

DESCRIPTION OF S. 2151

RELATING TO

ENERGY INVESTMENT TAX CREDIT FOR
CHLOR-ALKALI ELECTROLYTIC CELLS

SCHEDULED FOR A HEARING
BEFORE THE
SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION
OF THE
SENATE COMMITTEE ON FINANCE
ON
MARCH 30, 1982

PREPARED BY THE STAFF
OF THE
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INTRODUCTION

The Subcommittee on Energy and Agricultural Taxation of the Senate Finance Committee has scheduled a hearing on S. 2151 on March 30, 1982. The bill (introduced by Senator Robert Byrd) would add modifications to chlor-alkali electrolytic cells to the list of equipment that would qualify as specially defined energy property eligible for the 10-percent energy investment tax credit.

This document, prepared by the staff of the Joint Committee on Taxation in connection with the March 30 Subcommittee hearing, provides a description of S. 2151. The first part is a summary of the bill, and part two is a description of the provisions of the bill, including present law, issues, and effective date.

I. SUMMARY

Under present law, property that qualifies as specially defined energy property is eligible for a 10-percent energy investment tax credit. Qualifying property includes "modifications to alumina electrolytic cells." The Secretary of the Treasury has discretionary administrative authority to add items to the list of qualified property that meet certain statutory requirements. This provision for an energy credit expires after December 31, 1982.

S. 2151 would add "modifications to chlor-alkali electrolytic cells" to the list of specially defined energy property, and the bill would be effective to cover expenditures from January 1, 1981, through December 31, 1986.

II. DESCRIPTION OF THE BILL

Energy Investment Tax Credit For Chlor-alkali Electrolytic Cell

A. Present Law

An energy investment tax credit of 10 percent is allowed for investment in specially defined energy property (sec. 48(ℓ)(5)). Such property includes equipment used for heat transfer or heat conservation purposes, an automatic energy control system, a combustible gas recovery system, and modifications to alumina electrolytic cells. In addition, the Secretary of the Treasury has the authority to add items to the list which have as their principal purpose reducing the amount of energy consumed, and which are installed in connection with an existing commercial or industrial facility.

The Secretary, however, may not specify an item for the list unless the item meets several minimum energy conservation and efficiency standards (sec. 44C(c)(9)). For this purpose, the Secretary would have to determine that the new equipment would reduce oil or natural gas consumption by a sufficient amount to justify resulting revenue losses, and would not increase use of items environmentally hazardous or a threat to public health or safety, and production or use of the equipment would not also receive any other Federal subsidy. The Secretary has not yet exercised the administrative discretion provided to him in this section.

Under present law, section 48(ℓ)(5) will terminate on December 31, 1982. For property which is part of a project with a 2 year or longer normal construction period, the termination date is December 31, 1990,

if all relevant engineering studies have been completed, and all required Federal, State or local environmental and construction permits have been applied for, before January 1, 1983. In addition, before January 1, 1986, the taxpayer must enter into binding contracts for at least 50 percent of the cost of equipment specially designed for the project.

B. Issues

(1) Should the list of specially defined energy property be expanded to include chlor-alkali electrolytic cells?

(2) Should the expiration date for this single item of specially defined energy property be December 31, 1986, which is 4 years after the December 31, 1982, expiration date for section 48(j)(5)?

C. Explanation of the Bill

S. 2151 would add "modifications to chlor-alkali electrolytic cells" to the list of equipment that would qualify as specially defined energy property eligible for the 10-percent energy investment tax credit. Although section 48(j)(5) will terminate under present law after December 31, 1982, the allowance of the energy credit for these modifications under the bill would be retroactive to January 1, 1981, and extended forward through December 31, 1986.

The chlor-alkali industry uses a brine solution in a bipolar electrolytic cell process to produce chlorine gas and caustic soda. This industry consumes two percent of all electricity used in the United States. The modifications involve redesign of the use of electricity in the electrolytic process, a modification that closely adheres in function to the modifications to alumina electrolytic

cells, which qualify presently as specially defined energy property. The planned modifications would reduce electricity consumption by as much as 20 percent--according to the proponents--but the modifications would not increase the productive capacity of the cells and do not constitute periodic replacements of existing cell components, which can continue in use for several more years without change or replacement.

Firms in the industry have filed with the Secretary the material needed for a determination as a qualified addition to the list of specially defined energy property. No action has been taken on the application.

D. Effective Date

The amendment to section 48(~~g~~)(5) would be retroactive for expenditures from January 1, 1981, and would continue in effect through December 31, 1986..

