

117TH CONGRESS
2D SESSION

H. R. 7410

To amend the Internal Revenue Code of 1986 to provide for credits against tax for domestic medical and drug manufacturing and advanced medical manufacturing equipment.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 2022

Mr. WENSTRUP (for himself and Mr. FERGUSON) 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 for credits against tax for domestic medical and drug manufacturing and advanced medical manufacturing equipment.

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 “American Made Medi-
5 cine Act”.

1 **SEC. 2. DOMESTIC MEDICAL AND DRUG MANUFACTURING**
2 **CREDIT.**

3 (a) IN GENERAL.—Subpart D 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. 45U. DOMESTIC MEDICAL AND DRUG MANUFAC-**
8 **TURING CREDIT.**

9 “(a) IN GENERAL.—For purposes of section 38, the
10 domestic medical and drug manufacturing credit deter-
11 mined under this section for any taxable year is an amount
12 equal to 10.5 percent of the lesser of—

13 “(1) the qualified medical and drug manufac-
14 turing income of the taxpayer for the taxable year,
15 or

16 “(2) taxable income of the taxpayer for the tax-
17 able year.

18 “(b) CREDIT LIMITED TO WAGES PAID.—

19 “(1) IN GENERAL.—The amount of the credit
20 allowable under subsection (a) for any taxable year
21 shall not exceed 50 percent of the W-2 wages of the
22 taxpayer for the taxable year.

23 “(2) W-2 WAGES.—For purposes of this sec-
24 tion—

25 “(A) IN GENERAL.—The term ‘W-2
26 wages’ means, with respect to any person for

1 any taxable year of such person, the sum of the
2 amounts described in paragraphs (3) and (8) of
3 section 6051(a) paid by such person with re-
4 spect to employment of employees by such per-
5 son during the calendar year ending during
6 such taxable year.

7 “(B) LIMITATION TO WAGES ATTRIB-
8 UTABLE TO DOMESTIC PRODUCTION.—Such
9 term shall not include any amount which is not
10 properly allocable to domestic medical and drug
11 manufacturing gross receipts for purposes of
12 subsection (c)(1).

13 “(C) RETURN REQUIREMENT.—Such term
14 shall not include any amount which is not prop-
15 erly included in a return filed with the Social
16 Security Administration on or before the 60th
17 day after the due date (including extensions)
18 for such return.

19 “(3) ACQUISITIONS, DISPOSITIONS, AND SHORT
20 TAXABLE YEARS.—The Secretary shall provide for
21 the application of this subsection in cases of a short
22 taxable year or where the taxpayer acquires, or dis-
23 poses of, the major portion of a trade or business or
24 the major portion of a separate unit of a trade or
25 business during the taxable year.

1 “(c) QUALIFIED MEDICAL AND DRUG MANUFAC-
2 TURING INCOME.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified medical
4 and drug manufacturing income’ for any taxable
5 year means an amount equal to the excess (if any)
6 of—

7 “(A) the taxpayer’s domestic medical and
8 drug manufacturing gross receipts for the tax-
9 able year, over

10 “(B) the sum of—

11 “(i) the cost of goods sold that are al-
12 locable to such receipts, and

13 “(ii) other expenses, losses, or deduc-
14 tions which are properly allocable to such
15 receipts.

16 “(2) ALLOCATION METHOD.—The Secretary
17 shall prescribe rules for the proper allocation of
18 items described in paragraph (1)(B) for purposes of
19 determining qualified medical and drug manufac-
20 turing income. Such rules shall provide for the prop-
21 er allocation of items whether or not such items are
22 directly allocable to domestic medical and drug man-
23 ufacturing gross receipts.

24 “(3) SPECIAL RULES FOR DETERMINING
25 COSTS.—

1 “(A) IN GENERAL.—For purposes of deter-
2 mining costs under clause (i) of paragraph
3 (1)(B), any item or service brought into the
4 United States shall be treated as acquired by
5 purchase, and its cost shall be treated as not
6 less than its value immediately after it entered
7 the United States.

8 “(B) EXPORTS FOR FURTHER MANUFAC-
9 TURE.—In the case of any property described
10 in subparagraph (A) that had been exported by
11 the taxpayer for further manufacture, the in-
12 crease in cost or adjusted basis under subpara-
13 graph (A) shall not exceed the difference be-
14 tween the value of the property when exported
15 and the value of the property when brought
16 back into the United States after the further
17 manufacture.

18 “(4) DOMESTIC MEDICAL AND DRUG MANUFAC-
19 TURING GROSS RECEIPTS.—

20 “(A) IN GENERAL.—The term ‘domestic
21 medical and drug manufacturing gross receipts’
22 means the gross receipts of the taxpayer which
23 are derived from any sale, exchange, or other
24 disposition of—

1 “(i) any active pharmaceutical ingre-
2 dient, or

3 “(ii) any covered countermeasure,
4 which was manufactured or produced by the
5 taxpayer in whole or in significant part within
6 the United States.

