



RIA Special Study: Energy-Related Tax Provisions Extended by Tax Increase Prevention Act of 2014

Nonbusiness Energy Property Credit Extended

For qualified energy property placed in service before 2014, a taxpayer may claim a credit up to a \$500 lifetime limit (with no more than \$200 from windows and skylights) over the aggregate of the credits allowed to the taxpayer for all earlier tax years ending after Dec. 31, 2005. The credit equals the sum of: (1) 10% of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during the tax year, and (2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during the tax year. The credit for residential energy property expenditures can't exceed: (i) \$50 for an advanced main circulating fan; (ii) \$150 for any qualified natural gas, propane, or hot water boiler; and (iii) \$300 for any item of energy-efficient building property.

Under pre-Act law, the credit wasn't available for property placed in service after Dec. 31, 2013.

New law. TIPA retroactively extends the nonbusiness energy property credit for one year, to apply to property placed in service after Dec. 31, 2013, and before Jan. 1, 2015. ([Code Sec. 25C\(g\)\(2\)](#)), as amended by Act Sec. 151(a)) Thus, taxpayers can claim a credit on the cost of qualified energy efficiency improvements and residential energy property expenditures, with a lifetime credit limit of \$500 (\$200 for windows and skylights), for property placed in service through 2014.

Second Generation Biofuel Producer Credit Extended

A producer of qualified biofuel produced after Dec. 31, 2008, can claim a credit, as part of the alcohol fuel credit, for each gallon of "qualified second generation biofuel production." The credit is equal to the "applicable amount" (\$1.01) for each gallon of qualified second generation biofuel production.

Under pre-Act law, this credit didn't apply to second generation biofuel produced after Dec. 31, 2013.

New law. TIPA retroactively extends the second generation biofuel producer credit for one year, i.e., to production after Dec. 31, 2008 and before Jan. 1, 2015.



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Biodiesel and Renewable Diesel Tax Credits Extended

The biodiesel and renewable diesel credit is allowed as a component of the general business income tax credit for fuels sold or used in the U.S. The biodiesel portion of the credit consists of three parts: a \$1.00 per gallon biodiesel mixture credit, a \$1.00 per gallon biodiesel credit and a 10¢ per gallon small agri-biodiesel producer credit. Renewable diesel, i.e., diesel fuel created from biomass, qualifies for the two above \$1.00 credits.

In addition, an excise tax credit is allowed against a taxpayer's removal-at-terminal excise tax liability under [Code Sec. 4081](#). The credit equals \$1.00 per gallon of biodiesel used by the taxpayer in producing a biodiesel mixture for sale or use in the taxpayer's trade or business. If the biodiesel mixture excise tax credit exceeds the taxpayer's liability under [Code Sec. 4081](#), the taxpayer, subject to certain limitations, is allowed an excise tax refund equal to the amount of that excess credit.

Under pre-Act law, these credits weren't available for fuels sold or used after Dec. 31, 2013.

New law. TIPA retroactively extends all of the above rules for one year, i.e., through Dec. 31, 2014.

Production Credit for Indian Coal Facilities Extended

A credit is available for the production of Indian coal sold to an unrelated third party from a qualified facility for a eight-year period beginning Jan. 1, 2006, and ending Dec. 31, 2013. The credit amounts are indexed annually for inflation using 2005 as the base year. The credit amount for 2013 is \$2.308 per ton.

A qualified Indian coal facility is a facility placed in service before Jan. 1, 2009, that produces coal from reserves that, on June 14, 2005, were owned by a Federally recognized tribe of Indians or were held in trust by the U.S. for a tribe or its members.

Under pre-Act law, the credit for Indian coal production wasn't available for production after 2014.

New law. TIPA retroactively extends the production credit for Indian coal facilities under [Code Sec. 45\(e\)\(10\)](#) for one year (through Dec. 31, 2014).

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Renewable Electricity Production Credit Extended

An income tax credit is allowed for the production of electricity from qualified energy resources at qualified facilities (the "renewable electricity production credit"). Qualified energy resources comprise wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, and marine and hydrokinetic renewable energy. Qualified facilities are, generally, facilities that generate electricity using qualified energy resources.

Under pre-Act law, the construction of a qualifying facility had to begin before Jan. 1, 2014.

New Law. TIPA Act retroactively extends the date by which construction of a qualifying facility must begin, for one year, i.e., to Dec. 31, 2014.

New Energy Efficient Home Credit Extended

An eligible contractor can claim a credit of \$2,000 or \$1,000 (depending on the projected level of fuel consumption) for each qualified new energy efficient home that is constructed by the contractor and acquired by a person from the contractor for use as a residence during the tax year.

Under pre-Act law, the new energy efficient home credit didn't apply to homes acquired after Dec. 31, 2013.

New law. TIPA retroactively restores and extends the credit for energy-efficient new homes for one year, i.e., to homes acquired before Jan. 1, 2015.

