CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 19, 2008

H.R. 6049
Energy and Tax Extenders Act of 2008

As ordered reported by the House Committee on Ways and Means on May 15, 2008

SUMMARY

H.R. 6049 would amend tax law as it relates to a variety of expiring provisions, incentives for renewable energy investments, the treatment of income from deferred compensation, and the allocation of business interest expenses. The Joint Committee on Taxation (JCT) and the Congressional Budget Office estimate that enacting H.R. 6049 would decrease revenues by $8.1 billion in 2008 and increase revenues by $5.8 billion over the 2008-2018 period. CBO and JCT estimate that the bill would increase direct spending by $0.1 billion in 2008 and by $5.6 billion over the 2008-2018 period. On net, the bill would decrease budget deficits (or increase surpluses) by $0.1 billion over the 2008-2018 period.

CBO and JCT have reviewed the bill and determined that it contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO has reviewed the nontax provisions of the bill and determined that they contain no private-sector mandates as defined in UMRA. JCT has reviewed the tax provisions of the bill and determined that they contain three private-sector mandates: the extension of the excise tax on coal at current rates, the immediate tax on deferred compensation paid by certain foreign entities, and the delay in implementing worldwide allocation of interest expense until 2019. JCT estimates that the costs required to comply with the mandates would exceed the annual threshold established by UMRA ($136 million in 2008, adjusted annually for inflation) in each of the next 10 years (2009 through 2018).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 6049 is shown in the following table. The costs of this legislation fall within budget functions 600 (income security), 800 (general government), and all other functions that contain salaries and expenses.

	By Fiscal Year, in Millions of Dollars												
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2008-2013	2008-2018
CHANGES IN REVENUES													
Energy Tax Provisions	-662	-2,386	-1,564	-1,569	-1,731	-1,742	-1,458	-1,248	-1,065	-1,119	-1,176	-9,658	-15,725
Extension and Modification of Certain Provisions	-6,106	-10,722	-5,105	-1,107	-946	-772	-684	-625	-403	-307	-150	-24,757	-26,927
Immediate Tax on Deferred Compensation	0	1,849	2,539	2,313	2,275	2,028	1,513	942	453	7,319	3,057	11,003	24,289
Delay in Worldwide Interest Allocation Rules	0	999	2,736	2,845	2,958	3,077	3,203	3,328	3,461	3,610	3,745	12,615	29,962
Corporate Estimated Tax Payments Due in 2012 and 2013	0	0	0	0	-9,934	31,312	-21,378	0	0	0	0	21,378	0
Other Provisions	-1,287	-2,739	-949	-300	-112	-83	-60	-71	-76	-76	-71	-5,470	-5,824
Total Changes in Revenues	-8,055	-12,999	-2,343	2,182	-7,490	33,820	-18,864	2,326	2,370	9,427	5,405	5,111	5,775
On-budget	-8,055	-12,994	-2,341	2,182	-7,490	33,820	-18,864	2,326	2,370	9,427	5,405	5,118	5,782
Off-budget	0	-5	-2	0	0	0	0	0	0	0	0	-7	-7
CHANGES IN DIRECT SPENDING (OUTLAYS)[a]													
Refundable Child Credit	0	3,129	0	0	0	0	0	0	0	0	0	3,129	3,129
Refundable AMT Credit	0	879	157	0	0	0	0	0	0	0	0	1,036	1,036
Refunds for Excise Tax on Exported Coal	22	177	0	0	0	0	0	0	0	0	0	199	199
Funding for New York's Transportation Infrastructure	0	115	115	115	115	115	115	115	115	115	115	575	1,150
Include Combat Pay in Earned Income for Calculating the EIC	0	17	0	0	0	0	0	0	0	0	0	17	17
Payment of Tax on Distilled Spirits	76	20	0	0	0	0	0	0	0	0	0	96	96
Total Changes in Direct Spending	98	4,337	272	115	115	115	115	115	115	115	115	5,052	5,627
NET EFFECT ON THE BUDGET DEFICIT OR SURPLUS FROM CHANGES IN REVENUES AND DIRECT SPENDING													
Net Change in the Budget Deficit or Surplus[b]	-8,153	-17,336	-2,615	2,067	-7,605	33,705	-18,979	2,211	2,255	9,312	5,290	59	148