7 “(B) ACTIVE PHARMACEUTICAL INGRE-
8 DIENT.—The term ‘active pharmaceutical ingre-
9 dient’ means any substance or mixture of sub-
10 stances intended to be used in the manufacture
11 of a drug product and (when so used) becomes
12 an active ingredient in the drug product.

13 “(C) COVERED COUNTERMEASURE.—The
14 term ‘covered countermeasure’ has the meaning
15 given such term in section 319F-3(i)(1) of the
16 Public Health Service Act (42 U.S.C. 247d-
17 6d(i)(1)).

18 “(D) PARTNERSHIPS OWNED BY EX-
19 PANDED AFFILIATED GROUPS.—For purposes
20 of this paragraph, if all of the interests in the
21 capital and profits of a partnership are owned
22 by members of a single expanded affiliated
23 group at all times during the taxable year of
24 such partnership, the partnership and all mem-

1 bers of such group shall be treated as a single
2 taxpayer during such period.

3 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
4 poses of this section—

5 “(1) APPLICATION OF SECTION TO PASS-THRU
6 ENTITIES.—

7 “(A) PARTNERSHIPS AND S CORPORA-
8 TIONS.—In the case of a partnership or S cor-
9 poration—

10 “(i) this section shall be applied at the
11 partner or shareholder level,

12 “(ii) each partner or shareholder shall
13 take into account such person’s allocable
14 share of each item described in subpara-
15 graph (A) or (B) of subsection (c)(1) (de-
16 termined without regard to whether the
17 items described in such subparagraph (A)
18 exceed the items described in such sub-
19 paragraph (B)), and

20 “(iii) each partner or shareholder
21 shall be treated for purposes of subsection
22 (b) as having W-2 wages for the taxable
23 year in an amount equal to such person’s
24 allocable share of the W-2 wages of the
25 partnership or S corporation for the tax-

1 able year (as determined under regulations
2 prescribed by the Secretary).

3 “(B) TRUSTS AND ESTATES.—In the case
4 of a trust or estate—

5 “(i) the items referred to in subpara-
6 graph (A)(ii) (as determined therein) and
7 the W-2 wages of the trust or estate for
8 the taxable year, shall be apportioned be-
9 tween the beneficiaries and the fiduciary
10 (and among the beneficiaries) under regu-
11 lations prescribed by the Secretary, and

12 “(ii) for purposes of paragraph (2),
13 adjusted gross income of the trust or es-
14 tate shall be determined as provided in sec-
15 tion 67(e) with the adjustments described
16 in such paragraph.

17 “(C) REGULATIONS.—The Secretary may
18 prescribe rules requiring or restricting the allo-
19 cation of items and wages under this paragraph
20 and may prescribe such reporting requirements
21 as the Secretary determines appropriate.

22 “(2) APPLICATION TO INDIVIDUALS.—In the
23 case of an individual, subsection (a)(2) shall be ap-
24 plied by substituting ‘adjusted gross income’ for
25 ‘taxable income’. For purposes of the preceding sen-

1 tence, adjusted gross income shall be determined
2 after application of sections 86, 135, 137, 219, 221,
3 222, and 469.

4 “(3) SPECIAL RULE FOR AFFILIATED
5 GROUPS.—

6 “(A) IN GENERAL.—All members of an ex-
7 panded affiliated group shall be treated as a
8 single corporation for purposes of this section.

9 “(B) EXPANDED AFFILIATED GROUP.—
10 For purposes of this section, the term ‘ex-
11 panded affiliated group’ means an affiliated
12 group as defined in section 1504(a), deter-
13 mined—

14 “(i) by substituting ‘more than 50
15 percent’ for ‘at least 80 percent’ each place
16 it appears, and

17 “(ii) without regard to paragraphs (2)
18 and (4) of section 1504(b).

19 “(C) ALLOCATION OF CREDIT.—Except as
20 provided in regulations, the credit under sub-
21 section (a) shall be allocated among the mem-
22 bers of the expanded affiliated group in propor-
23 tion to each member’s respective amount (if
24 any) of qualified medical and drug manufac-
25 turing income.

1 “(4) TRADE OR BUSINESS REQUIREMENT.—

2 This section shall be applied by only taking into ac-
3 count items which are attributable to the actual con-
4 duct of a trade or business.

5 “(5) COORDINATION WITH MINIMUM TAX.—For
6 purposes of determining alternative minimum tax-
7 able income under section 55, qualified medical and
8 drug manufacturing income shall be determined
9 without regard to any adjustments under sections 56
10 through 59.

