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1ST SESSION

S. 2005

To amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2017

Mr. COONS (for himself, Mr. MORAN, Ms. STABENOW, Mr. GARDNER, Mr. BENNET, Ms. MURKOWSKI, Mr. KING, Ms. COLLINS, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, 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 “Master Limited Part-
5 nerships Parity Act”.

1 **SEC. 2. EXTENSION OF PUBLICLY TRADED PARTNERSHIP**
2 **OWNERSHIP STRUCTURE TO ENERGY POWER**
3 **GENERATION PROJECTS, TRANSPORTATION**
4 **FUELS, AND RELATED ENERGY ACTIVITIES.**

5 (a) IN GENERAL.—Subparagraph (E) of section
6 7704(d)(1) of the Internal Revenue Code of 1986 is
7 amended—

8 (1) by striking “income and gains derived from
9 the exploration” and inserting “income and gains
10 derived from the following:

11 “(i) MINERALS, NATURAL RE-
12 SOURCES, ETC.—The exploration”;

13 (2) by inserting “or” before “industrial
14 source”;

15 (3) by inserting a period after “carbon diox-
16 ide”; and

17 (4) by striking “, or the transportation or stor-
18 age” and all that follows and inserting the following:

19 “(ii) RENEWABLE ENERGY.—The gen-
20 eration of electric power (including the
21 leasing of tangible personal property used
22 for such generation) exclusively utilizing
23 any resource described in section 45(c)(1)
24 or energy property described in section 48
25 (determined without regard to any termi-
26 nation date), or in the case of a facility de-

1 scribed in paragraph (3) or (7) of section
2 45(d) (determined without regard to any
3 placed in service date or date by which
4 construction of the facility is required to
5 begin), the accepting or processing of such
6 resource.

7 “(iii) ENERGY STORAGE PROPERTY.—
8 The sale of electric power, capacity, re-
9 source adequacy, demand response capa-
10 bilities, or ancillary services that is pro-
11 duced or made available from any equip-
12 ment or facility (operating as a single unit
13 or as an aggregation of units) the principal
14 function of which is to—

15 “(I) use mechanical, chemical,
16 electrochemical, hydroelectric, or ther-
17 mal processes to store energy that was
18 generated at one time for conversion
19 to electricity at a later time, or

20 “(II) store thermal energy for di-
21 rect use for heating or cooling at a
22 later time in a manner that avoids the
23 need to use electricity at that later
24 time.

1 “(iv) COMBINED HEAT AND POWER.—
2 The generation, storage, or distribution of
3 thermal energy exclusively utilizing prop-
4 erty described in section 48(c)(3) (deter-
5 mined without regard to subparagraphs
6 (B) and (D) thereof and without regard to
7 any placed in service date).

8 “(v) RENEWABLE THERMAL EN-
9 ERGY.—The generation, storage, or dis-
10 tribution of thermal energy exclusively
11 using any resource described in section
12 45(c)(1) or energy property described in
13 clause (i) or (iii) of section 48(a)(3)(A).

14 “(vi) WASTE HEAT TO POWER.—The
15 use of recoverable waste energy, as defined
16 in section 371(5) of the Energy Policy and
17 Conservation Act (42 U.S.C. 6341(5)) (as
18 in effect on the date of the enactment of
19 the Master Limited Partnerships Parity
20 Act).

21 “(vii) RENEWABLE FUEL INFRA-
22 STRUCTURE.—The storage or transpor-
23 tation of any fuel described in subsection
24 (b), (c), (d), or (e) of section 6426.

1 “(viii) RENEWABLE FUELS.—The pro-
2 duction, storage, or transportation of any
3 renewable fuel described in section
4 211(o)(1)(J) of the Clean Air Act (42
5 U.S.C. 7545(o)(1)(J)) (as in effect on the
6 date of the enactment of the Master Lim-
7 ited Partnerships Parity Act) or section
8 40A(d)(1).

