LEGISLATIVE DIGEST
HOUSE REPUBLICAN CONFERENCE | CHAIRMAN ADAM PUTNAM
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H.R. 6049 – Energy and Tax Extenders Act of 2008

EXECUTIVE SUMMARY

H.R. 6049 was introduced by Representative Charles Rangel (D-NY) and was reported, as amended, by the Committee on Ways and Means by a vote of 25 to 12 on May 15, 2008. The bill is expected to be considered on the floor under a closed rule on May 21, 2008.

Several tax relief provisions expired at the end of 2007 or are set to expire at the end of 2008. In addition, the Alternative Minimum Tax is expected to affect 25.7 million Americans in 2008 without Congressional action.

H.R. 6049 includes several tax extenders, including the deduction for state and local sales tax, deductions for certain expenses for elementary and secondary school teachers, and the research and development tax credit; however it does not include AMT relief for tax year 2008. The bill also includes several energy-related tax provisions that Congress has passed four times previously. In addition, the bill includes worldwide interest allocation and offshore deferred compensation as revenue raising provisions to offset the cost of the bill.

According to the Joint Committee on Taxation (JCT), over the years of 2008 to 2018, the energy tax incentives included in H.R. 6049 would decrease revenues by $16.893 billion, the tax extenders would decrease revenues by $27.094 billion, and the additional tax relief provided by this bill would decrease revenues by $9.989 billion. The revenue raising provisions of the bill would increase taxes over that same period by $54.251 billion.

The administration has issued a veto threat for H.R. 6049 because the legislation expands Davis-Bacon prevailing wage requirements and fails to provide AMT relief for tax year 2008. In addition, “the Administration does not believe that efforts to avoid tax increases on Americans need to be coupled with provisions to increase revenue.”

FLOOR SITUATION

H.R. 6049 is being considered on the floor under a closed rule. The Rule:

- Provides one hour of debate equally divided and controlled by the chairman and ranking member of the Committee on Ways and Means.
- Waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI.
- Provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted and the bill, as amended, shall be considered as read.
- Waives all points of order against provisions of the bill, as amended. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).
- Provides one motion to recommit with or without instructions.

This legislation was introduced by Representative Charles Rangel (D-NY) on May 14, 2008. The bill was ordered to be reported, as amended, by a vote of 25 to 12, by the Committee on Ways and Means on May 15, 2008.

H.R. 6049 is expected to be considered on the floor of the House of Representatives on May 20, 2008.

BACKGROUND

Several tax relief provisions expired at the end of 2007 or are set to expire at the end of 2008. Congress extended many of these provisions as a part of the Tax Relief and Health Care Act of 2006 (P.L. 109-462). In addition, Congress passed the Tax Increase Prevention Act (P.L. 110-166) which ensured that the Alternative Minimum Tax (AMT) did not affect 23 million American families for tax year 2007 on December 27, 2008.

During the Committee mark-up of H.R. 6049, several amendments were offered by Committee Republicans to provide a temporary extension of relief from the AMT or permanent repeal. All of these amendments were defeated along party line votes and the bill does not include an AMT relief provision.

> **Note: According to the Congressional Research Service, the AMT impacted fewer than 20,000 taxpayers when first implemented in 1969. Without Congressional action, 25.7 million taxpayers will be subject to the AMT in 2008.*

This legislation also includes several energy-related tax provisions that were previously passed in four similar House- passed energy tax bills: H.R. 6 (passed 228-193 on 1/18/07); H.R. 2776 (passed 221-189 on 8/4/07); H.R. 6 as amended (passed 235-181 on 12/6/07); and H.R. 5351 (passed 236-182 on 2/27/08).

SUMMARY

Energy Tax Provisions

Renewable Energy Tax Credit: The bill extends and modifies the production tax credit, through the end of 2009, for generating electricity from sources such as wind; geothermal; closed-loop biomass; hydropower; landfill gas; and trash combustion facilities. It also creates a tax credit for a new energy production category – marine renewable, which is energy derived from waves, tides, and currents. The bill creates a new limitation on the amount of credits that can be claimed with respect to property placed in service after 2009. This provision is estimated to decrease revenues by $7.046 billion over ten years.

