

# Income Tax Newsletter

A Butzel Long Publication

**March, 2009**

Volume 1 – Issue 9

## **Income Tax Group Members**

Sean Cook  
David DuMouchel  
Andrew Kulpa  
Terry Lang  
Suzanne Miller  
Jeffrey Moss  
Robert Nemzin  
Peter Prokop  
Carl Rashid  
John Raymond  
Richard Shapack

To comply with U.S. Treasury Regulations: This communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the tax laws of the United States, or promoting, marketing or recommending to another party any transaction or matter addressed in this communication (and any attachment).

This newsletter has been prepared by Butzel Long for information only and is not legal advice. This news is only intended to highlight some of the important issues. This information is not intended to create, and receipt of it does not constitute, a client-lawyer relationship. Readers should not act upon this information without seeking professional counsel.

## RENEWABLE ENERGY TAX INCENTIVES AND PRIORITY EXPENDITURES FROM THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

*By Jeffrey D. Moss*

The American Recovery and Reinvestment Act of 2009, ("ARRA") passed by Congress and approved by President Obama, contains many new and enhanced tax incentives and also provides for certain priority expenditures for the renewable energy sector. Butzel Long has many attorneys who are experienced and have expertise in energy and renewable energy law and has teams of cross-disciplined lawyers to assist in energy transactions. Among the energy based highlights of the ARRA are:

1. Production Tax Credit. There is a three-year extension of the Production Tax Credit ("PTC") for electricity derived from wind (through 2012) and for electricity derived from sources such as biomass, geothermal, hydro power, landfill gas, "waste to energy" and marine facilities (through December 31, 2013). These credits were set to expire earlier.
2. Investment Tax Credit. There is an expansion of the Investment Tax Credit ("ITC") and increased flexibility for project developers by giving developers a choice of taking the PTC, the Federal Business Energy Investment Tax Credit, or to receive a grant from the United States Treasury.

"*Prior law*". The PTC was previously expanded significantly by the Energy Improvement and Extension Act of 2008 in October 2008. The 2008 change allowed developers of solar energy, fuel cells and micro-turbines to claim production tax credits of up to 30% of their expenditures with no maximum credit stated, for property placed in service after December 31, 2008. Note that both fuel cells and small wind turbines had maximum credits or caps between October 4, 2008 and December 31, 2008.

"*New law*". Energy developers can now choose whether to elect to use the PTC, the ITC, or to receive a government grant for the production of qualified renewable energy. Grants can be equal to 30% of the cost of eligible projects that start construction in 2009 or 2010. The grant will be issued within 60 days of the facility being placed in service, or later, within 60 days of receiving a grant application. The grants are touted as a way to fund the ITC without having to go to the market for tax credit investors. The grant applications are not yet available but should be soon.

*(continued on Page 2)*

**BUTZEL LONG**  
ATTORNEYS AND COUNSELORS  
a professional corporation

**March, 2009**

Volume 1 – Issue 9

**Income Tax  
Group Members**

Sean Cook  
 David DuMouchel  
 Andrew Kulpa  
 Terry Lang  
 Suzanne Miller  
 Jeffrey Moss  
 Robert Nemzin  
 Peter Prokop  
 Carl Rashid  
 John Raymond  
 Richard Shapack

To comply with U.S. Treasury Regulations: This communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the tax laws of the United States, or promoting, marketing or recommending to another party any transaction or matter addressed in this communication (and any attachment).

This newsletter has been prepared by Butzel Long for information only and is not legal advice. This news is only intended to highlight some of the important issues. This information is not intended to create, and receipt of it does not constitute, a client-lawyer relationship. Readers should not act upon this information without seeking professional counsel.

**BUTZEL LONG**  
 ATTORNEYS AND COUNSELORS

a professional corporation

RENEWABLE ENERGY TAX INCENTIVES AND PRIORITY  
 EXPENDITURES FROM THE AMERICAN RECOVERY AND REINVESTMENT ACT OF  
 2009

By Jeffrey D. Moss

8. Smart Grid Technology. The ARRA provides up to \$4.5 Billion to create smart grid technology to modernize the nation's electricity grid.

We will be continually monitoring the various Federal and State incentives and grant programs in this developing area.

<a href="#">Sean Cook</a>	(248) 258-4473
<a href="#">David DuMouchel</a>	(313) 225-7004
<a href="#">Andrew Kulpa</a>	(313) 225-7094
<a href="#">Terry Lang</a>	(248) 258-4462
<a href="#">Suzanne Miller</a>	(248) 258-2921
<a href="#">Jeffrey Moss</a>	(248) 258-2503
<a href="#">Robert Nemzin</a>	(248) 258-2909
<a href="#">Peter Prokop</a>	(248) 258-1096
<a href="#">Carl Rashid</a>	(313) 225-7026
<a href="#">John Raymond</a>	(561) 659-8661
<a href="#">Richard Shapack</a>	(248) 258-4475