11 “(6) UNRELATED BUSINESS TAXABLE IN-
12 COME.—For purposes of determining the tax im-
13 posed by section 511, subsection (a)(1)(B) shall be
14 applied by substituting ‘unrelated business taxable
15 income’ for ‘taxable income’.

16 “(7) REGULATIONS.—The Secretary shall pre-
17 scribe such regulations as are necessary to carry out
18 the purposes of this section, including regulations
19 which prevent more than 1 taxpayer from being al-
20 lowed a credit under this section with respect to any
21 activity described in subsection (c)(4)(A).”.

22 (b) TREATMENT UNDER BASE EROSION TAX.—Sec-
23 tion 59A(b)(1)(B)(ii) of such Code is amended by striking
24 “plus” at the end of subclause (I), by redesignating sub-

1 clause (II) as subclause (III), and by inserting after sub-
2 clause (I) the following new subclause:

3 “(II) the credit allowed under
4 section 38 for the taxable year which
5 is properly allocable to the domestic
6 medical and drug manufacturing cred-
7 it determined under section 45U(a),
8 plus”.

9 (c) PART OF GENERAL BUSINESS CREDIT.—Section
10 38(b) of such Code is amended by striking “plus” at the
11 end of paragraph (32), by striking the period at the end
12 of paragraph (33) and inserting “, plus”, and by adding
13 at the end the following new paragraph:

14 “(34) the domestic medical and drug manufac-
15 turing credit determined under section 45U(a).”.

16 (d) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
17 IMUM TAX.—Section 38(c)(4)(B) of such Code is amended
18 by redesignating clauses (x) through (xii) as clauses (xi)
19 through (xiii), respectively, and by inserting after clause
20 (ix) the following new clause:

21 “(x) the credit determined under sec-
22 tion 45U.”.

23 (e) CLERICAL AMENDMENT.—The table of sections
24 for subpart D of part IV of subchapter A of chapter 1

1 of such Code is amended by adding at the end the fol-
2 lowing new item:

“Sec. 45U. Domestic medical and drug manufacturing credit.”.

3 (f) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2021.

6 **SEC. 3. QUALIFYING ADVANCED MEDICAL MANUFAC-**
7 **TURING EQUIPMENT CREDIT.**

8 (a) **IN GENERAL.**—Subpart E of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of
10 1986 is amended by adding at the end the following new
11 section:

12 **“SEC. 48D. QUALIFYING ADVANCED MEDICAL MANUFAC-**
13 **TURING EQUIPMENT CREDIT.**

14 “(a) **IN GENERAL.**—For purposes of section 46, the
15 qualifying advanced medical manufacturing equipment
16 credit determined under this section for any taxable year
17 is the applicable percentage of the basis of any qualifying
18 advanced medical manufacturing equipment placed in
19 service during such taxable year.

20 “(b) **APPLICABLE PERCENTAGE.**—For purposes of
21 subsection (a), the applicable percentage is—

22 “(1) 30 percent in the case of equipment which
23 is placed in service before January 1, 2029,

24 “(2) 20 percent in the case of equipment which
25 is placed in service during calendar year 2029,

1 “(3) 10 percent in the case of equipment which
2 is placed in service during calendar year 2030, and

3 “(4) 0 percent in the case of equipment which
4 is placed in service after December 31, 2030.

5 “(c) QUALIFYING ADVANCED MEDICAL MANUFAC-
6 TURING EQUIPMENT.—For purposes of this section, the
7 term ‘qualifying advanced medical manufacturing equip-
8 ment’ means property—

9 “(1) which is machinery or equipment that is
10 designed and used to manufacture a—

11 “(A) drug (as such term is defined in sec-
12 tion 201(g)(1) of the Federal Food, Drug, and
13 Cosmetic Act),

14 “(B) device (as such term is defined in sec-
15 tion 201(h) of such Act), or

16 “(C) biological product (as such term is
17 defined in section 351(i) of the Public Health
18 Service Act),

19 “(2) which has been identified by the Secretary
20 (after consultation with the Secretary of Health and
21 Human Services) as machinery or equipment that—

22 “(A) incorporates novel technology or uses
23 an established technique or technology in a new
24 or innovative way, or

1 is properly allocable to the qualifying
2 advanced medical manufacturing
3 equipment credit determined under
4 section 48D(a), plus”.

5 (c) PART OF INVESTMENT CREDIT.—Section 46 of
6 such Code is amended by striking “and” at the end of
7 paragraph (5), by striking the period at the end of para-
8 graph (6) and inserting “, and”, and by adding at the
9 end the following new paragraph:

10 “(7) the qualifying advanced medical manufac-
11 turing equipment credit.”.

