

111TH CONGRESS
1ST SESSION

H. R. 3592

To amend the Internal Revenue Code of 1986 to allow a tax credit for producing oil from recycled waste.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2009

Mr. PASCRELL (for himself, Mr. REICHERT, Mrs. CHRISTENSEN, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

A BILL

To amend the Internal Revenue Code of 1986 to allow a tax credit for producing oil from recycled waste.

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 “Plastics Recycling Act
5 of 2009”.

1 **SEC. 2. PRODUCTION TAX CREDIT FOR CERTAIN RECY-**
2 **CLING ACTIVITIES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 (relating to business related credits) is amended by
6 adding at the end the following new section:

7 **“SEC. 45R. OIL PRODUCED FROM CERTAIN RECYCLING AC-**
8 **TIVITIES.**

9 “(a) GENERAL RULE.—For purposes of section 38,
10 the waste plastic recycling credit for any taxable year is
11 an amount equal to the product of—

12 “(1) 60 cents, multiplied by

13 “(2) the number of gallons of qualified syn-
14 thetic oil—

15 “(A) produced by the taxpayer from quali-
16 fied feedstock at a qualified small conversion
17 process recycling facility during the 10-year pe-
18 riod beginning on the date the facility was
19 originally placed in service, and

20 “(B) used or sold by the taxpayer in a
21 trade or business to an unrelated person during
22 the taxable year.

23 “(b) EXCEPTION FOR DE MINIMIS PERCENTAGE OF
24 NON-QUALIFYING FEEDSTOCK.—In the case that a pro-
25 ducer uses non-qualified feedstock to produce a gallon (or
26 part thereof) of qualified synthetic oil, the amount of the

1 credit determined under subsection (a) with respect to
2 such gallon—

3 “(1) shall be reduced by an amount equal to
4 the amount of the credit (determined without regard
5 to this subsection) multiplied by the percentage of
6 non-qualifying feedstock used in the production of
7 such gallon, and

8 “(2) if the percentage of non-qualifying feed-
9 stock so used is greater than 15 percent, the credit
10 determined under subsection (a) with respect to such
11 gallon shall be zero.

12 “(c) DEFINITIONS.—For purposes of this section—

13 “(1) QUALIFIED SYNTHETIC OIL.—The term
14 ‘qualified synthetic oil’ means oil derived from eligi-
15 ble feedstocks and which has a minimum market
16 value of 90 percent of crude oil, represented by the
17 New York Mercantile Exchange front-month con-
18 tract quoted at the time of sale.

19 “(2) QUALIFIED SMALL CONVERSION PROCESS
20 RECYCLING FACILITY.—The term ‘qualified small
21 conversion process recycling facility’ means any facil-
22 ity which—

23 “(A) is owned by the taxpayer,

1 “(B) is originally placed in service after
2 the date of the enactment of this section and
3 before January 1, 2015, and

4 “(C) has a maximum daily production ca-
5 pacity of not more than 2,000 barrels of quali-
6 fied synthetic oil.

7 “(3) ELIGIBLE FEEDSTOCK.—The term ‘eligible
8 feedstock’ means post-consumer and post-industrial
9 waste plastics.

10 “(4) PLASTIC.—The term ‘plastic’ means any
11 material that is derived from one or more of the cat-
12 egories of materials in the resin identification system
13 developed by the Society of the Plastics Industry
14 (SPI) in 1988.

15 “(d) APPLICABLE RULES.—For purposes of this sec-
16 tion, rules similar to the rules of paragraphs (1), (3), (4),
17 and (5) of section 45(e) shall apply.

18 “(e) DENIAL OF DOUBLE BENEFIT.—A credit shall
19 not be allowed under section 40, 40A, or 6426 with respect
20 to any fuel for which a credit is allowed under this section.

21 “(f) COORDINATION WITH DEPARTMENT OF TREAS-
22 URY GRANTS.—In the case of any taxpayer with respect
23 to whom the Secretary makes a grant under section 3 of
24 the Plastics Recycling Act of 2009 with respect to any
25 oil—

1 “(1) DENIAL OF CREDITS.—No credit with re-
2 spect to such oil shall be determined under this sec-
3 tion or section 40, 40A, or 6426 for the taxable year
4 in which such grant is made or any subsequent tax-
5 able year.

6 “(2) RECAPTURE OF CREDITS MADE BEFORE
7 GRANT.—If a credit was determined under this sec-
8 tion with respect to such oil for any taxable year
9 ending before such grant is made—

10 “(A) the tax imposed under subtitle A on
11 the taxpayer for the taxable year in which such
12 grant is made shall be increased by so much of
13 such credit as was allowed under section 38,

14 “(B) the general business carryforwards
15 under section 39 shall be adjusted so as to re-
16 capture the portion of such credit which was
17 not so allowed, and

18 “(C) the amount of such grant shall be de-
19 termined without regard to any reduction in the
20 basis of such property by reason of such credit.

21 “(3) TREATMENT OF GRANTS.—Any such grant
22 shall not be includible in the gross income of the
23 taxpayer.”.

24 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
25 NESS CREDIT.—Section 38(b) of such Code (defining cur-

1 rent year business credit) is amended by striking “plus”
2 at the end of paragraph (34), by striking the period at
3 the end of paragraph (35) and inserting “, plus”, and by
4 adding at the end the following new paragraph:

5 “(36) the waste plastic recycling credit deter-
6 mined under section 45R(a).”.

7 (c) CONFORMING AMENDMENT.—The table of sec-
8 tions for subpart D of part IV of subchapter A of chapter
9 1 of such Code is amended by adding at the end the fol-
10 lowing new item:

 “Sec. 45R. Oil produced from certain recycling activities.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to oil produced after the date of
13 enactment of this Act.

14 **SEC. 3. GRANTS FOR OIL PRODUCED FROM CERTAIN RECY-**
15 **CLING ACTIVITIES IN LIEU OF TAX CREDITS.**

16 (a) IN GENERAL.—Upon application, the Secretary
17 of the Treasury (or the Secretary’s delegate) shall make
18 a grant to each person to whom the waste plastic recycling
19 credit determined under section 45R of the Internal Rev-
20 enue Code of 1986 is allowable for the taxable year in
21 which the grant is made.

22 (b) GRANT DETERMINATION.—The grant under sub-
23 section (a) shall be determined in the same manner as the
24 credit is determined under section 45R of the Internal
25 Revenue Code of 1986 (determined without regard to sec-

1 tion 38(c) of such Code) for the taxable year in which the
2 grant is made.

3 (c) EXCEPTION FOR CERTAIN NON-TAXPAYERS.—

4 The Secretary of the Treasury shall not make any grant
5 under this section to—

6 (1) any Federal, State, or local government (or
7 any political subdivision, agency, or instrumentality
8 thereof),

9 (2) any organization described in section 501(c)
10 of the Internal Revenue Code of 1986 and exempt
11 from tax under section 501(a) of such Code,

12 (3) any entity referred to in paragraph (4) of
13 section 54(j) of such Code, or

14 (4) any partnership or other pass-thru entity
15 any partner (or other holder of an equity or profits
16 interest) of which is described in paragraph (1), (2)
17 or (3).

18 (d) APPROPRIATIONS.—For purposes of section
19 1324(b) of title 31, United States Code, a grant under
20 this section shall be treated as a credit provision described
21 in paragraph (2) of such section.

○