

112TH CONGRESS
1ST SESSION

H. R. 3495

To amend the Internal Revenue Code of 1986 to provide market-based manufacturing incentives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2011

Mr. HONDA (for himself, Ms. SCHAKOWSKY, Ms. BERKLEY, Mr. GRIJALVA, Ms. LEE of California, Mr. CARSON of Indiana, Ms. WILSON of Florida, Mr. CICILLINE, Mr. DAVIS of Illinois, Mr. CONYERS, Ms. CLARKE of New York, and Mr. JACKSON of Illinois) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide market-based manufacturing incentives, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Market Based Manu-
5 facturing Incentives Act of 2011”.

1 **SEC. 2. CREDIT FOR RETAIL PURCHASE OF CERTAIN DO-**
2 **MESTIC PRODUCTS.**

3 (a) IN GENERAL.—Subpart B of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 is amended by adding at the end the following new
6 section:

7 **“SEC. 30E. DOMESTIC MANUFACTURING CONSUMER CRED-**
8 **IT.**

9 “(a) ALLOWANCE OF CREDIT.—There shall be al-
10 lowed as a credit against the tax imposed by this chapter
11 for any taxable year an amount equal to the applicable
12 percentage of the aggregate amount paid or incurred by
13 the taxpayer for specified products during any portion
14 such taxable year which is part of the eligible period.

15 “(b) APPLICABLE PERCENTAGE; ELIGIBLE PE-
16 RIOD.—For purposes of this section—

17 “(1) APPLICABLE PERCENTAGE.—The term
18 ‘applicable percentage’ means, with respect to any
19 specified product, the percentage (not less than 5
20 percent nor more than 20 percent) determined by
21 the Commission under subsection (e)(4) with respect
22 to such product.

23 “(2) ELIGIBLE PERIOD.—The term ‘eligible pe-
24 riod’ means, with respect to any specified product,
25 the period (not less than 5 years nor more than 10

1 years) determined by the Commission under sub-
2 section (e)(5) with respect to such product.

3 “(3) SEPARATE APPLICATION TO EACH SPECI-
4 FIED PRODUCT.—Subsection (a) shall be applied
5 separately with respect to each of the specified prod-
6 ucts designated under subsection (e).

7 “(c) SPECIFIED PRODUCT.—For purposes of this sec-
8 tion—

9 “(1) IN GENERAL.—The term ‘specified prod-
10 uct’ means any designated domestic product—

11 “(A) the original use of which commences
12 with the taxpayer, and

13 “(B) which is acquired by the taxpayer for
14 use or lease, but not for resale.

15 “(2) DESIGNATED DOMESTIC PRODUCT.—The
16 term ‘designated domestic product’ means any des-
17 ignated product which has been certified by the Sec-
18 retary as—

19 “(A) having been assembled in the United
20 States, and

21 “(B) consisting at least 60 percent of com-
22 ponents assembled or otherwise arising in the
23 United States.

24 “(3) DESIGNATED PRODUCT.—The term ‘des-
25 ignated product’ means the 10 products designated

1 by the Secretary, in consultation with the Commis-
2 sion, under subsection (e).

3 “(d) APPLICATION WITH OTHER CREDITS.—

4 “(1) BUSINESS CREDIT TREATED AS PART OF
5 GENERAL BUSINESS CREDIT.—So much of the credit
6 which would be allowed under subsection (a) for any
7 taxable year (determined without regard to this sub-
8 section) that is attributable to property used by the
9 taxpayer in the conduct of a trade or business shall
10 be treated as a credit listed in section 38(b) for such
11 taxable year (and not allowed under subsection (a)).

12 “(2) PERSONAL CREDIT.—For purposes of this
13 title, the credit allowed under subsection (a) for any
14 taxable year (determined after application of para-
15 graph (1)) shall be treated as a credit allowable
16 under subpart A for such taxable year.

17 “(e) SELECTION OF DESIGNATED PRODUCTS.—

18 “(1) IN GENERAL.—The Secretary, in consulta-
19 tion with the Commission, shall designate 10 prod-
20 ucts for purposes of this section.

21 “(2) ELIGIBLE PRODUCTS.—A product shall
22 not be eligible for designation under this section un-
23 less—

24 “(A) such product represents a techno-
25 logical innovation, and

1 “(B) the designation of such product has
2 the potential to produce substantial long-term
3 job opportunities in the United States.

4 “(3) CRITERIA FOR DESIGNATION.—In making
5 designations of products under this subsection, the
6 Secretary shall take into consideration—

7 “(A) the number of jobs in the United
8 States that the Secretary estimates will result
9 (directly and indirectly) from the designation of
10 such product, and

11 “(B) the speed with which such jobs are
12 likely to be created.

