

117TH CONGRESS
1ST SESSION

S. 2766

To amend the Internal Revenue Code of 1986 to provide a manufacturing investment tax credit and a production tax credit for manufacturing facilities that produce offshore wind turbine components.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2021

Mr. MARKEY (for himself, Mr. BOOKER, Mr. MENENDEZ, Ms. WARREN, Mr. VAN HOLLEN, and Mr. OSSOFF) 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 a manufacturing investment tax credit and a production tax credit for manufacturing facilities that produce offshore wind turbine components.

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 “Offshore Wind Amer-
5 ican Manufacturing Act of 2021”.

6 **SEC. 2. OFFSHORE WIND MANUFACTURING CREDIT.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code is

1 amended by inserting after section 36B the following new
2 section:

3 **“SEC. 36C. OFFSHORE WIND MANUFACTURING CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—There shall be al-
5 lowed as a credit against the tax imposed by this subtitle
6 for any taxable year an amount equal to the sum of—

7 “(1) the offshore wind manufacturing invest-
8 ment credit, and

9 “(2) the offshore wind manufacturing produc-
10 tion credit.

11 “(b) CREDIT AMOUNTS.—For purposes of this sec-
12 tion—

13 “(1) MANUFACTURING INVESTMENT CREDIT.—

14 “(A) IN GENERAL.—The offshore wind
15 manufacturing investment credit for any tax-
16 able year is an amount equal to 30 percent of
17 the qualified investment for such taxable year.

18 “(B) QUALIFIED INVESTMENT.—The
19 qualified investment for any taxable year is the
20 basis of any advanced offshore wind manufac-
21 turing property placed in service in the United
22 States by the taxpayer during such taxable
23 year.

24 “(C) ADVANCED OFFSHORE WIND MANU-
25 FACTURING PROPERTY.—The term ‘advanced

1 offshore wind manufacturing property’ means
 2 property—

3 “(i) which is used predominantly to
 4 manufacture or process any qualified off-
 5 shore wind component,

6 “(ii) which respect to which deprecia-
 7 tion (or amortization in lieu of deprecia-
 8 tion) is allowable, and

9 “(iii) which—

10 “(I) is constructed, recon-
 11 structed, or erected by the taxpayer,
 12 or

13 “(II) which is acquired by the
 14 taxpayer, if the original use of such
 15 property commences with the tax-
 16 payer.

17 “(2) MANUFACTURING PRODUCTION CREDIT.—

18 “(A) IN GENERAL.—The offshore wind
 19 manufacturing production credit is an amount
 20 equal to the applicable rate with respect to any
 21 qualified offshore wind component or related
 22 vessel which—

23 “(i) is produced by the taxpayer at a
 24 qualified manufacturing facility, and

25 “(ii) during the taxable year—

1 “(I) is sold by the taxpayer to—

2 “(aa) an unrelated person,

3 or

4 “(bb) a related person for

5 the use of such person in their

6 trade or business (with the excep-

7 tion of any trade or business re-

8 lated to resale of such offshore

9 wind component without any sub-

10 sequent modification, assembly,

11 or integration into a project), or

12 “(II) if not sold, is placed in

13 service or operation by the taxpayer

14 or any other person.

15 “(B) APPLICABLE RATE.—The applicable

16 rate is—

17 “(i) with respect to any qualified off-

18 shore wind component, the total rated ca-

19 pacity (expressed on a per direct current

20 watt basis) of the completed offshore wind

21 turbine for which the component is de-

22 signed, multiplied by—

23 “(I) in the case of any blade,

24 gearbox, generator, or foundation (or

25 dedicated subcomponent described in

1 subsection (c)(1)(A)(ii) thereof), 2
 2 cents,

3 “(II) in the case of any tower (or
 4 such a dedicated subcomponent there-
 5 of), 3 cents, and

6 “(III) in the case of any nacelle
 7 (or such a dedicated subcomponent
 8 thereof), 5 cents, and

9 “(ii) with respect to any related ves-
 10 sel, an amount equal to 10 percent of the
 11 sale price of such vessel.

