Energy Tax Breaks Catch Ride on Fiscal Cliff Train

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At the 11th hour lawmakers and the White House agreed to a deal on the fiscal cliff. While the deal was crafted to address urgent tax hikes on individuals and across-the-board cuts to federal spending, a package of annual tax extenders caught a ride as well. The package of tax extenders included more than a dozen for energy technologies including coal, biofuels, and renewable energy totaling more than $15 billion over ten years. Although some directly benefit consumers, most are slated for energy industries.

Most of the included tax provisions had expired in December 2011 and lapsed in 2012 when Congress failed to pass an extension. The add-on package retroactively extended them through 2012, and set their expiration for December 31, 2013.

Below is a list and short description of energy provisions included in the final deal. All came from a Senate tax extenders package that was not under consideration in the House. Also note that each year listed represents a fiscal year (which ends in September and begins on October 1).

Energy Tax Provisions

Alternative Fuel and Alternative Fuel Mixtures Tax Credits (other than liquefied hydrogen)

Both the alternative fuel credit and the alternative fuels mixture credit were enacted by the 2005 Highway Bill to provide a tax credit for alternative fuels, which includes high carbon fuels produced from coal, oil shale, and tar sands. Companies that produce unconventional fuels receive a production tax break of 50 cents per gallon; companies that blend traditional fossil fuels with small amounts of high carbon fuels receive the same tax benefit.

Estimated cost to taxpayers: $360 million over ten years (through 2014). Cost in 2013: $305 million.

Alternative Fuel Vehicle Refueling Property Facilities

This tax credit enables refueling properties dispensing certain alternative fuels to receive a refueling property credit. This provides a 30% tax break for gasoline stations or other facilities installing biodiesel or 85% ethanol (E85) blender pumps, or repowering sites for electric vehicles. Stations dispensing natural gas, liquefied natural gas (LNG), and liquefied petroleum gas (LPG) are also eligible. The credit was first passed in the 2005 energy bill.

Estimated cost to taxpayers: $44 million over ten years (through 2015). Cost in 2013: $34 million.

Plug-in electric motorcycles and highway vehicles.

This credit goes to electric plug-in motorcycles and 3-wheeled vehicles that can be used on a highway. Unlike its previous counterpart, this most recent iteration of this credit no longer includes non-highway low speed vehicles, like golf carts. The credit is extended for two years and expires December 31, 2013.

Estimated cost to taxpayers: $7 million over ten years (over 3 years). Cost in 2013: $1 million.

Biodiesel and renewable diesel tax credits

The biodiesel tax credit of $1 per gallon was created in the 2004 American Jobs Creation Act while the credit for renewable diesel was created in the 2005 energy bill.[i] Eligible biodiesel feedstocks include "virgin oils, including esters derived from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, and camelina, and from animal fats." The fiscal cliff deal extended the credits for two years through 2013.

Estimated cost to taxpayers: $2.18 billion over ten years (through 2014). Cost in 2013: $1.8 billion.

Credit for Production of Cellulosic Biofuel
Since passage of the 2008 farm bill, cellulosic ethanol facilities have been able to receive a tax credit of $1.01 for each gallon of biofuel produced before the end of 2012. However, since few facilities are producing this biofuel at commercial scale, the tax credit been largely irrelevant. With various technological and economic challenges facing the industry, analysts predict that production will unlikely meet Renewable Fuel Standard (RFS) volumes set forth in the 2007 energy bill. Cellulosic biofuels are produced from biomass materials like agricultural residues, wood chips, perennial grasses, and municipal solid waste. The fiscal cliff deal will extend the cellulosic biofuel production credit for one year through the end of 2013.

Estimated cost to taxpayers: $59 million over ten years (through 2014). Cost in 2013: $43 million.

Cellulosic Bonus Depreciation and inclusion of algae-based fuel plant property
Cellulosic biofuel producers not only benefit from a generous production tax credit, but they also receive special tax treatment through special depreciation rules. Eligible facilities can "expense 50 percent of their eligible capital costs in the first year," meaning that their tax liability is reduced for the first year of operation. This special depreciation provision was created in the Tax Relief and Health Care Act of 2006.[i] The fiscal cliff package extended this special treatment for cellulosic producers and algae-based biofuels producers through the end of 2013.

Estimated cost to taxpayers: $500,000 over ten years. Cost in 2013: $1 million.

Wind and Modifications to Renewable Energy Production Tax Credits
The wind production tax credit provides 2.2 cents per kilowatt hour tax credit for a ten-year period for facilities placed in service before 2012. Under the fiscal cliff deal, this provision is extended through 2013. The provision also allows wind facilities that begin construction before the end of 2013 to claim the credit. Further, it amends section 45 to exclude recycled paper from claiming the renewable energy tax credit.

Estimated cost to taxpayers: $12.18 billion over ten years. Cost in 2013: $116 million.

Investment tax credit in lieu of production tax credit
This modification to an existing tax credit, benefits renewable energy producers that are still in the investment stage, such as offshore wind production.

Estimated cost to taxpayers: $135 million over ten years.

Credit for Energy Efficient Appliances
This credit is for energy-efficient washing machines, refrigerators, and dishwashers. It expired in December 2011 and is extended through December 2013.

Estimated cost to taxpayers: $650 million over ten years. Cost in 2013: $155 million.

Indian Coal production tax credit
This $2 per ton tax credit is directed towards coal produced on Indian-owned land. The fiscal cliff extenders package includes a two-year extension of the credit, which retroactively reinstates it for 2012. It expires on December 31, 2013.

Estimated cost to taxpayers: $1 million (through 2019). Cost in 2013: $1 million.

For more information, please visit www.taxpayer.net
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[i] http://www.biodiesel.org/docs/ffs-production/biodiesel-renewable-diesel-and-co-processed-renewable-diesel-fact-sheet.pdf?sfvrsn=4, http://www.afdc.energy.gov/pdfs/42150.pdf
[i] http://www.gpo.gov/fdsys/pkg/PLAW-109publ432/html/PLAW-109publ432.htm