

114TH CONGRESS
1ST SESSION

S. 455

To amend the Internal Revenue Code of 1986 to provide for special treatment of the research credit for certain startup companies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2015

Mr. ROBERTS (for himself, Mr. COONS, and Mr. SCHUMER) 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 provide for special treatment of the research credit for certain startup companies, 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 “Innovators Job Cre-
5 ation Act of 2015”.

6 **SEC. 2. TREATMENT OF RESEARCH CREDIT FOR CERTAIN**
7 **STARTUP COMPANIES.**

8 (a) IN GENERAL.—Section 41 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

1 “(i) TREATMENT OF CREDIT FOR QUALIFIED SMALL
2 BUSINESS.—

3 “(1) IN GENERAL.—At the election of a quali-
4 fied small business for any taxable year, section
5 3111(f) shall apply to the payroll tax credit portion
6 of the credit otherwise determined under subsection
7 (a) for the taxable year and such portion shall not
8 be treated (other than for purposes of section 280C)
9 as a credit determined under subsection (a).

10 “(2) PAYROLL TAX CREDIT PORTION.—For
11 purposes of this subsection, the payroll tax credit
12 portion of the credit determined under subsection
13 (a) with respect to any qualified small business for
14 any taxable year is the least of—

15 “(A) the amount specified in the election
16 made under this subsection,

17 “(B) the credit determined under sub-
18 section (a) for the taxable year (determined be-
19 fore the application of this subsection), or

20 “(C) in the case of a qualified small busi-
21 ness other than a partnership or S corporation,
22 the amount of the business credit carryforward
23 under section 39 carried from the taxable year
24 (determined before the application of this sub-
25 section to the taxable year).

1 “(3) QUALIFIED SMALL BUSINESS.—For pur-
2 poses of this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 small business’ means, with respect to any tax-
5 able year—

6 “(i) a corporation or partnership, if—

7 “(I) the gross receipts (as deter-
8 mined under the rules of section
9 448(c)(3), without regard to subpara-
10 graph (A) thereof) of such entity for
11 the taxable year is less than
12 \$5,000,000, and

13 “(II) such entity did not have
14 gross receipts (as so determined) for
15 any taxable year preceding the 5-tax-
16 able-year period ending with such tax-
17 able year, and

18 “(ii) any person (other than a cor-
19 poration or partnership) who meets the re-
20 quirements of subclauses (I) and (II) of
21 clause (i), determined—

22 “(I) by substituting ‘person’ for
23 ‘entity’ each place it appears, and

24 “(II) by only taking into account
25 the aggregate gross receipts received

1 by such person in carrying on all
2 trades or businesses of such person.

3 “(B) LIMITATION.—Such term shall not
4 include an organization which is exempt from
5 taxation under section 501.

6 “(4) ELECTION.—

7 “(A) IN GENERAL.—Any election under
8 this subsection for any taxable year—

9 “(i) shall specify the amount of the
10 credit to which such election applies,

11 “(ii) shall be made on or before the
12 due date (including extensions) of—

13 “(I) in the case of a qualified
14 small business which is a partnership,
15 the return required to be filed under
16 section 6031,

17 “(II) in the case of a qualified
18 small business which is an S corpora-
19 tion, the return required to be filed
20 under section 6037, and

21 “(III) in the case of any other
22 qualified small business, the return of
23 tax for the taxable year, and

24 “(iii) may be revoked only with the
25 consent of the Secretary.

1 “(B) LIMITATIONS.—

2 “(i) AMOUNT.—The amount specified
3 in any election made under this subsection
4 shall not exceed \$250,000.

5 “(ii) NUMBER OF TAXABLE YEARS.—
6 A person may not make an election under
7 this subsection if such person (or any other
8 person treated as a single taxpayer with
9 such person under paragraph (5)(A)) has
10 made an election under this subsection for
11 5 or more preceding taxable years.

