
American Recovery and Reinvestment Act Green Energy” Gets New Incentives

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The *American Recovery and Reinvestment Act of 2009* includes numerous energy-related tax changes. This article summarizes some of them, starting with the ones that affect individual taxpayers.

► Residential Energy Property Tax Credit Extended and Made Better

The new law extends and liberalizes a nonrefundable personal credit for expenses to install energy-efficient items in a U.S. principal residence. Improvements that can qualify for the credit include insulation, windows, doors, roofs, and heating and cooling equipment. Here are the enhancements:

- The credit is extended for one additional year, to cover property placed in service through December 31, 2010.
- The law also increases the credit percentage from 10 to 30 percent for 2009 and 2010, and it removes dollar caps on credits for various types of expenditures. In their place is a new \$1,500 overall cap on the combined amount of credits claimed in 2009 and 2010 for all types of eligible expenses. (In other words, the new \$1,500 overall cap applies to the total amount of credits that can be claimed for the two years together.)
- Finally, the new law also modifies the energy-efficiency standards that property must meet to be eligible for the credit.



Refundable versus Nonrefundable

Q. What's the difference between a refundable and nonrefundable tax credit?

A. A nonrefundable tax credit allows taxpayers to lower their tax liability to zero, but that's it. A refundable tax credit allows taxpayers to lower their tax liability to zero and then receive any leftover credit in the form of a cash refund. In other words, the IRS pays you, instead of the other way around.

Build Deductions with Energy Efficient Building Improvements

Commercial building owners or leaseholders can qualify for the tax deduction for making their buildings energy efficient.

The commercial building deduction, which was extended through 2013 as part of a law passed last October, allows taxpayers to deduct the cost of energy-efficient property installed in commercial buildings. It includes property that is part of a building's interior lighting, heating, cooling, ventilation and hot water systems as well as the building envelope.

The deductible amount can be as much as \$1.80 per square foot of building floor area for buildings that achieve 50-percent energy savings. Buildings below the 50-percent threshold might qualify for a deduction of up to 60 cents per square foot of building floor area.

Before claiming the deduction, the taxpayer must obtain a certification that the required energy savings will be achieved.

Time Limit: The revamped credit is only available for property placed in service between January 1, 2009 and December 31, 2010 (it was unavailable for 2008). For tax years beginning in 2009, the credit can be used to offset both regular tax and AMT liabilities.

► **The Residential Energy Efficient Property Credit is Improved**

The new law liberalizes the Residential Energy Efficient Property credit, which is a nonrefundable personal credit for 30 percent of expenditures to install in a U.S. residence:

- Solar water heating equipment;
- Small wind energy equipment;
- Geothermal heat pumps;
- Solar electricity generation equipment; and
- Fuel cell equipment.

Specifically, the *Recovery Act* removes the annual dollar caps on credits for the first three categories, effective for tax years beginning after 2008. (The annual credit cap of \$500 per .5 kilowatt hour of fuel cell capacity is still in place. The cap for solar electricity generation equipment was removed by 2008 legislation.)

For tax years beginning after 2008, the Residential Energy Efficient Property credit is allowed to reduce both regular tax and AMT liabilities.

► **For Individuals and Businesses: An Expanded Alternative Motor Vehicle Credit Covers Plug-In Electric Vehicle Conversions**

Under tax law, there is already a nonrefundable personal and business "alternative motor vehicle credit." The *Recovery Act* adds a new credit component on top of the four existing components. In effect, there are now five different credits covering five different types of vehicles.

The two well-known existing credit components cover qualified new hybrid gas-electric vehicles (such as the Ford Escape hybrid) and qualified new lean-burn vehicles (such as the new lean-burn diesel models put out by Mercedes and Volkswagen). The two lesser-known existing credits are for qualified new fuel cell vehicles and new alternative fuel vehicles (such as those that run on compressed natural gas). The new fifth credit covers costs to convert vehicles into qualified plug-in electric vehicles.

Specifically, the new credit equals 10 percent of the cost to convert a new or used vehicle into a qualified plug-in electric drive motor vehicle. The maximum credit is \$4,000. It can be claimed for qualified conversions placed in service after February 17, 2009, the date the new law was enacted. However, conversions after December 31, 2011 won't be eligible.

For tax years beginning after 2008, the five personal alternative motor vehicle credits are allowed to reduce both regular tax and AMT liabilities for individual taxpayers.

► **Overhauled Credit for Plug-In Electric Vehicles for Individuals and Businesses**

The *Recovery Act* overhauls the existing nonrefundable personal and business tax credit for new plug-in electric drive motor vehicles. The changes are effective for qualifying vehicles that are purchased after December 31, 2009. (Used and leased vehicles do not qualify.)

Under the revamped provisions, the credit can range from \$2,500 to \$7,500. For purposes of this credit, the description of qualifying vehicles is changed to facilitate the establishment of two new credits for other types of plug-in electric vehicles (see below). The revamped credit will start to phase out once more than 200,000 qualifying vehicles have been sold for use in the U.S. in periods after December 31, 2009.