Solar Energy and Fuel Cell Investment Tax Credit: The bill extends and modifies the tax credit for commercial solar energy and fuel cells through the end of 2014. It increases the credit limitation for fuel cell property from $500 to $1,500 per half kilowatt of capacity. Additionally, the bill expands eligibility so that public electric utilities will qualify for the tax credit. This provision is estimated to decrease revenues by $1.376 billion over ten years.

New Clean Renewable Energy Bonds: The bill authorizes $2 billion for additional bonds to finance tax-exempt facilities that generate electricity from clean renewable energy sources. The bonds are to be divided equally between State, local, and tribal governments; public power providers; and cooperative electric companies. The provision is estimated to decrease revenues by $548 million over 10 years.

> **Note: This provision would expand Davis-Bacon prevailing wage requirements.*

Carbon Capture and Sequestration Demonstration Program: The bill provides $1.25 billion in tax credits for advanced coal electricity projects. It requires the Secretary to give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.

Coal Gasification Investment Credit: H.R. 6049 expands and modifies the coal gasification credit by providing an additional $250 million for gasification projects that separate and sequester at least 75 percent of such project's total carbon dioxide emissions.

Coal Excise Tax: The bill extends the coal excise taxes for five years. The excise tax on coal is $1.10 per ton from underground mines and 55 cents per ton from surface mines.

> **Note: The rates were scheduled to be reduced to 50 cents and 25 cents respectively after 2013. This legislation delays the reduction until 2018.*

Carbon Audit of the Tax Code: The bill requires the Secretary of the Treasury to work with the National Academy of Sciences to undertake a comprehensive review of the tax code to identify specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those affects.

Energy Tax Credits: The bill modifies and/or extends a number of energy-related tax incentives including:

- Residential energy-efficient property credit (decrease revenues by $634 million over 10 years)
- Tax credit for alternative refueling stations (decrease revenues by $156 million over 10 years)
- Biodiesel production and renewable diesel tax credits (decrease revenues by $202 million over 10 years)
- Tax credits for energy-efficient upgrades to existing homes (decrease revenues by $1.53 billion over 10 years)
- Enhanced tax deduction for energy-efficient commercial buildings (decrease revenues by $776 million over 10 years)
- Tax credit to manufacturers of energy-efficient appliances (decrease revenues by $323 million over 10 years)

New Energy Tax Provisions

- Plug-in electric vehicle tax credit (decrease revenues by $1.3 billion over 10 years)
- New York Liberty Zone tax benefits (decrease revenues by $1.83 billion over 10 years)
- Extending transportation fringe benefits to those who commute to work by bicycle (decrease revenues by $10 million over 10 years)
- Five-year depreciation of "smart meters" (decrease revenues by $1.52 billion over 10 years)
- Tax credit for production of cellulosic ethanol (decrease revenues by $24 million over 10 years)
- Tax credit for the production of cellulosic biofuels (decrease revenues by $1.145 billion over 10 years)

One-Year Extension of Temporary Provisions

One Year Extensions of Existing Tax Programs: The bill extends various tax deductions, credits, and rules that are set to expire on December 31, 2007, for one year, until December 31, 2008, including:

- Deduction for state and local sales taxes
- Tax deduction for qualified tuition and related expenses
- The penalty tax on group health care plans that fail to comply with mental health parity requirements

- Tax exclusion of charitable contributions from an Individual Retirement Account (IRA)
- Tax deduction for certain expenses of elementary and secondary school teachers
- Special rules that allow members of the armed services to treat combat pay as earned income for the purposes of qualifying for the Earned Income Tax Credit (EITC)
- Special rules that allow veterans to qualify for state-operated, tax-exempt mortgage bonds
- Special rules that allow active duty reservists to make penalty free withdrawals from their retirement plans
- The Research and Development Tax Credit
- The Indian Employment Tax Credit, which aims to provide an incentive for employers to hire certain individuals who live on or near an Indian reservation
- The American Samoa economic development credit
- Special rule providing a tax deduction for S-Corporations that make charitable donations of property
- Exception under subpart F for active financing income