12 “(C) SPECIAL RULE FOR PARTNERSHIPS
13 AND S CORPORATIONS.—In the case of a quali-
14 fied small business which is a partnership or S
15 corporation, the election made under this sub-
16 section shall be made at the entity level.

17 “(5) AGGREGATION RULES.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), all persons or entities treat-
20 ed as a single taxpayer under subsection (f)(1)
21 shall be treated as a single taxpayer for pur-
22 poses of this subsection.

23 “(B) SPECIAL RULES.—For purposes of
24 this subsection and section 3111(f)—

1 “(i) each of the persons treated as a
 2 single taxpayer under subparagraph (A)
 3 may separately make the election under
 4 paragraph (1) for any taxable year, and

5 “(ii) the \$250,000 amount under
 6 paragraph (4)(B)(i) shall be allocated
 7 among all persons treated as a single tax-
 8 payer under subparagraph (A) in the same
 9 manner as under subparagraph (A)(ii) or
 10 (B)(ii) of subsection (f)(1), whichever is
 11 applicable.

12 “(6) REGULATIONS.—The Secretary shall pre-
 13 scribe such regulations as may be necessary to carry
 14 out the purposes of this subsection, including—

15 “(A) regulations to prevent the avoidance
 16 of the purposes of the limitations and aggrega-
 17 tion rules under this subsection through the use
 18 of successor companies or other means,

19 “(B) regulations to minimize compliance
 20 and record-keeping burdens under this sub-
 21 section, and

22 “(C) regulations for recapturing the ben-
 23 efit of credits determined under section 3111(f)
 24 in cases where there is a subsequent adjustment
 25 to the payroll tax credit portion of the credit

1 determined under subsection (a), including re-
 2 quiring amended income tax returns in the
 3 cases where there is such an adjustment.”.

4 (b) CREDIT ALLOWED AGAINST FICA TAXES.—Sec-
 5 tion 3111 of the Internal Revenue Code of 1986 is amend-
 6 ed by adding at the end the following new subsection:

7 “(f) CREDIT FOR RESEARCH EXPENDITURES OF
 8 QUALIFIED SMALL BUSINESSES.—

9 “(1) IN GENERAL.—In the case of a taxpayer
 10 who has made an election under section 41(i) for a
 11 taxable year, there shall be allowed as a credit
 12 against the tax imposed by subsection (a) for the
 13 first calendar quarter which begins after the date on
 14 which the taxpayer files the return specified in sec-
 15 tion 41(i)(4)(A)(ii) an amount equal to the payroll
 16 tax credit portion determined under section 41(i)(2).

17 “(2) LIMITATION.—The credit allowed by para-
 18 graph (1) shall not exceed the tax imposed by sub-
 19 section (a) for any calendar quarter on the wages
 20 paid with respect to the employment of all individ-
 21 uals in the employ of the employer.

22 “(3) CARRYOVER OF UNUSED CREDIT.—If the
 23 amount of the credit under paragraph (1) exceeds
 24 the limitation of paragraph (2) for any calendar
 25 quarter, such excess shall be carried to the suc-

ceeding calendar quarter and allowed as a credit under paragraph (1) for such quarter.

“(4) DEDUCTION ALLOWED FOR CREDITED AMOUNTS.—The credit allowed under paragraph (1) shall not be taken into account for purposes of determining the amount of any deduction allowed under chapter 1 for taxes imposed under subsection (a).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined for taxable years beginning after December 31, 2014.

SEC. 3. RESEARCH CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4) of the Internal Revenue Code of 1986 is amended—

(1) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), (viii), and (ix) as clauses (iii), (iv), (v), (vi), (vii), (viii), (ix), and (x), respectively, and

(2) by inserting after clause (i) the following new clause:

“(ii) the credit determined under section 41 with respect to an eligible small business (as defined in paragraph (5)(C),

1 after application of rules similar to the
2 rules of paragraph (5)(D)),”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to credits determined for taxable
5 years beginning after December 31, 2014, and to
6 carrybacks of such credits.

○