DESCRIPTION OF S. 1449

Relating to

MODIFICATION OF THE ENERGY TAX CREDIT SUBSIDIZED FINANCING RULE

Scheduled for a Joint Hearing

by the

Subcommittees on Energy and Agricultural Taxation

and

Taxation and Debt Management

of the

Senate Committee on Finance

on

December 11, 1981

Prepared by the Staff
of the
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INTRODUCTION

The Senate Finance Subcommittees on Energy and Agricultural Taxation and Taxation and Debt Management have scheduled a joint hearing on December 11, 1981, on S. 1449 (introduced by Senator Packwood). This bill relates to the subsidized financing rule for energy tax credits.

This document, prepared in connection with the joint hearing, provides a description of the provisions of S. 1449. The first part of the document is a summary of the bill. This is followed by a more detailed description of the bill, including present law, issues, explanation of the provisions, effective dates, and estimated revenue effects.

I. SUMMARY

S. 1449--Senator Packwood

Present Law

Present law provides a residential energy tax credit equal to the sum of (1) 15 percent of the first $2,000 of qualified energy conservation expenditures (i.e., maximum credit of $300) and (2) 40 percent of the first $10,000 of renewable energy source expenditures (i.e., a maximum credit of $4,000). The credit applies to expenditures made after April 19, 1977, and before January 1, 1986, in or on the taxpayer's principal residence.

Present law also provides a business energy investment tax credit in addition to the regular investment tax credit. The additional credit is from 10 to 15 percent of the cost of qualified energy property, depending on the type of property acquired and the date placed in service.

To prevent duplication of benefits, present law provides that the residential energy credit is not available for expenditures made from subsidized energy financing and that the cumulative amount of qualified expenditures eligible for the residential energy tax credit while it is owned by the same owner is reduced by expenditures financed by tax-exempt grants or subsidized energy financing. Similarly, the amount of qualified investment eligible for the business energy tax credit is reduced to the extent the qualified investment is financed by tax-exempt industrial development bonds or through subsidized energy financing.

Subsidized energy financing means financing provided under a Federal, State or local government program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. The term includes, but is not limited to, the direct or indirect use of bonds which are exempt from Federal income tax and which provide funds under such a program. Subsidized energy financing, however, does not include loan guarantees.

S. 1449

The bill would limit the definition of subsidized energy financing to Federal programs which provide subsidized energy financing. Thus, property financed in whole or in part by State or local energy financing programs would not reduce the amount of qualified expenditures eligible for either the residential or business energy tax credits. In addition, under the bill the amount of qualified investment eligible for the business energy tax credit would not be reduced to reflect the extent to which the investment was financed by tax-exempt industrial development bonds. Thus, qualified investment eligible for the business energy tax credit would be reduced only to the extent acquired with Federal subsidized energy financing.

The bill generally would be effective as of January 1, 1981.

II. DESCRIPTION OF THE BILL

S. 1449--Senator Packwood

Modification of the Energy Tax Credit Subsidized Financing Rules

Present Law

1. Residential energy credit

Present law provides a residential energy tax credit equal to the sum of the energy conservation credit plus the renewable energy source credit.

Credit for energy conservation expenditures.--Under present law, a nonrefundable credit equal to 15 percent of the first $2,000 of energy conservation expenditures (i.e., a maximum credit of $300) is available for installations of eligible insulation and other energy conserving items. To be eligible for the credit, the expenditure must be made in or on the taxpayer's principal residence before January 1, 1986. The residence must have been in existence or substantially completed on April 19, 1977. The maximum on allowable expenditures is the total amount available to the taxpayer for any principal residence through December 31, 1985. For any year, this limit is reduced by expenditures for which the energy conservation credit was taken in prior years by the taxpayer for the same residence.

The credit is allowed for expenditures to install (1) insulation, (2) a replacement burner for an oil- or gas-fired furnace, (3) a device to modify flue openings, (4) an electrical or mechanical furnace ignition system, (5) a storm or thermal door or window, (6) an automatic setback thermostat, (7) caulking or weather-stripping for an exterior door or window, (8) a meter that displays the cost of energy use, and other items which the Secretary specifies by regulations as increasing the energy efficiency of the dwelling.

Credit for renewable energy source expenditures.--Present law provides a tax credit equal to 40 percent of the first $10,000 of qualified renewable energy source expenditures (i.e., a maximum credit of $4,000). Qualified expenditures include:

(1) The installation of solar, wind, or geothermal energy equipment;

(2) Expenditures for equipment to produce electrical energy from solar or geothermal energy source property installed with respect to a residence;

(3) Expenditures for labor costs properly allocable to the onsite preparation, assembly or original installation of renewable energy source property eligible for the credit and expenditures for an onsite well drilled for any geothermal deposit, unless the deduction for intangible drilling costs has been claimed for any portion of these expenditures; and

(4) The cost of a solar roof panel installed as a roof (or a portion of a roof) even though a roof by itself is a structural component. Renewable energy source property does not include other structural components of a residence even though they also may play an ancillary role related to renewable energy source property.