9 “(ix) FUEL DERIVED FROM CAP-
10 TURED CARBON DIOXIDE.—The produc-
11 tion, storage, or transportation of any fuel
12 which—

13 “(I) uses carbon dioxide captured
14 from an anthropogenic source or the
15 atmosphere as its primary feedstock,
16 and

17 “(II) is determined by the Sec-
18 retary, in consultation with the Sec-
19 retary of Energy and the Adminis-
20 trator of the Environmental Protec-
21 tion Agency, to achieve a reduction of
22 not less than a 60 percent in lifecycle
23 greenhouse gas emissions (as defined
24 in section 211(o)(1)(H) of the Clean
25 Air Act) compared to baseline lifecycle

1 greenhouse gas emissions (as defined
2 in section 211(o)(1)(C) of such Act).
3 This clause shall not apply to any fuel
4 which uses as its primary feedstock carbon
5 dioxide which is deliberately released from
6 naturally-occurring subsurface springs.

7 “(x) RENEWABLE CHEMICALS.—The
8 production, storage, or transportation of
9 any qualifying renewable chemical (as de-
10 fined in paragraph (6)).

11 “(xi) ENERGY EFFICIENT BUILD-
12 INGS.—The audit and installation through
13 contract or other agreement of any energy
14 efficient building property described in sec-
15 tion 179D(e)(1).

16 “(xii) GASIFICATION WITH SEQUES-
17 TRATION.—The production of any product
18 or the generation of electric power from a
19 project—

20 “(I) which meets the require-
21 ments of subparagraphs (A) and (B)
22 of section 48B(c)(1), and

23 “(II) not less than 75 percent of
24 the total carbon dioxide emissions of
25 which is qualified carbon dioxide (as

1 defined in section 45Q(b)) which is
2 disposed of or utilized as provided in
3 paragraph (7).

4 “(xiii) CARBON CAPTURE AND SE-
5 QUESTRATION.—

6 “(I) POWER GENERATION FACILI-
7 TIES.—The generation or storage of
8 electric power (including associated
9 income from the sale or marketing of
10 energy, capacity, resource adequacy,
11 and ancillary services) produced from
12 any power generation facility which is,
13 or from any power generation unit
14 within, a qualified facility which is de-
15 scribed in section 45Q(c) and not less
16 than 50 percent (30 percent in the
17 case of a facility or unit placed in
18 service before January 1, 2017) of the
19 total carbon dioxide emissions of
20 which is qualified carbon dioxide
21 which is disposed of or utilized as pro-
22 vided in paragraph (7).

23 “(II) OTHER FACILITIES.—The
24 sale of any good or service from any
25 facility (other than a power generation

1 facility) which is a qualified facility
2 described in section 45Q(c) and the
3 captured qualified carbon dioxide (as
4 so defined) of which is disposed of as
5 provided in paragraph (7).”.

6 (b) RENEWABLE CHEMICAL.—

7 (1) IN GENERAL.—Section 7704(d) of such
8 Code is amended by adding at the end the following
9 new paragraph:

10 “(6) QUALIFYING RENEWABLE CHEMICAL.—

11 “(A) IN GENERAL.—The term ‘qualifying
12 renewable chemical’ means any renewable chem-
13 ical (as defined in section 9001 of the Agri-
14 culture Act of 2014)—

15 “(i) which is produced by the taxpayer
16 in the United States or in a territory or
17 possession of the United States,

18 “(ii) which is the product of, or reli-
19 ant upon, biological conversion, thermal
20 conversion, or a combination of biological
21 and thermal conversion, of renewable bio-
22 mass (as defined in section 9001(13) of
23 the Farm Security and Rural Investment
24 Act of 2002),

1 “(iii) the biobased content of which is
2 95 percent or higher,

3 “(iv) which is sold or used by the tax-
4 payer—

5 “(I) for the production of chem-
6 ical products, polymers, plastics, or
7 formulated products, or

