

111TH CONGRESS
1ST SESSION

S. 802

To amend the Internal Revenue Code of 1986 to allow Indian tribes to transfer the credit for electricity produced from renewable resources.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2009

Mr. JOHNSON 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 allow Indian tribes to transfer the credit for electricity produced from renewable resources.

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. TRANSFER BY INDIAN TRIBES OF CREDIT FOR**
4 **ELECTRICITY PRODUCED FROM RENEWABLE**
5 **RESOURCES.**

6 (a) IN GENERAL.—Paragraph (3) of section 45(e) of
7 the Internal Revenue Code of 1986 (relating to production
8 attributable to the taxpayer) is amended to read as fol-
9 lows:

1 “(3) PRODUCTION ATTRIBUTABLE TO THE TAX-
2 PAYER.—

3 “(A) IN GENERAL.—In the case of a facil-
4 ity in which more than 1 person has an owner-
5 ship interest, except to the extent provided in
6 regulations prescribed by the Secretary, produc-
7 tion from the facility shall be allocated among
8 such persons in proportion to their respective
9 ownership interests in the gross sales from such
10 facility.

11 “(B) SPECIAL RULE FOR INDIAN
12 TRIBES.—

13 “(i) IN GENERAL.—In the case of a
14 facility described in subparagraph (A) in
15 which an Indian tribe has an ownership in-
16 terest in the gross sales from such facility,
17 such Indian tribe may assign to any other
18 person who has such an ownership interest
19 in such facility any portion of the produc-
20 tion from the facility that would (but for
21 this subparagraph) be allocated to such In-
22 dian tribe. Any such assignment may be
23 revoked only with the consent of the Sec-
24 retary and shall be made at such time and

1 in such manner as the Secretary may pro-
2 vide.

3 “(ii) INDIAN TRIBE.—For purposes of
4 clause (i), the term ‘Indian tribe’ means
5 any Indian tribe, band, nation, pueblo, or
6 other organized group or community, in-
7 cluding any Alaska Native village or re-
8 gional or village corporation, as defined in,
9 or established pursuant to, the Alaska Na-
10 tive Claims Settlement Act (43 U.S.C.
11 1601 et seq.) which is recognized as eligi-
12 ble for the special programs and services
13 provided by the United States to Indians
14 because of their status as Indians.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to electricity produced and sold
17 after the date of the enactment of this Act.

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