Rules to prevent double benefits.--Under present law, expenditures financed by Federal, State or local grants which are exempt from Federal income tax are not eligible for the residential energy tax credit. Further, any portion of qualified expenditures financed by subsidized energy financing is not eligible for the credit. Lastly, the expenditure limits for energy conservation expenditures ($2,000) and for renewable energy source expenditures ($10,000) are reduced by the portion of expenditures which is financed by subsidized energy financing or financed by nontaxable Federal, State or local government grants.

Subsidized energy financing means financing provided under a Federal, State or local government program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. The term includes, but is not limited to, the direct or indirect use of bonds which are exempt from Federal income tax and which provide funds under such a program. Subsidized energy financing, however, does not include loan guarantees.

In addition, the Secretary has the authority to require persons having control of a Federal, State or local program which provides subsidized energy financing or an energy grant program to make a return containing the name and address of each individual receiving the financing or grant and the amount of financing or grant received under the program.

2. Business energy investment credits

Business energy property.--Present law generally provides an energy investment tax credit for investments in certain business energy property. The amount of the credit ranges from 10 percent to 15 percent of the taxpayer's cost of acquiring or constructing eligible property, depending upon the classification of the property and the date placed in service. Qualified energy property includes alternate energy property, solar or wind energy property, specially defined energy property, specially defined energy property, recycling equipment, shale oil equipment, equipment for producing natural gas from geopressured brine, qualified hydroelectric generating property, cogeneration equipment or intercity buses.

Rules to prevent double benefits.--The amount of the available credit is limited if the energy property is financed by nontaxable government grants, subsidized energy loans or industrial development bonds.

To the extent that property is financed with nontaxable government grants, the tax basis of the property is reduced for purposes of depreciation and the regular and energy investment credits.

In addition, for property eligible for the energy tax credit as in effect prior to the Crude Oil Windfall Profits Act of 1980 (P.L. 96-223), the rate of the energy tax credit is reduced by one-half if the property is financed in whole or in part by industrial development bonds such as pollution control bonds.

The Crude Oil Windfall Profit Tax Act provided additional limitations generally applicable to periods after December 31, 1982, or with respect to energy property first made eligible for the credit by the Act. */ When qualified investment is financed in whole or in part by the proceeds of tax-exempt industrial development bonds or by subsidized energy financing, the amount taken into account for purposes of applying the energy tax credit percentage is the qualified investment multiplied by a fraction which is determined by dividing that portion of qualified investment in the property which is allocable to subsidized financing, loans or grants by qualified investment in the property and subtracting this quotient from one.

Subsidized energy financing means financing provided under a Federal, State or local program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. Subsidized financing includes, but is not limited to, the direct or indirect use of bonds which are exempt from Federal income tax and which provide funds under such a program. Subsidized financing does not include, however, loan guarantees.

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*/This additional property includes qualified hydroelectric generating property, cogeneration equipment, certain intercity buses, ocean thermal property, certain property which produces coke or coke gas or uses coal to produce certain chemicals, property which generates process heat from solar energy, alumina electrolytic cells, and storage equipment for fuel derived from garbage.

Issues

The issues presented by S. 1449 are (1) whether it is appropriate to reduce the amount of qualified expenditures eligible for Federal residential and business energy tax credits by amounts received under State or local subsidized energy financing programs, including those which use bonds exempt from Federal income tax for providing funds under such a program; and (2) whether it is appropriate to reduce the investment eligible for the business energy tax credit on a ratable basis to the extent the investment is financed by industrial development bonds the interest of which is exempt from Federal income tax.

Explanation of the Bill

The bill would limit the definition of subsidized energy financing to Federal programs which provide subsidized energy financing. Thus, property financed in whole or in part by State or local subsidized energy financing programs would not reduce the amount of qualified expenditures eligible for either the residential or business energy tax credits.

Conforming changes would be made to the provision authorizing the Secretary to require that persons having control of a program which provides subsidized energy financing or an energy grant program make a return containing the same name and address of each individual receiving the financing or grant and the amount of financing or grant received under the program.

In addition, under the bill the amount of qualified investment eligible for the business energy tax credit would not be reduced to reflect the extent to which the investment was financed by tax-exempt industrial development bonds. Thus, qualified investment eligible for the business energy tax credit would be reduced only to the extent acquired with Federal subsidized energy financing.

Effective Date

The provision of the bill redefining subsidized energy financing would apply to subsidized energy financing made after December 31, 1980 and the provision of the bill applicable to tax-exempt industrial development bonds would apply to obligations issued after December 31, 1980.

Revenue Effect

This bill is estimated to reduce fiscal year receipts by $148 million in 1982, $133 million in 1983, $150 million in 1984, $91 million in 1985, and $31 million in 1986.