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<u>New Energy Efficient Subsection of the R&D Credit</u>
<u>Subsection Under Current IRC Sec 41.</u>

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Overview

The ultimate goal of "energy efficient" research must be a product or process that will meet or exceed, or assist property in meeting or exceeding, an existing energy efficient standard, (rather than meeting or exceeding figures from previous years). This new subsection of the current R and D credit would offer an additional 25% increase in the R&D credit for all research with a substantial goal of improving energy efficiency--defined as meeting or surpassing a government standard or a 10% improvement of an existing industry-standard – – and a 10% increase in the credit in either category if the company substantially manufacturers related products domestically. We want to ensure we are capturing research where a primary or significant goal of the research is energy efficiency so as to encompass not just the actual creation of energy efficient products, but also manufacturing processes to make those products and the development of energy efficient product components. Finally, the research need only be intended to result in the above mentioned products or processes. It will not be necessary to demonstrate success before qualifying for the 25% bonus. Designing the statute as part of the current Sec. 41, as opposed to a separate Sec. 41A, will ensure that the energy efficient bonus is included in future extensions and expansions of the research credit. This will also serve to keep the cost of the provision low because it will be limited by the research credit's general temporary nature.

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Changes to Current Law

The current Sec. 41(h) would move to Sec. 41(i) and a new Sec. 41(h) energy efficient R&D bonus, would be added.

A new Sec. 41(a)(4), the energy efficient R&D bonus, as determined under Sec. 41(h) would be added.

Under Sec. 41(h)(1), the energy efficient R&D bonus would be 25% the amount of the credit determined under 41(a)(1) (including any alternative simplified credit calculated under 41(c)(5) if an election under that section has been made for the taxable year) multiplied by the ratio of energy efficient QREs (Qualified Research Expenses) to total QREs.

Under 41(h)(2), the bonus would be increased by an additional 50% of the regular credit for "heightened energy efficient" research. The 50% bonus would be the credit under 41(a)(1) multiplied by the ratio of "heightened energy efficient" QREs to total QREs.

Under Sec. 41(h)(3), the definition of energy efficient QREs are QREs, as defined under 41(b) that are incurred for "energy efficient" research.

Under Sec. 41(h)(4), energy efficient research is qualified research as defined in 41(d) except that that the business component which the taxpayer seeks to develop must be a product which is intended to meet or exceed a government or industry energy efficiency standard or a process to manufacture a product with is intended to meet or exceed a

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government or industry energy efficiency standard, or reduce fuel consumption or carbon dioxide emissions by a specified amount. Acceptable business components would also include component parts of products meeting the energy efficient standards and associated manufacturing processes.

Heightened energy efficiency R&D is energy efficiency R&D where the taxpayer intends the product to exceed the energy efficiency standard by at least 20% in the case of a government standard or 30% in the case of an industry standard.

Under Sec. 41 (h)(5), the energy efficient R&D standards are:

- Current standards promulgated by any federal, state, or local government agency;
- Current industry standards generally accepted by the industry.
- Estimated to result in a reduction in—
- "(i) the nationwide consumption of fuel by 550 million gallons,

  or
- "(ii) the nationwide production of emissions of carbon dioxide of 5 million metric tons.

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Under Sec. 41(h)(6), an employee or representative of the taxpayer who is responsible for overseeing the energy efficient R&D must attest in writing that the company's research meets the requirements of Sec. 41(h)(4) or (5).

Finally, 41 (h) (7) would include an additional bonus of 10% of the credit under Sec. 41(a) for products or processes that apply under this section, that are manufactured primarily (50% or more) in the U.S.

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