within a structure in existence before April 20, 1977.

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