House Approves Energy Tax Extenders

Monday, December 8, 2014

Last week, the U.S. House of Representatives (House) overwhelmingly approved a $42 billion tax extenders bill. The bill, H.R. 5771, includes extensions of nearly $10 billion in energy tax incentives through the end of 2014. But by failing to extend the tax incentives beyond the end of this year, the House bill has been criticized by industry advocates that wanted stability and predictability as to the future availability of the incentives.

The bill extends the New Market Tax Credit in Section 45D, the Production Tax Credit in Section 45, the Research Credit in Section 41, the bonus depreciation rules in Section 168(k), the Energy Property Credit for individuals in Section 25C, the Second Generation Biofuel Producer Credit in Section 40(a)(4), the incentives for biodiesel and renewable diesel in Section 40A, the New Energy Efficient Home Credit in Section 45L, the Energy Efficient Commercial Buildings Deduction in Section 179D, the special rule for sales or dispositions to implement FERC or state electric restructuring policy for qualified electric utilities in Section 451 and the excise tax credits relating to certain fuels in Section 6427.

By extending the Production Tax Credit (PTC) and other incentives retroactively only through the end of this year, the House bill provides little reassurance to companies in the industry who are looking to invest in renewable energy products, given the long lead time required to get projects off the ground. With only three weeks left before the PTC expires again, the extension is unlikely to provide much incentive to invest in new renewables projects. The House Ways and Means Committee expects the extension to cost around $9.6 billion over the next 10 years. But industry insiders argue that the expiration of the PTC last year and the resulting uncertainty has caused a drop off in new renewables (non-solar) projects, and have called for a multi-year extension that would phase out the PTC over three years. This kind of phase-out generated bipartisan support in a Senate bill last month, but the bill ultimately died after the White House threatened to veto it over other matters. Although some in the Senate are still pushing for a two-year extenders bill, it is currently expected that the extenders package will ultimately be passed in the form adopted by the House.

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