

108TH CONGRESS  
1ST SESSION

# H. R. 3138

To amend the Internal Revenue Code of 1986 to allow a refundable credit for expenditures for renewable energy property.

---

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2003

Mrs. DAVIS of California 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 allow a refundable credit for expenditures for renewable energy property.

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 “Renewable Energy Act  
5 for Credit on Taxes”.

6 **SEC. 2. REFUNDABLE CREDIT FOR RENEWABLE ENERGY**  
7 **PROPERTY.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of  
10 1986 (relating to refundable credits) is amended by redес-

1 ignating section 36 as section 37 and by inserting after  
2 section 35 the following new section:

3 **“SEC. 36. RENEWABLE ENERGY PROPERTY.**

4 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
5 dividual, there shall be allowed as a credit against the tax  
6 imposed by this chapter for the taxable year an amount  
7 equal to 35 percent of the expenditures for renewable en-  
8 ergy property made by the taxpayer during the taxable  
9 year.

10 “(b) LIMITATION.—

11 “(1) MAXIMUM CREDIT.—The credit allowed  
12 under subsection (a) shall not exceed the lesser of—

13 “(A) \$6,000 (\$50,000 in the case of re-  
14 newable energy property used for nonresidential  
15 business purposes) for each system of renewable  
16 energy property, or

17 “(B) \$4.50 per watt of rated system elec-  
18 tricity output or equivalent.

19 “(2) LOCATION OF STRUCTURE.—No expendi-  
20 ture may be taken into account under this section  
21 unless such expenditure is made by the taxpayer for  
22 property installed on or in connection with a struc-  
23 ture which is located in the United States.

1           “(3) RATING SYSTEM ELECTRICITY OUTPUT.—

2           For purposes of paragraph (1)(B), the rated system  
3           electricity output or equivalent for—

4                   “(A) solar water heating property shall be  
5                   the output determined by the Secretary on the  
6                   basis of evidence acceptable to the Secretary  
7                   which is submitted by manufacturers of such  
8                   property and which includes information relat-  
9                   ing to one year of reliable operation of such  
10                  property,

11                   “(B) photovoltaic property shall be the  
12                   output certified by a nationally recognized test-  
13                   ing laboratory as meeting the requirements of  
14                   the Underwriters Laboratory Standard 1703,

15                   “(C) wind energy property shall be the  
16                   output—

17                           “(i) certified as meeting the require-  
18                           ments of a small wind turbine-specific safe-  
19                           ty or performance standard adopted by a  
20                           national or international standards setting  
21                           body, including International Electric Code  
22                           61400–2, or

23                           “(ii) determined by the Secretary on  
24                           the basis of evidence acceptable to the Sec-  
25                           retary which is submitted by manufactur-

1           ers of such property and which includes in-  
2           formation relating to one year of reliable  
3           operation of such property at a site with  
4           average annual wind speeds of at least 12  
5           miles per hour, and

6           “(D) fuel cell property shall be the output  
7           certified as meeting the requirements specified  
8           by the American Gas Association in document  
9           entitled ‘AGA Requirements for Fuel Cell  
10          Power Plants’, No. 8–90.

11          The Secretary shall determine who makes the certifi-  
12          cations for purposes of subparagraphs (C)(i) and  
13          (D).

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

15                 “(1) RENEWABLE ENERGY PROPERTY.—The  
16                 term ‘renewable energy property’ means property  
17                 which is—

18                         “(A) qualified solar water heating prop-  
19                         erty,

20                         “(B) qualified photovoltaic property,

21                         “(C) qualified wind energy property, or

22                         “(D) qualified fuel cell property.

23                 “(2) QUALIFIED SOLAR WATER HEATING PROP-  
24                 PERTY.—The term ‘qualified solar water heating  
25                 property’ means property that uses solar energy to

1 heat water for use in a structure with respect to  
2 which a majority of the energy is derived from the  
3 sun.

4 “(3) QUALIFIED PHOTOVOLTAIC PROPERTY.—  
5 The term ‘qualified photovoltaic property’ means  
6 property that uses solar energy to generate elec-  
7 tricity for use in a structure.

8 “(4) SOLAR PANELS.—No expenditure relating  
9 to a solar panel or other property installed as a roof  
10 (or portion thereof) shall fail to be treated as prop-  
11 erty described in paragraph (2) or (3) solely because  
12 it constitutes a structural component of the struc-  
13 ture on which it is installed.

14 “(5) QUALIFIED WIND ENERGY PROPERTY.—  
15 The term ‘qualified wind energy property’ means  
16 property which uses wind energy to generate elec-  
17 tricity for use in a structure.

18 “(6) QUALIFIED FUEL CELL PROPERTY.—The  
19 term ‘qualified fuel cell property’ means property  
20 which uses an electrochemical process to generate  
21 electricity for use in a structure.

22 “(7) LABOR COSTS.—Expenditures for labor  
23 costs properly allocable to the onsite preparation, as-  
24 sembly, or original installation of the property de-  
25 scribed in paragraph (2), (3), (5), or (6) and for

1 piping or wiring to interconnect such property to the  
2 dwelling unit shall be taken into account for pur-  
3 poses of this section.

