

110TH CONGRESS
2D SESSION

H. R. 5310

To amend the Internal Revenue Code of 1986 to provide tax incentives for investing in companies involved in space-related activities.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2008

Mr. ROHRABACHER (for himself and Mr. WELDON of Florida) 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 tax incentives for investing in companies involved in space-related activities.

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 “Zero Gravity, Zero
5 Tax Act of 2008”.

6 **SEC. 2. EXCLUSION OF SPACE-RELATED INCOME FROM**
7 **GROSS INCOME.**

8 (a) IN GENERAL.—Part III of subchapter B of chap-
9 ter 1 of the Internal Revenue Code of 1986 (relating to

1 items specifically excluded from gross income) is amended
2 by inserting after section 139B the following new section:

3 **“SEC. 139C. SPACE-RELATED INCOME.**

4 “(a) GENERAL RULE.—Gross income shall not in-
5 clude space-related income.

6 “(b) SPACE-RELATED INCOME.—

7 “(1) IN GENERAL.—For purposes of this sec-
8 tion, the term ‘space-related income’ means—

9 “(A) income derived from the sale by the
10 taxpayer to an unrelated person of—

11 “(i) any product or article which is
12 produced by the taxpayer in outer space,
13 and

14 “(ii) any service provided by the tax-
15 payer in or from outer space,

16 “(B) income of an individual attributable
17 to services performed in or from outer space by
18 such individual in a trade or business, and

19 “(C) any amount not described in subpara-
20 graph (A) or (B) which is interest, rent, roy-
21 alty, or similar amount received with respect to
22 production or service described in subparagraph
23 (A) or (B).

1 “(2) EXCEPTION FOR TELECOMMUNICATIONS
2 SERVICES, ETC.—Paragraph (1)(A)(ii) shall not
3 apply to—

4 “(A) any telecommunications service pro-
5 vided from earth orbit,

6 “(B) any service provided by a weather or
7 other earth observation satellite, and

8 “(C) any other service provided on or be-
9 fore the date of the enactment of this section of
10 transporting property to or from outer space.

11 “(3) EXCEPTION FOR WAGES.—Paragraph (1)
12 shall not apply to wages (as defined in section 3401)
13 received by any employee of an employer.

14 “(4) PROPORTIONAL ALLOCATION BETWEEN
15 SPACE-BASED AND EARTH-BASED ACTIVITIES.—In
16 the case of any product or article which is produced
17 partly in space, space-related income shall be an
18 amount which bears the same ratio to the amount
19 of gross income attributable to the sale of such prod-
20 uct or article as the expenses attributable to pro-
21 ducing such product or article in space bears to the
22 total expenses incurred in producing such product or
23 article.

24 “(5) PRODUCED.—For purposes of this section,
25 the term ‘produced’ includes created, fabricated, de-

1 veloped, grown, manufactured, extracted, processed,
2 cured, and aged.

3 “(c) EXCLUSION FROM TARIFFS, ETC.—Any prod-
4 uct—

5 “(1) which is manufactured in outer space, and

6 “(2) which was—

7 “(A) launched from, and returned to
8 Earth, within the United States, or

9 “(B) Manufactured at a facility in outer
10 space which is owned by 1 or more United
11 States persons, shall be exempt from all Fed-
12 eral excises, imposts, and duties and any other
13 Federal tariffs.

14 “(d) PHASEOUT OF BENEFITS.—In the case of a tax-
15 able year beginning after December 31, 2017, the amount
16 excluded under subsection (a) shall be reduced (but not
17 below zero) by x/10th’s of the amount excludable without
18 regard to this subsection, where ‘x’ is the number of years
19 such taxable year is after the last taxable year beginning
20 before January 1, 2018. A similar rule shall apply to the
21 benefits under subsection (c).”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for part III of subchapter B of chapter 1 of such Code
24 is amended by inserting after the item relating to section
25 139B the following new item:

“Sec. 139C. Space-related income.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2008.

4 **SEC. 3. CREDIT FOR PURCHASE OF QUALIFIED SPACE COM-**
5 **PANY STOCK.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 of the Internal Revenue Code of
8 1986 (relating to business related credits) is amended by
9 adding at the end the following new section:

10 **“SEC. 450. SPACE COMPANY INVESTMENT CREDIT.**

11 “(a) GENERAL RULE.—For purposes of section 38,
12 the space company investment credit determined under
13 this section for any taxable year is the amount paid in
14 the taxable year for the purchase of qualified stock in a
15 qualified space company.

16 “(b) QUALIFIED SPACE COMPANY.—For purposes of
17 this section—

18 “(1) IN GENERAL.—The term ‘qualified space
19 company’ means a domestic C corporation if for the
20 3-taxable-year period ending with the taxable year
21 immediately preceding the taxable year in which
22 qualified stock is purchased—

23 “(A) the average annual gross receipts of
24 such entity does not exceed \$100,000,000, and

1 “(B) more than 70 percent of such gross
2 receipts are derived from space-based business.