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	By Fiscal Year, in Millions of Dollars												
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2008-2013	2008-2018
CHANGES IN SPENDING SUBJECT TO APPROPRIATION													
Transportation Fringe Benefit													
Estimated Authorization Level	0	2	3	3	3	3	3	3	3	3	3	14	29
Estimated Outlays	0	2	3	3	3	3	3	3	3	3	3	14	29
Reports													
Estimated Authorization Level	*	2	*	*	0	0	0	0	0	0	0	2	2
Estimated Outlays	*	2	*	*	0	0	0	0	0	0	0	2	2
Total Changes in Spending Subject to Appropriation													
Estimated Authorization Level	*	4	3	3	3	3	3	3	3	3	3	16	31
Estimated Outlays	*	4	3	3	3	3	3	3	3	3	3	16	31

Sources: Congressional Budget Office and Joint Committee on Taxation.

Notes: AMT = alternative minimum tax; EIC = earned income credit; * = effect less than $500,000.

a. For all direct spending changes, budget authority equals outlays.

b. Negative numbers indicate increases in deficits (or decreases in surpluses); positive numbers indicate decreases in deficits (or increases in surpluses).

BASIS OF THE ESTIMATE

JCT estimated the effects of H.R. 6049 on revenues, with the exception of one provision. CBO estimated the effects on revenues from the provision that would extend parity in the application of certain limits to mental health benefits. CBO and JCT estimated the effects on direct spending. For this estimate, CBO and JCT assume the legislation is enacted by June 1, 2008.

Revenues

Among other energy-related provisions, the bill extends for one year the tax credit for renewable energy production from various qualifying facilities, including wind, biomass, geothermal, and hydropower facilities, and adds facilities that generate electricity from renewable marine sources, such as tides and waves, to the list of those eligible for the production credit. Additionally, the bill would extend for one year the credit for energy-efficient improvements to a home, expand the advanced coal project and coal gasification investment credits, and provide a tax credit to purchasers of plug-in electric vehicles. JCT estimates that these and other energy-related provisions would reduce revenues by $15.7 billion over the 2008-2018 period.

H.R. 6049 would extend a number of other expiring tax provisions for one year, including the deductions from taxable income for state and local sales taxes and certain higher-education tuition expenses. The bill also would extend for one year the tax credit for businesses that incur certain research and experimentation expenses and the 15-year straight line cost recovery method for certain types of expenses associated with improvements to leased property or restaurants. In addition to extending and modifying various expiring tax laws, the bill would allow taxpayers who do not itemize their deductions to add up to $350 of their 2008 property taxes paid to their standard deduction ($750 in the case of a married couple filing a joint return). JCT estimates that these extensions and other provisions would reduce revenues by $32.8 billion over the 2008-2018 period.

The bill includes several provisions that would raise revenues over the 2008-2018 period. Such provisions include a delay until 2019 of the effective date of a provision enacted in the American Jobs Creation Act of 2004 that, starting in 2009, allows businesses to use an alternative method for allocating their interest expense between the United States and foreign sources. The bill also would modify the rules related to the taxation of deferred compensation. JCT estimates that these provisions would increase revenues by $54.3 billion over the 2008-2018 period. The bill also would shift revenues out of 2012 and 2014 and into 2013 by adjusting the portion of corporate estimated tax payments due in July through September of 2012 and 2013.

Direct Spending

Refundable Tax Credits. Individuals may claim a tax credit for qualifying children under the age of 17. In the event that the credit exceeds a taxpayer's liability in a tax year, the taxpayer is allowed a refundable credit for that excess amount subject to certain limitations. The amount of that refundable credit is recorded as an outlay in the budget. Under H.R. 6049, those limitations would be loosened. Furthermore, the bill would modify the refundable credit associated with payments of the AMT. Under current law, an individual who pays the alternative minimum tax in any tax year may be eligible for a refundable tax credit in future years. H.R. 6049 would allow for an accelerated use of unused credits from previous years. JCT estimates that these provisions would increase outlays for the refundable credits by $4.2 billion over the 2008-2018 period.

