

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6182

To amend the Internal Revenue Code of 1986 to extend and expand the credit for qualifying advanced energy projects, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2012

Mr. THOMPSON of California (for himself, Mr. LEVIN, Mr. RANGEL, Mr. STARK, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL, Mr. BECERRA, Mr. DOGGETT, Mr. LARSON of Connecticut, Mr. BLUMENAUER, Mr. KIND, Mr. PASCRELL, Ms. BERKLEY, and Mr. CROWLEY) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to extend and expand the credit for qualifying advanced energy projects, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Advanced  
5 Energy Manufacturing Jobs Act of 2012”.

1 **SEC. 2. EXTENSION AND EXPANSION OF THE QUALIFYING**  
2 **ADVANCED ENERGY PROJECT CREDIT.**

3 (a) CERTAIN PROJECTS ELIGIBLE FOR CREDIT  
4 WITHOUT LIMITATION.—

5 (1) IN GENERAL.—Subsection (a) of section  
6 48C of the Internal Revenue Code of 1986 is  
7 amended by striking “an amount equal to” and all  
8 that follows and inserting “an amount equal to the  
9 sum of—

10 “(1) 30 percent of the basis of the statutory ad-  
11 vanced energy property placed in service by the tax-  
12 payer during such taxable year, plus

13 “(2) 30 percent of the qualified investment for  
14 such taxable year which respect to any qualifying  
15 advanced energy project of the taxpayer.”.

16 (2) STATUTORY ADVANCED ENERGY PROP-  
17 erty.—Subsection (c) of section 48C of such Code  
18 is amended by adding at the end the following new  
19 paragraph:

20 “(3) STATUTORY ADVANCED ENERGY PROP-  
21 erty.—

22 “(A) IN GENERAL.—The term ‘statutory  
23 advanced energy property’ means any eligible  
24 property used exclusively to manufacture or  
25 fabricate—

1 “(i) equipment which uses solar en-  
2 ergy to generate electricity,

3 “(ii) fuel cell power plants (as defined  
4 in section 48(c)(1)(C)), or

5 “(iii) systems for the electro-chemical  
6 storage of electricity (other than lead-acid  
7 batteries) for use—

8 “(I) in electric or hybrid-electric  
9 motor vehicles, or

10 “(II) in connection with electric  
11 grids.

12 “(B) TERMINATION.—Such term shall not  
13 include any property for any period after De-  
14 cember 31, 2016.”.

15 (3) DENIAL OF DOUBLE BENEFIT.—Subsection  
16 (e) of section 48C of such Code is amended by add-  
17 ing at the end the following: “Statutory advanced  
18 energy property shall not be taken into account in  
19 determining the qualified investment in any quali-  
20 fying advanced energy project.”.

21 (b) EXTENSION AND MODIFICATION OF THE QUALI-  
22 FYING ADVANCED ENERGY PROJECT PROGRAM.—

23 (1) ADDITIONAL LIMITATION AMOUNT TO BE  
24 COMPETITIVELY ALLOCATED BY SECRETARY.—Sub-

1 paragraph (B) of section 48C(d)(1) of such Code is  
2 amended to read as follows:

3 “(B) LIMITATION.—The total amount of  
4 qualified investments which may be designated  
5 under such program shall not exceed the  
6 amount which will result in the total amount of  
7 credits allowed under such program being equal  
8 to the sum of the following amounts:

9 “(i) 2009 LIMITATION AMOUNT.—  
10 \$2,300,000,000.

11 “(ii) 2012 LIMITATION AMOUNT.—  
12 \$3,000,000,000.”.

13 (2) MANUFACTURING OF PROPERTY USED TO  
14 PRODUCE COMPOSITE UTILITY POLES.—Clause (i) of  
15 section 48C(e)(1)(A) of such Code is amended by  
16 striking “or” at the end of subclause (VI), by redesi-  
17 gnating subclause (VII) as subclause (VIII), and by  
18 inserting after subclause (VI) the following new sub-  
19 clause:

20 “(VII) utility poles or supports  
21 made from composite materials which  
22 are comprised of at least 15 percent  
23 recycled materials and are fully recy-  
24 clable,”.

1           (3) PREFERENCE IN SELECTION CRITERIA FOR  
2 MANUFACTURING.—Paragraph (3) of section 48C(d)  
3 of such Code is amended by striking “and” at the  
4 end of subparagraph (A), by striking the period at  
5 the end of subparagraph (B) and inserting “, and”,  
6 and by adding at the end the following new subpara-  
7 graph:

8                   “(C) shall give the lowest priority to  
9                   projects which merely assemble components.”.

10       (c) CONFORMING AMENDMENTS.—

11           (1) Paragraph (3) of section 48C(b) of such  
12 Code is amended to read as follows:

13                   “(3) LIMITATION.—The amount which is treat-  
14 ed as a qualified investment for all taxable years  
15 with respect to any qualifying advanced manufac-  
16 turing project shall not exceed the amount des-  
17 ignated by the Secretary under subsection (d).”.

18           (2) Subparagraph (A) of section 48C(c)(2) of  
19 such Code is amended by inserting “in the case of  
20 a qualifying advanced energy project,” before “which  
21 is necessary”.