3 “(2) SPACE-BASED BUSINESS.—The term
4 ‘space-based business’ means a business whose gross
5 receipts are substantially space-related income, as
6 defined in section 139C(b).

7 “(3) AGGREGATION RULES.—Rules similar to
8 the rules of section 1202(d)(3) shall apply.

9 “(c) QUALIFIED STOCK.—For purposes of this sec-
10 tion—

11 “(1) IN GENERAL.—Except as otherwise pro-
12 vided in this section, the term ‘qualified stock’
13 means any stock in a domestic C corporation if—

14 “(A) as of the date of issuance of such
15 stock, such corporation is a qualified space
16 company, and

17 “(B) except as provided in subsections (f)
18 and (h), such stock is acquired by the taxpayer
19 at its original issue (directly or through an un-
20 derwriter)—

21 “(i) in exchange for money or other
22 property (not including stock), or

23 “(ii) as compensation for services pro-
24 vided to such corporation (other than serv-

1 ices performed as an underwriter of such
2 stock).

3 “(2) ACTIVE BUSINESS REQUIREMENT.—Stock
4 in a corporation shall not be treated as qualified
5 stock unless, during substantially all of the tax-
6 payer’s holding period for such stock—

7 “(A) such corporation meets active busi-
8 ness requirements substantially similar to the
9 requirements of section 1202(e), determined on
10 the basis that the qualified trade or business is
11 a space-based business, and

12 “(B) such corporation is a C corporation.

13 “(3) CERTAIN PURCHASE BY CORPORATION OF
14 ITS OWN STOCK.—Rules similar to the rules of sec-
15 tion 1202(c)(3) shall apply.

16 “(d) RECAPTURE.—If, during any taxable year end-
17 ing with or within the 10-year period beginning on the
18 date qualified stock was purchased by the taxpayer, the
19 issuer of such stock ceases to a qualified space company,
20 the tax under this chapter for such taxable year shall be
21 increased by the aggregate decrease in the credits allowed
22 under section 38 for all prior taxable years which would
23 have resulted solely from reducing to zero any credit deter-
24 mined under subsection (a) with respect to such stock.

1 “(e) TERMINATION.—This section shall not apply to
2 stock acquired after December 31, 2016.”.

3 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
4 NESS CREDIT.—Section 38(b) of such Code (defining cur-
5 rent year business credit) is amended by striking “plus”
6 at the end of paragraph (30), by striking the period at
7 the end of paragraph (31 and inserting “, plus”, and by
8 adding at the end the following new paragraph:

9 “(32) space company investment credit deter-
10 mined under section 45O(a).”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Subsection (c) of section 196 of such Code
13 is amended by striking “and” at the end of para-
14 graph (12), by striking the period at the end of
15 paragraph (13) and inserting “, and”, and by add-
16 ing at the end the following new paragraph:

17 “(14) the space company investment credit de-
18 termined under section 45O(a).”.

19 (2) The table of sections for subpart D of part
20 IV of subchapter A of chapter 1 of such Code is
21 amended by adding at the end the following new
22 item:

“Sec. 45O. Space Company Investment Credit.”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to costs paid or incurred in taxable
25 years beginning after December 31, 2008.

1 **SEC. 4. CAPITAL GAINS EXCLUSION.**

2 (a) IN GENERAL.—Part I of subchapter P of chapter
3 1 of the Internal Revenue Code of 1986 (relating to treat-
4 ment of capital gains) is amended by adding at the end
5 the following new section:

6 **“SEC. 1203. EXCLUSION FOR GAINS FROM SALE OR EX-**
7 **CHANGE OF STOCK OF QUALIFIED SPACE**
8 **CORPORATIONS.**

9 “(a) IN GENERAL.—Gross income shall not include
10 gain on the sale or exchange of any stock of a qualified
11 space corporation.

12 “(b) QUALIFIED SPACE CORPORATION.—For pur-
13 poses of subsection (a), the term ‘qualified space corpora-
14 tion’ means, with respect to any taxable year, a domestic
15 corporation which is a C corporation if—

16 “(1) such corporation is organized exclusively
17 for providing to unrelated persons—

18 “(A) any product or article which is pro-
19 duced (within the meaning of section
20 139C(b)(5)) by the corporation in outer space,
21 or

22 “(B) any service provided by the corpora-
23 tion in or from outer space, and

24 “(2) At least 90 percent of the expenses of such
25 corporation are attributable to the active conduct of

1 a trade or business of providing a product, article,
2 or service described in paragraph (1).

3 Such term shall not include a corporation providing a serv-
4 ice, product, or article described in section 139C(b)(2).”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for part I of subchapter P of chapter 1 of such Code is
7 amended by adding at the end the following new item:

“Sec. 1203. Exclusion for gains from sale or exchange of qualified
space corporations.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2008.

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