12 “(C) QUALIFIED MANUFACTURING FACIL-
 13 ITY.—The term ‘qualified manufacturing facil-
 14 ity’ means any new or existing facility—

15 “(i) which is located in the United
 16 States, and

17 “(ii) which manufactures or assembles
 18 qualified offshore wind components, sub-
 19 components, and related vessels.

20 “(D) PRODUCTION AND SALE MUST BE IN
 21 TRADE OR BUSINESS.—Any qualified offshore
 22 wind component produced and sold by the tax-
 23 payer shall be taken into account under sub-
 24 paragraph (A)(ii)(I) only if the production and

1 sale described in subparagraph (A) is in a trade
 2 or business of the taxpayer.

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) QUALIFIED OFFSHORE WIND COMPO-
 5 NENT.—

6 “(A) IN GENERAL.—The term ‘qualified
 7 offshore wind component’ means—

8 “(i) any blade, tower, nacelle, gener-
 9 ator, gearbox, or foundation, and

10 “(ii) any dedicated subcomponent nec-
 11 essary to the production, construction, and
 12 operation of any such property.

13 “(B) DEFINITIONS.—

14 “(i) BLADE.—The term ‘blade’ means
 15 an airfoil-shaped blade which is responsible
 16 for converting offshore wind energy to low
 17 speed rotational energy.

18 “(ii) TOWER.—The term ‘tower’
 19 means a tubular steel, concrete, or steel
 20 lattice which supports the structure of an
 21 offshore wind turbine.

22 “(iii) NACELLE.—The term ‘nacelle’
 23 means the assembly of the cover housing
 24 for drive train and other tower-top compo-
 25 nents of an offshore wind turbine.

1 “(iv) GENERATOR.—The term ‘gener-
 2 ator’ means the component which is
 3 housed in the nacelle and converts the me-
 4 chanical energy from the rotor to electrical
 5 energy.

6 “(v) GEARBOX.—The term ‘gearbox’
 7 means the component housed in the nacelle
 8 which converts the low-speed, high-torque
 9 rotation of the rotor for input into the gen-
 10 erator.

11 “(vi) FOUNDATION.—The term ‘foun-
 12 dation’ means the component which se-
 13 cures an offshore wind tower and above-
 14 water turbine components to the sea floor
 15 using offshore wind monopiles, jackets,
 16 gravity-based foundations, fixed, or float-
 17 ing platforms.

18 “(2) RELATED VESSEL.—The term ‘related ves-
 19 sel’ means any vessel which is purpose-built or retro-
 20 fitted for purposes of the transport, installation, or
 21 maintenance of offshore wind components and off-
 22 shore wind turbines.

23 “(d) SPECIAL RULES.—For purposes of this sec-
 24 tion—

1 “(1) SECRETARY.—Any reference to the Sec-
2 retary means the Secretary in consultation with the
3 Secretary of Energy.

4 “(2) LABOR CONDITIONS.—Any property shall
5 be treated as advanced offshore wind manufacturing
6 property, and any facility shall be treated as a quali-
7 fied manufacturing facility, only if all laborers and
8 mechanics employed by all contractors and sub-
9 contractors in the manufacture of such property or
10 at such facility are paid wages at rates not less than
11 the prevailing rates for work of a similar character
12 in the locality as determined by the Secretary of
13 Labor, in accordance with sections 3141 through
14 3144, 3146, and 3147 of title 40, United States
15 Code.

16 “(3) CERTAIN RULES MADE APPLICABLE FOR
17 INVESTMENT CREDIT.—For purposes of the offshore
18 wind manufacturing investment credit determined
19 under subsection (b)(1), rules similar to the rules of
20 subsections (a) and (c) of section 50 shall apply.