For tax years beginning after 2008, personal plug-in electric vehicle credits are allowed to reduce both regular tax and AMT liabilities for individual taxpayers.

Important: Under prior law, bigger credits are allowed for heavier plug-in electric vehicles (those with gross vehicle weight ratings above 10,000 pounds) that are acquired in 2009.

► **There's a New Credit for Low-Speed, Two-and Three-Wheeled Plug-In Electric Vehicles (for Individuals and Businesses)**

The new law creates a new nonrefundable personal and business tax credit for:

- Qualified low-speed plug-in electric vehicles (they must have four wheels, be able to hit at least 20 to 25 MPH, and have a gross vehicle weight rating of 3,000 pounds or less); and
- Qualified two-wheeled and three-wheeled plug-in electric vehicles that meet a specified gross vehicle weight rating.

The new credit equals 10 percent of the cost of a qualified vehicle. The maximum credit is \$2,500. Eligible vehicles must be acquired between February 18, 2009 and December 31, 2011. (Used and leased vehicles do not qualify.)

This credit cannot be claimed for a vehicle acquired during the eligible dates if it also qualifies for the other plug-in electric vehicle credit explained above.

For tax years beginning after 2008, personal credits for low-speed, two-wheel, and three-wheel vehicles can be used to reduce both regular tax and AMT liabilities for individual taxpayers.

► **For Individuals and Businesses, There's an Improved Credit for Alternative Fuel Vehicle Refueling Property**

The *Recovery Act* liberalizes the nonrefundable personal and business tax credit for *non-hydrogen* alternative fuel vehicle refueling property. The changes apply to qualified property placed in service in tax years beginning in 2009 and 2010. Examples of what this credit can cover include costs to install ethanol or compressed natural gas refueling pumps or equipment to recharge electric-powered car batteries.

The personal version of this credit can be claimed for qualifying equipment installed at an individual's principal residence. The business version of this credit can cover qualified costs at a gas station or other business location.

The *Recovery Act* increases the credit percentage for *non-hydrogen* refueling property from 30 to 50 percent. The new law increases the annual credit cap from \$1,000 to \$2,000 for personal *non-hydrogen* property installed at an individual's principal residence. The annual per-location credit cap for business *non-hydrogen* property is increased from \$30,000 to \$50,000.

The legislation also upgrades the business credit for *hydrogen* alternative fuel vehicle refueling property by jumping the annual per-location credit cap from \$30,000 to \$200,000 for equipment placed in service in tax years beginning in 2009 and 2010. (For *hydrogen* refueling equipment, the credit percentage remains at 30 percent, and the annual cap on the personal credit for *hydrogen* equipment installed at a principle residence remains at \$1,000.)

Under current law, personal credits for alternative fuel vehicle refueling property *cannot* be used to reduce AMT liabilities for individual taxpayers.



For more information or to discuss your particular situation contact tax partner David A. Schlein, CPA at 716-856-3300.



Expanded Business Alternative Energy Tax Breaks

For businesses, here are some additional tax provisions under the new law. For additional details, contact your tax advisor:

- The *Recovery Act* eliminates the \$4,000 annual limitation on the IRC Section 48 business energy tax credit for qualified small wind energy property. This change is effective for periods after December 31, 2008.
- The new law allows taxpayers to elect to claim the 30 percent Section 48 business energy credit instead of the Section 45 electricity production credit. This change is effective for qualified property placed in service after 2008.
- In determining the amount of the Section 48 business energy credit, the taxpayer need not reduce the basis of qualified property if it's financed with subsidized energy financing or proceeds from tax-exempt private activity bonds. This change is effective for periods after December 31, 2008.
- For purposes of the Section 45 electricity production credit, the placed-in-service deadline for certain facilities and for qualified marine and hydrokinetic energy facilities is extended through December 31, 2013. For qualified wind facilities, the placed-in service deadline is extended through December 31, 2012.
- The *Recovery Act* also creates a new Section 48C credit. The new credit equals 30 percent of expenditures after February 17, 2009 for qualified advanced energy project property.
- Under the rules for the \$10 per metric ton Section 45Q credit for capturing carbon dioxide from industrial facilities and using it as a tertiary injectant, the new law imposes the additional requirement to place the injected gas in secure geological storage,. This change applies to gas captured after February 17, 2009. Certain other changes are made to the rules for the Section 45Q credit.
- For qualified property placed in service after 2008, taxpayers can request so-called renewable energy grants from the federal government instead of claiming: the Section 45 electricity production credit or the Section 48 business energy credit. Such grants are not included in gross income for federal income tax purposes.
- The new law also increases the dollar limits for issues of Section 54C clean renewable energy tax credit bonds and Section 54D energy conservation tax credit bonds