13 “(4) DETERMINATION OF CREDIT PERCENT-
14 AGE.—The Secretary, in consultation with the Com-
15 mission, shall determine the applicable percentage
16 which applies for purposes of subsection (a) with re-
17 spect to each product designated under this sub-
18 section. Such percentage shall not be less than 5
19 percent and shall not be more than 20 percent. Such
20 percentage shall be determined on the basis of the
21 incentive needed with respect to each such product
22 taking into account the market factors with respect
23 to such product.

24 “(5) DETERMINATION OF PERIOD DURING
25 WHICH CREDIT ALLOWED.—The Secretary, in con-

1 sultation with the Commission, shall determine the
2 eligible period which applies for purposes of sub-
3 section (a) with respect to each product designated
4 under this subsection. Such period shall not be less
5 than 5 years and shall not be more than 10 years.
6 Such period shall be determined on the basis of the
7 incentive needed with respect to each such product
8 taking into account the market factors with respect
9 to such product.

10 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—

11 For purposes of this section—

12 “(1) COMMISSION.—The term ‘Commission’
13 means the 21st Century American Manufacturing
14 Commission established under section 3 of the Mar-
15 ket Based Manufacturing Incentives Act of 2011.

16 “(2) REDUCTION IN BASIS.—For purposes of
17 this subtitle, the basis of any property for which a
18 credit is allowable under subsection (a) shall be re-
19 duced by the amount of such credit so allowed (de-
20 termined without regard to subsection (d)).

21 “(3) NO DOUBLE BENEFIT.—The amount of
22 any deduction or other credit allowable under this
23 chapter with respect to any property shall be re-
24 duced by the amount of the credit allowed under

1 subsection (a) for such property (determined without
2 regard to subsection (d)).

3 “(4) PROPERTY USED BY TAX-EXEMPT ENTI-
4 TY.—In the case of property whose use is described
5 in paragraph (3) or (4) of section 50(b) and which
6 is not subject to a lease, the person who sold such
7 property to the person or entity using such property
8 shall be treated as the taxpayer that placed such ve-
9 hicle in service, but only if such person clearly dis-
10 closes to such person or entity in a document the
11 amount of any credit allowable under subsection (a)
12 with respect to such property (determined without
13 regard to subsection (d)). For purposes of subsection
14 (d), property to which this paragraph applies shall
15 be treated as property used by the taxpayer in the
16 conduct of a trade or business.

17 “(5) PROPERTY USED OUTSIDE UNITED
18 STATES, ETC., NOT QUALIFIED.—No credit shall be
19 allowable under subsection (a) with respect to any
20 property referred to in section 50(b)(1).

21 “(6) RECAPTURE.—The Secretary shall, by reg-
22 ulations, provide for recapturing the benefit of any
23 credit allowable under subsection (a) with respect to
24 any property which ceases to be property eligible for
25 such credit (including recapture in the case of a

1 lease period of less than the economic life of the
2 property).

3 “(7) ELECTION TO NOT TAKE CREDIT.—No
4 credit shall be allowed under subsection (a) for any
5 vehicle if the taxpayer elects to not have this section
6 apply to such property.

7 “(g) TERMINATION.—This section shall not apply to
8 property acquired after the date which is 10 years after
9 the date of the enactment of this section.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 38(b) of such Code is amended by
12 striking “plus” at the end of paragraph (35), by
13 striking the period at the end of paragraph (36) and
14 inserting “, plus”, and by adding at the end the fol-
15 lowing new paragraph:

16 “(37) the portion of the domestic manufac-
17 turing consumer credit to which section 30E(d)(1)
18 applies.”.

19 (2) Section 1016(a) of such Code is amended
20 by striking “and” at the end of paragraph (36), by
21 striking the period at the end of paragraph (37) and
22 inserting “, and”, and by adding at the end the fol-
23 lowing new paragraph:

24 “(38) to the extent provided in section
25 30E(f)(2).”.

1 (3) Section 6501(m) of such Code is amended
2 by inserting “30E(f)(7),” after “30D(e)(4),”.

3 (4) The table of sections for subpart B of part
4 IV of subchapter A of chapter 1 of such Code is
5 amended by adding at the end the following new
6 item:

“Sec. 30E. Domestic manufacturing consumer credit.”.