21 “(4) COORDINATION WITH GENERAL INVEST-
22 MENT CREDIT.—No credit shall be allowed under
23 section 48C with respect to any facility taken into
24 account for purposes of the credit under subsection
25 (b)(2), or any facility with respect to which any

1 qualified investment is taken into account for pur-
2 poses of the credit under subsection (b)(1). The
3 credit under this section shall be allowed without re-
4 gard to whether any qualified investment (as defined
5 in section 48C(b)) with respect to a facility has been
6 taken into account for purposes of section 48C in
7 any preceding taxable year.

8 “(e) REGISTRATION.—

9 “(1) IN GENERAL.—No credit shall be allowed
10 under this section unless the taxpayer registers with
11 the Secretary, at such time, in such form and man-
12 ner, and subject to such terms and conditions, as the
13 Secretary may by regulations prescribe. Such reg-
14 istration shall include a demonstration of compliance
15 with the requirements of subsection (d)(2).

16 “(2) REGISTRATION IN EVENT OF CHANGE IN
17 OWNERSHIP.—Under regulations prescribed by the
18 Secretary, the taxpayer (other than a corporation
19 the stock of which is regularly traded on an estab-
20 lished securities market) shall be required to re-reg-
21 ister under this subsection if after a transaction (or
22 series of related transactions) more than 50 percent
23 of ownership interests in, or assets of, the taxpayer
24 are held by persons other than persons (or persons
25 related thereto) who held more than 50 percent of

1 such interests or assets before the transaction (or
2 series of related transactions).

3 “(3) DENIAL, REVOCATION, OR SUSPENSION OF
4 REGISTRATION.—Rules similar to the rules of sec-
5 tion 4222(c) shall apply to registration under this
6 section.

7 “(4) INFORMATION REPORTING.—The Sec-
8 retary may require—

9 “(A) information reporting by any person
10 registered under this subsection, and

11 “(B) information reporting by such other
12 persons as the Secretary deems necessary to
13 carry out this section.

14 “(f) TERMINATION.—

15 “(1) OFFSHORE WIND MANUFACTURING IN-
16 VESTMENT TAX CREDIT.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), in the case of any qualified
19 investment with respect to advanced offshore
20 wind manufacturing property which is placed in
21 service after December 31, 2028, the amount of
22 the credit determined under subsection (b)(1)
23 (without regard to this subsection) shall be re-
24 duced by—

1 “(i) in the case of property placed in
2 service in calendar year 2029, 30 percent,

3 “(ii) in the case of property placed in
4 service in calendar year 2030, 65 percent,
5 and

6 “(iii) in the case of property placed in
7 service after December 31, 2030, 100 per-
8 cent.

9 “(B) CERTAIN PROGRESS EXPENDITURE
10 RULES MADE APPLICABLE.—Rules similar to
11 the rules of subsections (c)(4) and (d) of sec-
12 tion 46 (as in effect on the day before the date
13 of the enactment of the Revenue Reconciliation
14 Act of 1990) shall apply for purposes of sub-
15 paragraph (A).

16 “(2) OFFSHORE WIND MANUFACTURING PRO-
17 Duction TAX CREDIT.—No credit shall be allowed
18 under subsection (b)(2) in the case of any qualified
19 offshore wind component first sold or placed in serv-
20 ice after December 31, 2030.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for subpart C of part IV of subchapter A of chapter 1
23 of the Internal Revenue Code is amended by inserting
24 after the item relating to section 36B the following new
25 item:

“Sec. 36C. Offshore wind manufacturing credit.”.

1 (c) CONFORMING AMENDMENT.—Paragraph (2) of
2 section 1324(b) of title 31, United States Code, is amend-
3 ed by inserting “, 36C” after “36B”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to—

6 (1) any qualified investment (as defined in sec-
7 tion 36C(b)(1)(B) of the Internal Revenue Code of
8 1986, as added by this section) with respect to prop-
9 erty placed in service beginning after August 1,
10 2021, and

11 (2) qualified offshore wind components (as de-
12 fined in section 36C(c)(1) of such Code, as so
13 added) first sold or placed in service after August 1,
14 2021.

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