Refunds for Excise Tax on Exported Coal. The bill would allow coal producers and exporters to claim a refund for excise taxes imposed on coal exported from the United States. Those taxes have been ruled unconstitutional. Refunds of the principal amount would be treated as a reduction in revenues, while refunds of the interest on those payments would be treated as direct spending. JCT estimates that refunding such payments would decrease revenues and increase outlays over the 2008-2009 period by $0.1 billion and $0.2 billion, respectively. That estimate is based on two factors: the number of outstanding court cases involving coal producers and exporters currently seeking repayment of coal export taxes (as well as interest on those earlier payments), and the average court settlement for previous cases. JCT assumes that all refunds for pending cases would be paid in 2008 and 2009. Payments in those years accelerate some settlements that would have occurred in later years; as a result, JCT estimates that between 2010 and 2018 revenues would increase by $0.1 billion, offsetting the revenue decrease in 2008 and 2009.

Funding for New York's Transportation Infrastructure. The bill would provide the city and the state of New York with tax credits for a certain amount of their expenditures made for transportation infrastructure related to the Liberty Zone. The credits could be used against the income taxes that the jurisdictions withhold from the paychecks of their employees and remit to the Internal Revenue Service. Because the jurisdictions do not themselves pay federal income taxes, the credits would essentially be grants and are treated as direct spending. JCT estimates that instituting the credits would increase direct spending by $1.2 billion over the 2008-2018 period.

Include Combat Pay as Earned Income. The bill would extend the option for individuals to include combat pay in earned income for purposes of the earned income credit through December 31, 2008. JCT estimates that this change would increase outlays from the refundable credit by $17 million in 2009.

Payment of Tax on Distilled Spirits. An excise tax of $13.50 per proof gallon is assessed on distilled spirits produced or brought into the United States. The treasuries of Puerto Rico and the Virgin Islands have received $10.50 per proof gallon of the excise tax on rum imported into the United States from any country or those territories (that amount is known as the tax cover over) since the higher payment rate of $13.25 per proof gallon expired on December 31, 2007. Section 254 would increase the cover over to $13.25 per proof gallon for assessments made between January 1, 2008, and December 31, 2008. Those payments to Puerto Rico and the Virgin Islands are recorded in the budget as outlays. Based on recent tax and payment data, CBO estimates that this provision would increase direct spending by $96 million over the 2008-2009 period.

Spending Subject to Appropriation

Transportation Fringe Benefits. The bill would expand the use of transportation fringe benefits for federal employees to include bicycle commuters. The provision would allow up to $20 per month for repair expenses, equipment costs, and storage costs for employees who regularly use a bicycle for commuting purposes. Based on information from the U.S. Census Bureau, CBO estimates that about 11,000 federal employees currently commute to work via bicycle. Assuming appropriation of the necessary amounts, CBO estimates that implementing this provision would cost $2 million in 2009 and $14 million over the 2009-2013 period.

Reports. H.R. 6049 would require two reports to the Congress by the National Academy of Sciences. One would evaluate the tax provisions in the Internal Revenue Code that affect carbon and greenhouse gas emissions, while the other would concern biofuels, including their present status and future potential. Based on the costs of similar studies and assuming appropriation of the specified and necessary amounts, CBO estimates that those studies would cost $2 million over the 2008-2012 period.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

CBO and JCT have reviewed the bill and determined that it contains no intergovernmental mandates as defined in UMRA. CBO has reviewed the nontax provisions of the bill and determined that they contain no private-sector mandates as defined in UMRA. JCT has determined that the tax provisions of the bill contain three private-sector mandates as defined in UMRA. The bill would extend the excise tax on coal at its current rates, adjust the rules for taxation of deferred compensation, and delay the implementation of worldwide interest allocation rules. JCT estimates the costs required to comply with the mandates would exceed the annual threshold established by UMRA ($136 million in 2008, adjusted annually for inflation) in each of the next 10 years.

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