7 (c) GAO REPORT.—The Government Accountability
8 Office shall, during the 3d, 5th, and 7th years after the
9 effective date of the domestic manufacturing consumer
10 credit (described in subsection (d)), report to Congress on
11 the economic effects of such credit. Such report shall in-
12 clude the aggregate value of the domestic manufacturing
13 consumer credits determined with respect to taxpayers
14 under section 30E of the Internal Revenue Code of 1986
15 and an estimate of the economic activity stimulated by
16 such credits.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property acquired after the date
19 which is 1 year after the date on which the 21st Century
20 American Manufacturing Commission makes its rec-
21 ommendations to the Secretary of the Treasury under sec-
22 tion 3(b) of this Act.

1 **SEC. 3. ESTABLISHMENT OF 21ST CENTURY AMERICAN**
2 **MANUFACTURING COMMISSION.**

3 (a) IN GENERAL.—There is established a commission
4 to be known as the 21st Century American Manufacturing
5 Commission.

6 (b) DUTIES.—The Commission shall conduct re-
7 search regarding appropriate products to make eligible for
8 the tax credit provided by section 30E of the Internal Rev-
9 enue Code of 1986 and shall make recommendations to
10 the Secretary of the Treasury regarding which products
11 should be designated for purposes of such section and the
12 applicable percentage and eligible period which should be
13 determined with respect to each such product. The com-
14 mission shall make such recommendations to the Sec-
15 retary of the Treasury not later than 6 months after the
16 date of the enactment of this Act.

17 (c) MEMBERSHIP.—

18 (1) IN GENERAL.—The Commission shall be
19 composed of 10 members who shall be appointed by
20 the Secretary of the Treasury or his designee not
21 later than 30 days after the enactment of this Act.

22 (2) POLITICAL AFFILIATION.—Not more than 5
23 members may be of the same political party.

24 (3) TERMS.—Each member shall be appointed
25 for the life of the Commission.

1 (4) VACANCIES.—A vacancy in the Commission
2 shall be filled in the manner in which the original
3 appointment was made.

4 (5) PAY OF MEMBERS.—

5 (A) IN GENERAL.—Members shall each be
6 entitled to receive the daily equivalent of the
7 maximum annual rate of basic pay for grade
8 GS–11 of the General Schedule for each day
9 (including travel time) during which they are
10 engaged in the actual performance of duties
11 vested in the Commission.

12 (B) TRAVEL EXPENSES.—Each member
13 shall receive travel expenses, including per diem
14 in lieu of subsistence, in accordance with appli-
15 cable provisions under subchapter I of chapter
16 57 of title 5, United States Code.

17 (6) PREVENTION OF CONFLICT OF INTEREST.—

18 (A) AGREEMENT.—The Secretary of the
19 Treasury shall not appoint any individual to be
20 a member of the Commission unless such indi-
21 vidual has first sign an agreement with the Sec-
22 retary to prevent conflicts of interest. Such
23 agreement shall include a requirement that the
24 individual comply with the provisions of sub-
25 paragraph (B) and shall include such penalties

1 for failure to so comply as the Secretary deter-
2 mines appropriate.

3 (B) REQUIREMENTS.—A member of the
4 Commission shall not, during the 5-year period
5 beginning on the effective date of the domestic
6 manufacturing consumer credit (described in
7 section 2(d)), hold, directly or indirectly, any
8 interest in any person associated with any des-
9 ignated product, any component of any des-
10 ignated product, or any equipment to manufac-
11 ture any such product or component. An inter-
12 est held in any fund held by such member shall
13 be taken into account under the preceding sen-
14 tence unless such fund is a broad-based index
15 fund. Any interest held by such member prior
16 to the beginning of such 5-year period which is
17 not (consistent with the requirements of this
18 subparagraph) permitted to be held during such
19 period, shall be disposed of prior to such period.

20 (d) CHAIRPERSON.—The Chairperson of the Com-
21 mission shall be designated by the Secretary of the Treas-
22 ury (or his designee) at the time of appointment.

23 (e) STAFF.—Any staff of the Commission shall be ap-
24 pointed subject to the provisions of title 5, United States
25 Code, governing appointments in the competitive service,

1 and shall be paid in accordance with the provisions of
2 chapter 51 and subchapter III of chapter 53 of that title
3 relating to classification and General Schedule pay rates.

4 (f) TERMINATION.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the Commission shall terminate 30 days
7 after making recommendations to the Secretary of
8 the Treasury described in subsection (b).

9 (2) EXTENSION.—At the request of the Sec-
10 retary of the Treasury or his designee, the Commis-
11 sion shall continue in existence for such period at
12 the Secretary may request but not later than 1 year
13 after making such recommendations.

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