12 (d) CLERICAL AMENDMENT.—The table of sections
13 for subpart D of part IV of subchapter A of chapter 1
14 of such Code is amended by adding at the end the fol-
15 lowing new item:

“Sec. 48D. Qualifying advanced medical manufacturing equipment credit.”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to periods after the date of the
18 enactment of this section under rules similar to the rules
19 of section 48(m) of the Internal Revenue Code of 1986
20 (as in effect on the date of the enactment of the Revenue
21 Reconciliation Act of 1990).

22 **SEC. 4. MEDICAL MANUFACTURING EPA COMPLIANCE**
23 **CREDIT.**

24 (a) IN GENERAL.—Subpart E of part IV of sub-
25 chapter A of chapter 1 of the Internal Revenue Code of

1 1986, as amended by the preceding provisions of this Act,
2 is amended by adding at the end the following new section:

3 **“SEC. 48E. MEDICAL MANUFACTURING EPA COMPLIANCE**
4 **CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 46, the
6 medical manufacturing EPA compliance credit determined
7 under this section for any taxable year is the applicable
8 percentage of the basis of any qualifying medical manufac-
9 turing EPA compliance property placed in service during
10 such taxable year.

11 “(b) APPLICABLE PERCENTAGE.—For purposes of
12 subsection (a), the applicable percentage is—

13 “(1) 30 percent in the case of equipment which
14 is placed in service before January 1, 2029,

15 “(2) 20 percent in the case of equipment which
16 is placed in service during calendar year 2029,

17 “(3) 10 percent in the case of equipment which
18 is placed in service during calendar year 2030, and

19 “(4) 0 percent in the case of equipment which
20 is placed in service after December 31, 2030.

21 “(c) QUALIFYING MEDICAL MANUFACTURING EPA
22 COMPLIANCE PROPERTY.—For purposes of this section,
23 the term ‘qualifying medical manufacturing EPA compli-
24 ance equipment’ means property—

1 “(1) which is used by the taxpayer in the trade
2 or business of manufacturing a—

3 “(A) drug (as such term is defined in sec-
4 tion 201(g)(1) of the Federal Food, Drug, and
5 Cosmetic Act),

6 “(B) device (as such term is defined in sec-
7 tion 201(h) of such Act),

8 “(C) biological product (as such term is
9 defined in section 351(i) of the Public Health
10 Service Act), or

11 “(D) active pharmaceutical ingredient or
12 covered countermeasure (within the meaning of
13 section 45U(c)(4)),

14 “(2) which is used to meet emissions limits
15 under the Clean Air Act or wastewater standards
16 under the Clean Water Act,

17 “(3) which is placed in service in the United
18 States by the taxpayer,

19 “(4) with respect to which depreciation is allow-
20 able, and

21 “(5) which is not qualifying advanced medical
22 manufacturing equipment (as defined in section
23 48D).

24 “(d) CERTAIN QUALIFIED PROGRESS EXPENDI-
25 TURES RULES MADE APPLICABLE.—Rules similar to the

1 rules of subsections (c)(4) and (d) of section 46 (as in
2 effect on the day before the enactment of the Revenue
3 Reconciliation Act of 1990) shall apply for purposes of
4 this section.

5 “(e) REGULATIONS.—The Secretary shall prescribe
6 such regulations or other guidance as may be necessary
7 to carry out the purposes of this section, including regula-
8 tions which prevent abuse or fraud.”.

9 (b) TREATMENT UNDER BASE EROSION TAX.—Sec-
10 tion 59A(b)(1)(B)(ii) of such Code, as amended by the
11 preceding provisions of this Act, is further amended by
12 striking “plus” at the end of subclause (III), by redesign-
13 nating subclause (IV) as subclause (V), and by inserting
14 after subclause (III) the following new subclause:

15 “(IV) the credit allowed under
16 section 46 for the taxable year which
17 is properly allocable to the medical
18 manufacturing EPA compliance credit
19 determined under section 48E(a),
20 plus”.

21 (c) PART OF INVESTMENT CREDIT.—Section 46 of
22 such Code, as amended by the preceding provisions of this
23 Act, is amended by striking “and” at the end of paragraph
24 (6), by striking the period at the end of paragraph (7)

1 and inserting “, and”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(8) the medical manufacturing EPA compli-
4 ance credit.”.

5 (d) CLERICAL AMENDMENT.—The table of sections
6 for subpart D of part IV of subchapter A of chapter 1
7 of such Code, as amended by the preceding provisions of
8 this Act, is amended by adding at the end the following
9 new item:

 “Sec. 48E. Medical manufacturing EPA compliance credit.”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to periods after the date of the
12 enactment of this section under rules similar to the rules
13 of section 48(m) of the Internal Revenue Code of 1986
14 (as in effect on the date of the enactment of the Revenue
15 Reconciliation Act of 1990).

○