Bonus Depreciation for Second Generation Biofuels Property Extended

Qualified second generation biofuel plant property qualifies for first-year 50% bonus depreciation and an exemption from the alternative minimum depreciation adjustment. Qualified second generation biofuel plant property is depreciable property which was used in the U.S. solely to produce second generation biofuel, the original use of which commenced with the taxpayer, which is acquired by the taxpayer by purchase, and which was placed in service by the taxpayer before Jan. 1, 2014. Second generation biofuel generally is liquid fuel that is derived by or from any qualified feedstocks and meets EPA registration requirements.

Under pre-Act law, this provision didn't apply to depreciable property placed in service by the taxpayer after Dec. 31, 2013.

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New law. TIPA retroactively extends for one year the allowance for biofuel plant property under [Code Sec. 168\(l\)](#), to apply to property placed in service before Jan. 1, 2015.

Energy Efficient Commercial Buildings Deduction Extended

A deduction is allowed in an amount equal to the cost of an "energy efficient commercial building property" placed in service during the tax year. The maximum deduction for any building for any tax year is the excess (if any) of the product of \$1.80, and the square footage of the building, over the aggregate amount of the deduction under [Code Sec. 179D\(a\)](#) for the building for all earlier tax years.

Under pre-Act law, this deduction didn't apply to property placed in service after Dec. 31, 2013.

New law. TIPA retroactively restores and extends the deduction for one year, for property placed in service before Jan. 1, 2015.

Deferral of Gain on Sales of Electric Transmission Property Reinstated and Extended

A vertically integrated electric utility may elect to defer over eight years gain on sales of: (i) property used in the trade or business of providing electric transmission services; or (ii) any stock or partnership interest in an entity whose principal trade or business consists of providing electric transmission services, to Federal Energy Regulatory Commission (FERC)-approved independent transmission companies.

Under pre-Act law, this deferral didn't apply to sales that took place after Dec. 31, 2013.

New law. TIPA retroactively restores and extends the gain deferral provisions for one year, for dispositions after Dec. 31, 2013 and before Jan. 1, 2015.

Biodiesel Mixture Excise Tax Credit Extended

A producer of biodiesel and renewable diesel fuel mixtures can claim an excise tax credit against the [Code Sec. 4081](#) removal-at-terminal excise tax for fuels sold or used in the U.S. equal to 50¢ multiplied by the number of gallons of alternative fuel or gasoline gallon sold or used by the taxpayer.

Under pre-Act law, the credit didn't apply to any sale, use, or removal of fuel after Dec. 31, 2013.



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New law. TIPA retroactively extends the excise tax credit for one year so that it applies to sales, use, or removal of biodiesel mixtures through Dec. 31, 2014.

The changes made by Act. Sec. 160 generally apply to fuel sold or used after Dec. 31, 2013. The Act directs IRS to issue guidance, within 30 days of the enactment date, that sets out procedures and deadlines for claiming the credit for periods after Dec. 31, 2013 and before the enactment date.

Biodiesel Mixture Excise Tax Refund Provisions Extended

A producer of biodiesel mixtures is entitled to an excise tax refund (or income tax credit) equal to the amount by which the sum of the fuel mixture excise tax credit components exceeded their [Code Sec. 4081](#) removal-at-terminal excise tax liability.

Under pre-Act law, the credit didn't apply to any biodiesel mixture sold or used after Dec. 31, 2013.

New law. TIPA retroactively extends the excise tax credit for one year so that it applies to sales or use of biodiesel mixtures through Dec. 31, 2014.

Alternate Fuels & Mixtures Excise Tax Credit Extended

A 50¢-per-gallon (or gasoline gallon equivalent for non-liquid fuel) excise tax credit is allowed against the [Code Sec. 4041](#) retail fuel excise tax liability, for alternative fuel sold for use or used by a taxpayer. A credit is also allowed against the [Code Sec. 4081](#) removal at terminal excise tax liability, for alternative fuel used to produce an alternative fuel mixture for sale or use in the taxpayer's trade or business. A taxpayer may claim an excise tax refund (or, in some cases, a credit against income tax) to the extent the taxpayer's alternative fuel or mixture excise tax credit exceeds the taxpayer's [Code Sec. 4041](#) or [Code Sec. 4081](#) liability.

Under pre-Act law, the alternative fuel and alternative fuel mixture excise tax credit, and the refund rules generally didn't apply for any sale or use after Dec. 31, 2013 (after Sept. 30, 2014, for all fuels involving liquefied hydrogen).

New law. TIPA retroactively extends the alternative fuel and alternative fuel mixture tax incentives through Dec. 31, 2014 (including those related to hydrogen). ([Code Sec. 6426\(d\)\(5\)](#) and [Code Sec. 6426\(e\)\(3\)](#) , as amended by Act Sec. 160(b)(1); [Code Sec. 6427\(e\)\(6\)](#) , as amended by Act Sec. 160(b)(2)) The amendments that pertain to hydrogen apply to fuel sold or used after Sept. 30, 2014. (Act Sec. 160(d)) The Act further directs IRS to issue guidance within 30 days of the enactment date setting out procedures and deadlines for claiming the credit for periods after Dec. 31, 2013 and before the enactment date. (Act Sec. 160(e))



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