22           (3) Subparagraph (A) of section 48C(d)(2) of  
23 such Code is amended—

24                   (A) by striking “during the 2-year period”  
25                   and inserting “during the—

1 “(i) in the case of an allocation from  
2 the limitation described in paragraph  
3 (1)(B)(i), the 2-year period”,

4 (B) by striking the period at the end and  
5 inserting “, or”, and

6 (C) by adding at the end the following new  
7 clause:

8 “(ii) in the case of an allocation from  
9 the limitation described in paragraph  
10 (1)(B)(ii), the 1-year period beginning on  
11 the date of the enactment of this clause.”.

12 (4) Paragraph (4) of section 48C(d) of such  
13 Code is amended—

14 (A) by striking all that precedes subpara-  
15 graph (A) and inserting the following:

16 “(4) PERIODIC REVIEW AND REDISTRIBU-  
17 TION.—At such times as the Secretary determines  
18 appropriate—”, and

19 (B) by striking “Not later than 4 years  
20 after the date of the enactment of this section,  
21 the” in subparagraph (A) and inserting “The”.

22 (5) Clause (v) of section 49(a)(1)(C) of such  
23 Code is amended by inserting “which is statutory  
24 advanced energy property (as defined in section  
25 48C(e)(3)) or” after “the basis of any property”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to periods after the date of the  
3 enactment of this Act, under rules similar to the rules of  
4 section 48(m) of the Internal Revenue Code of 1986 (as  
5 in effect on the day before the date of the enactment of  
6 the Revenue Reconciliation Act of 1990).

7 **SEC. 3. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**  
8 **APPLICABLE TO MAJOR INTEGRATED OIL**  
9 **COMPANIES WHICH ARE DUAL CAPACITY**  
10 **TAXPAYERS.**

11 (a) IN GENERAL.—Section 901 of the Internal Rev-  
12 enue Code of 1986 is amended by redesignating subsection  
13 (n) as subsection (o) and by inserting after subsection (m)  
14 the following new subsection:

15 “(n) SPECIAL RULES RELATING TO MAJOR INTE-  
16 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY  
17 TAXPAYERS.—

18 “(1) GENERAL RULE.—Notwithstanding any  
19 other provision of this chapter, any amount paid or  
20 accrued by a dual capacity taxpayer which is a  
21 major integrated oil company (as defined in section  
22 167(h)(5)(B)) to a foreign country or possession of  
23 the United States for any period shall not be consid-  
24 ered a tax—

1           “(A) if, for such period, the foreign coun-  
2           try or possession does not impose a generally  
3           applicable income tax, or

4           “(B) to the extent such amount exceeds  
5           the amount (determined in accordance with reg-  
6           ulations) which—

7                   “(i) is paid by such dual capacity tax-  
8                   payer pursuant to the generally applicable  
9                   income tax imposed by the country or pos-  
10                  session, or

11                   “(ii) would be paid if the generally ap-  
12                   plicable income tax imposed by the country  
13                   or possession were applicable to such dual  
14                   capacity taxpayer.

15           Nothing in this paragraph shall be construed to  
16           imply the proper treatment of any such amount not  
17           in excess of the amount determined under subpara-  
18           graph (B).

19           “(2) DUAL CAPACITY TAXPAYER.—For pur-  
20           poses of this subsection, the term ‘dual capacity tax-  
21           payer’ means, with respect to any foreign country or  
22           possession of the United States, a person who—

23                   “(A) is subject to a levy of such country or  
24                   possession, and

1           “(B) receives (or will receive) directly or  
2 indirectly a specific economic benefit (as deter-  
3 mined in accordance with regulations) from  
4 such country or possession.

5           “(3) GENERALLY APPLICABLE INCOME TAX.—  
6 For purposes of this subsection—

7           “(A) IN GENERAL.—The term ‘generally  
8 applicable income tax’ means an income tax (or  
9 a series of income taxes) which is generally im-  
10 posed under the laws of a foreign country or  
11 possession on income derived from the conduct  
12 of a trade or business within such country or  
13 possession.

14           “(B) EXCEPTIONS.—Such term shall not  
15 include a tax unless it has substantial applica-  
16 tion, by its terms and in practice, to—

17                   “(i) persons who are not dual capacity  
18 taxpayers, and

19                   “(ii) persons who are citizens or resi-  
20 dents of the foreign country or posses-  
21 sion.”.

22 (b) EFFECTIVE DATE.—

23           “(1) IN GENERAL.—The amendments made by  
24 this section shall apply to taxes paid or accrued in

1 taxable years ending after the date of the enactment  
2 of this Act.

3 (2) CONTRARY TREATY OBLIGATIONS  
4 UPHELD.—The amendments made by this section  
5 shall not apply to the extent contrary to any treaty  
6 obligation of the United States.

7 **SEC. 4. LIMITATION ON DEDUCTION FOR INTANGIBLE**  
8 **DRILLING AND DEVELOPMENT COSTS OF**  
9 **MAJOR INTEGRATED OIL COMPANIES.**

10 (a) IN GENERAL.—Section 263(c) of the Internal  
11 Revenue Code of 1986 is amended by adding at the end  
12 the following new sentence: “This subsection shall not  
13 apply to amounts paid or incurred by a taxpayer in any  
14 taxable year in which such taxpayer is a major integrated  
15 oil company (as defined in section 167(h)(5)(B)).”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to amounts paid or incurred in tax-  
18 able years ending after the date of the enactment of this  
19 Act.

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