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111TH CONGRESS
1ST SESSION

H. R. 546

To amend the Internal Revenue Code of 1986 to treat certain solar energy credits as refundable credits, to allow a new refundable credit for equipment used to manufacture solar energy property, to waive the application of the subsidized financing rules to such property, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2009

Mr. THOMPSON of California (for himself and Ms. GIFFORDS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Internal Revenue Code of 1986 to treat certain solar energy credits as refundable credits, to allow a new refundable credit for equipment used to manufacture solar energy property, to waive the application of the subsidized financing rules to such property, 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,*

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Solar Stimulus for Job Creation and Energy Independence Act of 2009''.

SEC. 2. TEMPORARY REFUNDABILITY OF SOLAR ENERGY CREDIT.

(a) RESIDENTIAL SOLAR ENERGY CREDIT.—Subsection (c) of section 25D of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax; carryforward of unused credit) is amended by adding at the end the following new paragraph:

''(3) TEMPORARY REFUNDABILITY OF SOLAR ENERGY CREDIT.—

''(A) IN GENERAL.—The aggregate credits allowed to the taxpayer under subpart C shall be increased by the credit which would be determined under paragraphs (1) and (2) of subsection (a) for expenditures made during the taxable year without regard to section 26(a)(2) or paragraphs (1) of this subsection, as the case may be. Credits allowed under subpart C by reason of the preceding sentence shall not be taken into account in determining the excess described in paragraph (2).

''(B) TERMINATION.—Subparagraph (A) shall not apply to any taxable year ending after December 31, 2010.''.

(b) BUSINESS SOLAR ENERGY CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 38 of such Code (relating to limitation based on amount of tax) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR SOLAR ENERGY CREDITS.—

"(A) IN GENERAL.—In the case of the solar energy credits—

"(i) this section and section 39 shall be applied separately with respect to such credits,

"(ii) in applying paragraph (1) to such credits—

"(I) the tentative minimum tax shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the solar energy credits), and

"(iii) the amount of the solar energy credits in excess of the limitation under

paragraph (1) (as modified by subclause (II)) shall be treated as a credit under subpart C.

"(B) SOLAR ENERGY CREDITS.—For purposes of this subsection, the term 'solar energy credits' means so much of the energy credit as is attributable to property described in clause (i) or (ii) of section 48(a)(3)(A).

"(C) TERMINATION.—This paragraph shall not apply to any taxable year ending after December 31, 2010.".

(2) CONFORMING AMENDMENTS.—

(A) Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by striking "and the specified credits" and inserting "the specified credits, and the solar energy credits".

(B) Subclause (II) of section 38(c)(3)(A)(ii) of such Code is amended by striking "and the specified credits" and inserting ", the specified credits, and the solar energy credits".

(C) Subclause (II) of section 38(c)(4)(A)(ii) of such Code is amended by in-

serting ''and the solar energy credits'' after ''specified credits''.

(D) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended—

(i) by inserting ''25D(c)(3),'' before ''35,'' and

(ii) by inserting ''38(c)(5),'' after ''36,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. TEMPORARY REFUNDABILITY OF DEPRECIATION DEDUCTION FOR SOLAR ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(2) of the Internal Revenue Code of 1986 (relating to energy credit) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) at the election of the taxpayer for any taxable year ending before January 1, 2011, 33⅓ percent of the aggregate deductions which would (but for subparagraph (C)) be allowed for the taxable year for property described in clause (i) or (ii) of paragraph (3)(A), and''.

(b) DENIAL OF DEPRECIATION WHERE CREDIT ELECTED.—Paragraph (2) of section 48(a) of such Code is amended by adding at the end the following new subparagraph:

"(C) DENIAL OF DEPRECIATION, ETC., WHERE CREDIT ELECTED.—No deduction for depreciation (or amortization in lieu of depreciation) shall be allowed for the taxable year with respect to property described in clause (i) or (ii) of paragraph (3)(A) if the taxpayer makes the election under subparagraph (A)(ii) with respect to such property. Notwithstanding the preceding sentence, deductions not allowed by the preceding sentence shall be treated as allowed for purposes of applying section 1016.".

(c) CONFORMING AMENDMENT.—Clause (iii) of section 48(a)(2) of such Code is amended by striking "clause (i) does not apply" and inserting "neither clause (i) nor (ii) apply".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. EXCEPTION FROM PRIVATE ACTIVITY BOND TESTS FOR FINANCING OF SOLAR ENERGY PROPERTY.

(a) EXCEPTION FROM PRIVATE BUSINESS USE TEST.—Paragraph (6) of section 141(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(C) SOLAR ENERGY PROPERTY.—For purposes of subparagraph (A), property described in clause (i) or (ii) of section 48(a)(3)(A) shall not be treated as used in a trade or business.".

(b) EXCEPTION FROM PRIVATE LOAN FINANCING TEST.—Paragraph (2) of section 141(c) of such Code (relating to exception for tax assessment, etc., loans) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) enables the borrower to finance the acquisition, construction, and installation of property described in clause (i) or (ii) of section 48(a)(3)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 5. EXCEPTION FROM SUBSIDIZED ENERGY FINANCING RULES FOR SOLAR ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 48(a)(4) of the Internal Revenue Code of 1986 (defining subsidized energy financing) is amended by adding at the end the following new sentence: ''Such term shall not include any loan described in section 141(c)(2)(D).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after such date in taxable years ending after such date.

SEC. 6. REFUNDABLE INVESTMENT CREDIT FOR PROPERTY USED TO MANUFACTURE SOLAR ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) of the Internal Revenue Code of 1986 (defining energy property) is amended by striking ''or'' at the end of clause (vi), by adding ''or'' at the end of clause (vii), and by inserting after clause (vii) the following new clause:

''(viii) property used to manufacture equipment described in clause (i) or (ii),''.

(b) CREDIT TO BE REFUNDABLE.—Section 38(c)(5)(B) of such Code, as added by this Act, is amended by striking ''or (ii)'' and inserting '', (ii), or (viii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. GOVERNMENT PROCUREMENT OF SOLAR ENERGY.

Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) CONTRACTS FOR RENEWABLE ENERGY.—Notwithstanding section 501(b)(1)(B) of title 40, United States Code, a contract for renewable energy may be made for a period of not more than 25 years.''.

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