

116TH CONGRESS
1ST SESSION

H. R. 2993

To amend the Internal Revenue Code of 1986 to extend and modify the section 45 credit for refined coal from steel industry fuel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2019

Mr. KELLY of Pennsylvania (for himself and Mr. MICHAEL F. DOYLE of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to extend and modify the section 45 credit for refined coal from steel industry fuel, 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 “Steel Industry Preser-
5 vation Act”.

6 **SEC. 2. EXTENSION AND MODIFICATION OF CREDIT FOR**
7 **STEEL INDUSTRY FUEL.**

8 (a) CREDIT PERIOD.—

1 (1) IN GENERAL.—Section 45(e)(8)(D)(ii)(II)
2 of the Internal Revenue Code of 1986 is amended to
3 read as follows:

4 “(II) CREDIT PERIOD.—In lieu
5 of the 10-year period referred to in
6 clauses (i) and (ii)(II) of subpara-
7 graph (A), the credit period shall be
8 the period beginning on the first date
9 that the facility first produces steel
10 industry fuel that is sold to an unre-
11 lated person after the date of the en-
12 actment of the Steel Industry Preser-
13 vation Act, and ending 10 years after
14 such first date.”.

15 (2) CONFORMING AMENDMENT.—Section
16 45(e)(8)(D) of such Code is amended by striking
17 clause (iii) and by redesignating clause (iv) as clause
18 (iii).

19 (b) EXTENSION OF PLACED-IN-SERVICE DATE.—
20 Section 45(d)(8)(A) of such Code is amended—

21 (1) by striking “(or any modification to a facil-
22 ity)”;

23 (2) by striking “placed in service before” and
24 inserting “placed in service—

25 “(i) before”;

1 (3) by striking “and” at the end and inserting
2 “or”; and

3 (4) by adding at the end the following new
4 clause:

5 “(ii) after the date of the enactment
6 of this clause and before the date that is
7 18 months after such date, and”.

8 (c) CLARIFICATIONS.—

9 (1) STEEL INDUSTRY FUEL.—Section
10 45(c)(7)(C)(i)(I) of such Code is amended by insert-
11 ing “, or a blend of coal and petroleum coke, or
12 other coke feedstock” after “on coal”.

13 (2) OWNERSHIP INTEREST.—Section 45(d)(8)
14 of such Code is amended by adding at the end the
15 following new flush sentence:

16 “With respect to a facility producing steel industry
17 fuel, no person (including a ground lessor, customer,
18 supplier, or technology licensor) shall be treated as
19 having an ownership interest in the facility or as
20 otherwise entitled to the credit allowable under this
21 section with respect to such facility solely because
22 such person’s rent, license fee, or other entitlement
23 to net payments from the owner of such facility is
24 measured by a fixed dollar amount or a fixed

1 amount per ton, or otherwise determined without re-
2 gard to the profit or loss of such facility.”.

3 (3) PRODUCTION AND SALE.—Section
4 45(e)(8)(D) of such Code, as amended by subsection
5 (a)(2), is amended by redesignating clause (iii) as
6 clause (iv) and by inserting after clause (ii) the fol-
7 lowing new clause:

8 “(iii) PRODUCTION AND SALE.—The
9 owner of a facility producing steel industry
10 fuel shall be treated as producing and sell-
11 ing steel industry fuel where that owner
12 manufactures such steel industry fuel from
13 coal, a blend of coal and petroleum coke,
14 or other coke feedstock to which it has
15 title. The sale of such steel industry fuel
16 by the owner of the facility to a person
17 who is not the owner of the facility shall
18 not fail to qualify as a sale to an unrelated
19 person solely because such purchaser may
20 also be a ground lessor, supplier, or cus-
21 tomer.”.

22 (d) ELECTION TO INCREASE CREDIT IN LIEU OF
23 STEEL INDUSTRY FUEL DEDUCTIONS.—Section 45(e)(8)
24 of such Code is amended by adding at the end the fol-
25 lowing new subparagraph:

1 “(E) ELECTION FOR INCREASED CREDIT
2 IN LIEU OF DEDUCTIONS FOR STEEL INDUSTRY
3 FUEL.—In the case of a taxpayer who produces
4 steel industry fuel—

5 “(i) IN GENERAL.—At the election of
6 the taxpayer—

7 “(I) no deduction shall be al-
8 lowed with respect to expenses made
9 in connection with the production and
10 sale of steel industry fuel for such
11 taxable year which are otherwise de-
12 ductible under this chapter (deter-
13 mined without regard to this subpara-
14 graph),

15 “(II) no expense made in connec-
16 tion with the production of and sale of
17 steel industry fuel which is otherwise
18 chargeable to capital account in such
19 taxable year shall be so charged, and

20 “(III) the credit determined
21 under this section (without regard to
22 this subparagraph) for such taxable
23 year shall be increased by an amount
24 equal to the product of the sum of the
25 amounts to which subclauses (I) and

1 (II) apply and the maximum rate of
 2 tax applicable under section 1 or
 3 11(b), as applicable to the taxpayer in
 4 such taxable year.

5 “(ii) APPLICATION TO PARTNERSHIPS
 6 AND S CORPORATIONS.—In the case of a
 7 partnership or S corporation, the election
 8 shall be made at the partnership or S cor-
 9 poration level.

10 “(iii) ELECTION.—An election under
 11 this subparagraph for any taxable year
 12 shall be made not later than the time for
 13 filing the return of tax for such year (in-
 14 cluding extensions), in such manner as the
 15 Secretary may prescribe. Such an election,
 16 once made, shall be irrevocable.”.

17 (e) SPECIFIED CREDIT FOR PURPOSES OF ALTER-
 18 NATIVE MINIMUM TAX EXCLUSION.—Section
 19 38(c)(4)(B)(iv)(II) of such Code is amended by inserting
 20 “(in the case of a refined coal production facility pro-
 21 ducing steel industry fuel, during the credit period set
 22 forth in section 45(e)(8)(D)(ii)(II))” after “service”.

23 (f) APPLICATION OF CERTAIN RULES TO STEEL IN-
 24 DUSTRY FUEL.—

1 (1) ACTIVITY NOT ENGAGED IN FOR PROFIT.—

2 Section 183 of such Code is amended by adding at
3 the end the following new subsection:

4 “(f) EXCEPTION.—This section shall not apply to any
5 deduction with respect to the production of steel industry
6 fuel (as defined in section 45(c)(7)(C)).”.

7 (2) APPLICATION OF ECONOMIC SUBSTANCE
8 DOCTRINE.—

9 (A) IN GENERAL.—Section 7701(o) of
10 such Code is amended by adding at the end the
11 following new paragraph:

12 “(6) NON-APPLICATION TO STEEL INDUSTRY
13 FUEL.—The economic substance doctrine shall not
14 apply to any transaction to the extent such trans-
15 action relates to steel industry fuel (as defined in
16 section 45(c)(7)(C)).”.

17 (B) CONFORMING AMENDMENT.—Section
18 7701(o)(5)(C) of such Code is amended by
19 striking “The determination” and inserting
20 “Except as provided in paragraph (6), the de-
21 termination”.

22 (g) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the amendments made by this section
25 shall apply to fuel produced and sold after the date

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

3 (2) APPLICATION OF ECONOMIC SUBSTANCE
4 RULES.—The amendments made by subsection (f)(2)
5 shall apply to transactions entered into after the
6 date of the enactment of this Act.

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