

117TH CONGRESS  
1ST SESSION

# H. R. 4758

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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2021

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

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## 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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