8 “(II) as chemicals, polymers,
9 plastics, or formulated products,

10 “(v) which is not sold or used for the
11 production of any food, feed, or fuel, and

12 “(vi) which is—

13 “(I) acetic acid, acrylic acid, acyl
14 glutamate, adipic acid, algae oils,
15 algae sugars, 1,4-butanediol (BDO),
16 iso-butanol, n-butanol, C10 and high-
17 er hydrocarbons produced from olefin
18 metathesis, carboxylic acids produced
19 from olefin metathesis, cellulosic
20 sugar, diethyl methylene malonate,
21 dodecanedioic acid (DDDA), esters
22 produced from olefin metathesis, ethyl
23 acetate, ethylene glycol, farnesene,
24 2,5-furandicarboxylic acid, gamma-bu-
25 tyrolactone, glucaric acid,

1 hexamethylenediamine (HMD), 3-hy-
2 droxy propionic acid, iso-butene, iso-
3 prene, itaconic acid, lactide, levulinic
4 acid, polyhydroxyalkonate (PHA),
5 polylactic acid (PLA), polyethylene
6 furanoate (PEF), polyethylene
7 terephthalate (PET), polyitaconic
8 acid, polyols from vegetable oils,
9 poly(xylitan levulinate ketal), 1,3-
10 propanediol, 1,2-propanediol,
11 rhamnolipids, short and medium chain
12 carboxylic acids produced from anaer-
13 obic digestion, succinic acid, tereph-
14 thalic acid, vegetable fatty acid de-
15 rived from ethyl esters containing veg-
16 etable oil, or *p*-Xylene, or

17 “(II) any chemical not described
18 in clause (i) which is a chemical listed
19 by the Secretary for purposes of this
20 paragraph.

21 “(B) BIOBASED CONTENT.—For purposes
22 of subparagraph (A)(iii), the term ‘biobased
23 content percentage’ means, with respect to any
24 renewable chemical, the biobased content of
25 such chemical (expressed as a percentage) de-

1 terminated by testing representative samples
2 using the American Society for Testing and
3 Materials (ASTM) D6866.”.

4 (2) LIST OF OTHER QUALIFYING RENEWABLE
5 CHEMICALS.—Not later than 180 days after the date
6 of the enactment of this Act, the Secretary of the
7 Treasury (or the Secretary’s delegate), in consulta-
8 tion with the Secretary of Agriculture, shall establish
9 a program to consider applications from taxpayers
10 for the listing of chemicals under section
11 7874(d)(6)(A)(vi)(II) (as added by paragraph (1)).

12 (c) DISPOSAL AND UTILIZATION OF CAPTURED CAR-
13 BON DIOXIDE.—Section 7704(d) of such Code, as amend-
14 ed by subsection (b), is amended by adding at the end
15 the following new paragraph:

16 “(7) DISPOSAL AND UTILIZATION OF CAPTURED
17 CARBON DIOXIDE.—For purposes of clauses
18 (xii)(III) and (xiii)(I) of paragraph (1)(E), carbon
19 dioxide is disposed of or utilized as provided in this
20 paragraph if such carbon dioxide is—

21 “(A) placed into secure geological storage
22 (as determined under section 45Q(d)(2)),

23 “(B) used as a tertiary injectant (as de-
24 fined in section 45Q(d)(3)) in a qualified en-
25 hanced oil or natural gas recovery project (as

1 defined in section 45Q(d)(4)) and placed into
2 secure geological storage (as so determined),

3 “(C) fixated through photosynthesis or
4 chemosynthesis (such as through the growing of
5 algae or bacteria),

6 “(D) chemically converted to a material or
7 chemical compound in which it is securely
8 stored, or

9 “(E) used for any other purpose which the
10 Secretary determines has the potential to
11 strengthen or significantly develop a competitive
12 market for carbon dioxide captured from man-
13 made sources.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act, in taxable years ending after such date.

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