  **Note: This exception is extended through 2009.*

- The work opportunity tax credit that allows employers to claim the work opportunity tax credit for hiring employees who were affected by Hurricane Katrina

  **Note: This provision expired in August of 2007.*

- Authorization for the Social Security Administration (SSA) to disclose tax return information to the Department of Veterans Affairs for the purposes of determining eligibility for certain veterans' programs
- Authorization for the Internal Revenue Service (IRS) to conduct certain undercover operations

<u>Tax Benefits for Certain Enterprise Zones in the District of Columbia</u>: H.R. 6049 extends tax incentives for businesses and individuals that are located within designated "Enterprise Zones" in the District of Columbia, and the bill extends the $5000 first time homebuyer tax credit for the District of Columbia.

<u>Additional Tax Relief</u>

<u>Lowering the Threshold to Qualify for the Child Tax Credit</u>: The bill reduces the income threshold for how much income an individual must earn before they can qualify for the refundable child tax credit from $10,000 to $8,500 for taxable year 2008.

<u>New Tax Deduction for Property Taxes</u>: The bill introduces a new standard tax deduction for State and local property taxes of up to $350 for individuals and up to $700 for couples that file a joint tax return. *This is estimated to cost $1.174 billion over ten years.*

<u>Increase of AMT Refundable Credit Amount</u>**:** Under present law, taxpayers with long-term unused AMT credit may claim an AMT refundable credit in the amount of the greater of (1) the lesser of $5,000 or the

amount of unused AMT credits, or (2) 20 percent of the unused AMT credits. The credit is phased-out for taxpayers with adjusted gross income in excess of $156,400 in 2007 ($234,600 for joint filers). The provision would repeal the phase-out and allow taxpayers to claim an unused AMT credit in the amount of the greater of (1) 50 percent of the amount of unused AMT credits, or (2) the amount, if any, of the AMT refundable credit claimed by the taxpayer for the taxpayer's preceding taxable year. *This proposal is estimated to cost $2.26 billion over 10 years.*

Attorney Fees Deduction: This new deduction would allow attorneys involved in contingency fee cases to count expenses in they year they are incurred instead of in the year of the award. *This provision is estimated to cost $1.572 billion over 10 years.*

Revenue Raising Provisions

Worldwide Interest Allocation: In 2004, Congress authorized a change in the way costs stemming from interest between United States sources and foreign sources of income are treated for the purposes of determining a taxpayer's foreign tax credit eligibility. This implementation of this tax benefit was delayed until tax year 2008, and H.R. 3996 will further delay its implementation until after 2017. *This proposal is estimated to raise $26.21 billion over 10 years.*

Offshore Deferred Compensation: The bill will require individuals that receive deferred compensation from a non-taxed party to pay tax on that compensation on a current basis, as opposed to current law that permits the taxes to be deferred until the compensation is received. *This proposal is estimated to raise $23.85 billion over 10 years.*

COST

According to the Joint Committee on Taxation (JCT), over the years of 2008 to 2018, the energy tax incentives included in H.R. 6049 would decrease revenues by $16.893 billion, the tax extenders would decrease revenues by $27.094 billion, and the additional tax relief provided by this bill would decrease revenues by $9.989 billion. The revenue raising provisions of the bill would increase taxes over that same period by $54.251 billion. (JCT Cost Estimate)

MOTION TO RECOMMIT

Please find the Republican Motion to Recommit here.

ADDITIONAL VIEWS

According to the Statement of Administration Policy, which contains a veto threat, the Administration opposes H.R. 6049 because it expands Davis-Bacon prevailing wage requirements and fails to provide AMT relief for tax year 2008. In addition, "the Administration does not believe that efforts to avoid tax increases on Americans need to be coupled with provisions to increase revenue…The Administration also opposes the creation of a new standard deduction for property taxes and the reinstatement of the exclusion from tax of amounts received under qualified group legal services plans." (SAP, 5/21/2008)

STAFF CONTACT

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