4 “(d) SPECIAL RULES.—For purposes of this sec-  
5 tion—

6 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
7 CUPANCY.—In the case of any structure which is  
8 jointly occupied and used during any calendar year  
9 by 2 or more persons the following shall apply:

10 “(A) The amount of the credit allowable  
11 under subsection (a) by reason of expenditures  
12 (as the case may be) made during such cal-  
13 endar year by any of such persons with respect  
14 to such structure shall be determined by treat-  
15 ing all of such persons as 1 taxpayer whose tax-  
16 able year is such calendar year.

17 “(B) There shall be allowable with respect  
18 to such expenditures to each of such person, a  
19 credit under subsection (a) for the taxable year  
20 in which such calendar year ends in an amount  
21 which bears the same ratio to the amount de-  
22 termined under subparagraph (A) as the  
23 amount of such expenditures made by such per-  
24 son during such calendar year bears to the ag-

1           gregate of such expenditures made by all of  
2           such persons during such calendar year.

3           “(2) TENANT-STOCKHOLDER IN COOPERATIVE  
4           HOUSING CORPORATION.—In the case of an indi-  
5           vidual who is a tenant-stockholder (as defined in sec-  
6           tion 216) in a cooperative housing corporation (as  
7           defined in such section), such individual shall be  
8           treated as having made his tenant-stockholder’s pro-  
9           portionate share (as defined in section 216(b)(3)) of  
10          any expenditures of such corporation.

11          “(3) CONDOMINIUMS.—

12                 “(A) IN GENERAL.—In the case of an indi-  
13                 vidual who is a member of a condominium man-  
14                 agement association with respect to a condo-  
15                 minium which he owns, such individual shall be  
16                 treated as having made his proportionate share  
17                 of any expenditures of such association.

18                 “(B) CONDOMINIUM MANAGEMENT ASSO-  
19                 CIATION.—For purposes of this paragraph, the  
20                 term ‘condominium management association’  
21                 means an organization which meets the require-  
22                 ments of paragraph (1) of section 528(c) (other  
23                 than subparagraph (E) thereof) with respect to  
24                 a condominium project substantially all of the  
25                 units of which are used as residences.

1           “(4) JOINT OWNERSHIP OF ITEMS OF RENEW-  
2 ABLE ENERGY PROPERTY.—

3           “(A) IN GENERAL.—Any expenditure oth-  
4 erwise qualifying as an expenditure described in  
5 paragraph (2), (3), (5), or (6) of subsection (c)  
6 shall not be treated as failing to so qualify  
7 merely because such expenditure was made with  
8 respect to 2 or more structures.

9           “(B) LIMITS APPLIED SEPARATELY.—In  
10 the case of any expenditure described in sub-  
11 paragraph (A), the amount of the credit allow-  
12 able under subsection (a) shall (subject to para-  
13 graph (1)) be computed separately with respect  
14 to the amount of the expenditure made for each  
15 structure.

16           “(5) ALLOCATION IN CERTAIN CASES.—If 80  
17 percent or more of the use of an item is for residen-  
18 tial purposes, then the item shall be treated as used  
19 only for residential purposes.

20           “(6) WHEN EXPENDITURE MADE; AMOUNT OF  
21 EXPENDITURE.—

22           “(A) IN GENERAL.—Except as provided in  
23 subparagraph (B), an expenditure with respect  
24 to an item shall be treated as made when the  
25 original installation of the item is completed.

1           “(B) EXPENDITURES PART OF BUILDING  
2           CONSTRUCTION.—In the case of an expenditure  
3           in connection with the construction or recon-  
4           struction of a structure, such expenditure shall  
5           be treated as made when the original use of the  
6           constructed or reconstructed structure by the  
7           taxpayer begins.

8           “(C) AMOUNT.—The amount of any ex-  
9           penditure shall be the cost thereof.

10          “(7) REDUCTION OF CREDIT FOR GRANTS, TAX-  
11          EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANC-  
12          ING.—The rules of section 29(b)(3) shall apply for  
13          purposes of this section.

14          “(8) DENIAL OF DOUBLE BENEFIT.—No credit  
15          shall be allowed under subsection (a) for any ex-  
16          pense for which a deduction or credit is allowed  
17          under any other provision of this chapter.

18          “(e) BASIS ADJUSTMENTS.—For purposes of this  
19          subtitle, if a credit is allowed under this section for any  
20          expenditure with respect to any property, the increase in  
21          the basis of such property which would (but for this sub-  
22          section) result from such expenditure shall be reduced by  
23          the amount of the credit so allowed.

1       “(f) TERMINATION.—The credit allowed under this  
2 section shall not apply to taxable years beginning after  
3 December 31, 2008.”.

4       (b) CONFORMING AND TECHNICAL AMENDMENTS.—

5           (1) Subsection (a) of section 1016 of such Code  
6 is amended by striking “and” at the end of para-  
7 graph (27), by striking the period at the end of  
8 paragraph (28) and inserting “; and”, and by add-  
9 ing at the end the following new paragraph:

10           “(29) to the extent provided in section 36(e), in  
11 the case of amounts with respect to which a credit  
12 has been allowed under section 36.”

13           (2) Paragraph (2) of section 1324(b) of title  
14 31, United States Code, is amended by inserting “or  
15 from section 36 of such Code” before the period at  
16 the end.

17           (3) The table of sections for such subpart C is  
18 amended by striking the item relating to section 36  
19 and inserting the following new items:

          “Sec. 36. Renewable energy property.  
          “Sec. 37. Overpayment of taxes.”

20       (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years ending after De-  
22 cember 31, 2003.

○