

111TH CONGRESS  
2D SESSION

# H. R. 5478

To amend the Internal Revenue Code of 1986 to provide an incentive to encourage the replacement of inefficient, outdated freight railcars with greener, more fuel efficient vehicles.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2010

Mr. BLUMENAUER (for himself, Mr. BRADY of Texas, Mr. TANNER, Mr. SHUSTER, Mr. DEFAZIO, Mr. MCMAHON, Mr. WU, Mrs. DAHLKEMPER, Mr. PETRI, Mr. CARNEY, Mr. SCHRADER, Mr. THOMPSON of Pennsylvania, Mr. FILNER, Mr. SMITH of Texas, Mr. PAUL, Mr. MANZULLO, Mr. COSTELLO, Mr. GERLACH, Mr. GRIJALVA, Ms. GRANGER, Mr. TIM MURPHY of Pennsylvania, Mr. MORAN of Kansas, Mr. LATHAM, Mr. BERRY, Mr. WESTMORELAND, Mr. MCDERMOTT, Mr. LIPINSKI, Mr. RODRIGUEZ, Ms. JENKINS, Mr. BOSWELL, Mr. LOEBSACK, Mr. HOLDEN, Mr. BACHUS, Mr. INGLIS, Mr. ROSS, Mr. MICA, Mr. CARTER, Mr. SPRATT, Ms. CORRINE BROWN of Florida, Mr. GRAVES, Mr. BRADY of Pennsylvania, Mr. WILSON of South Carolina, Mr. OLSON, Mr. CARNAHAN, Mr. QUIGLEY, Mr. MCGOVERN, Mrs. BLACKBURN, Mr. DICKS, Mr. SNYDER, and Mr. RAHALL) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an incentive to encourage the replacement of inefficient, outdated freight railcars with greener, more fuel efficient vehicles.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Green Railcar En-  
3 hancement Act of 2010”.

4 **SEC. 2. CREDIT FOR FREIGHT RAILCAR REPLACEMENT OR**  
5 **MODERNIZATION.**

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 is amended by adding at the end the following new  
9 section:

10 **“SEC. 45R. FREIGHT RAILCAR REPLACEMENT OR MOD-**  
11 **ERNIZATION CREDIT.**

12 “(a) GENERAL RULE.—For purposes of section 38,  
13 the freight railcar replacement or modernization credit de-  
14 termined under this section for the taxable year is an  
15 amount equal to 25 percent of the sum of—

16 “(1) the basis of any qualified freight railcar  
17 placed in service by the taxpayer during the taxable  
18 year, plus

19 “(2) the qualified freight railcar rebuild expend-  
20 itures of the taxpayer for the taxable year.

21 “(b) QUALIFIED FREIGHT RAILCAR.—

22 “(1) IN GENERAL.—For purposes of this sec-  
23 tion, the term ‘qualified freight railcar’ means a  
24 freight railcar which—

25 “(A) is acquired or rebuilt by the taxpayer  
26 pursuant to a binding agreement entered into

1 after the date of the enactment of this section,  
2 and

3 “(B) meets the capacity or fuel efficiency  
4 improvement requirements of paragraph (2).

5 “(2) CAPACITY OR FUEL EFFICIENCY REQUIRE-  
6 MENTS.—

7 “(A) IN GENERAL.—A freight railcar shall  
8 be treated as meeting the capacity or fuel effi-  
9 ciency requirements of this paragraph if—

10 “(i) in the case of a freight railcar  
11 which is acquired by the taxpayer during  
12 the taxable year (‘replacement railcar’), the  
13 taxpayer identifies another railcar (al-  
14 though not necessarily one being used for  
15 an identical purpose) which the taxpayer  
16 certifies—

17 “(I) was removed permanently  
18 from service as a freight railcar dur-  
19 ing the taxable year, or

20 “(II) is being rebuilt in such a  
21 manner as to achieve a significant im-  
22 provement in capacity or fuel effi-  
23 ciency, or

24 “(ii) in the case of a freight railcar re-  
25 built by the taxpayer, such rebuilding re-

1           sults in a significant improvement in ca-  
2           pacity or fuel efficiency.

3           “(B) OWNERSHIP NOT REQUIRED.—For  
4           purposes of subparagraph (A)(i), such other  
5           railcar may be one owned by the taxpayer or  
6           one owned by another taxpayer, so long as  
7           there exists a binding agreement to so remove  
8           or rebuild the railcar.

9           “(C) SIGNIFICANT IMPROVEMENT.—For  
10          purposes of subparagraph (A), an improvement  
11          in capacity or fuel efficiency with respect to a  
12          freight railcar shall be treated as significant if  
13          such capacity or fuel efficiency, as the case may  
14          be, is increased by at least 8 percent.

15          “(c) QUALIFIED FREIGHT RAILCAR REBUILD EX-  
16          PENDITURE.—For purposes of this section, the term  
17          ‘qualified freight railcar rebuild expenditure’ means any  
18          amount paid or incurred—

19                 “(1) in connection with the modification of a  
20                 freight railcar resulting in such railcar being a quali-  
21                 fied freight railcar, and

22                 “(2) which is properly chargeable to a capital  
23                 account with respect to such freight railcar.

24          “(d) OTHER SPECIAL RULES.—

1           “(1) COORDINATION WITH OTHER CREDITS.—  
2           Any amount taken into account in determining the  
3           credit under this section may not be taken into ac-  
4           count in determining a credit under any other provi-  
5           sion of this title.

6           “(2) BASIS ADJUSTMENT.—For purposes of  
7           this subtitle, if a credit is allowed under subsection  
8           (a) with respect to any qualified freight railcar, the  
9           basis of such railcar shall be reduced by the amount  
10          of the credit so allowed.

11          “(3) SALE-LEASEBACK.—For purposes of sub-  
12          section (a)(1), if any qualified freight railcar is—

13                 “(A) originally placed in service by a per-  
14                 son after [the date of the enactment of this  
15                 section], and

16                 “(B) sold and leased back by such person  
17                 within 3 months after the railcars are originally  
18                 placed in service (or, in the case of more than  
19                 1 railcar subject to the same lease, within 3  
20                 months after the date the final railcar is placed  
21                 in service, so long as the period between the  
22                 time the first railcar is placed in service and the  
23                 time the last railcar is placed in service does  
24                 not exceed 12 months),

1 such railcars shall be treated as originally placed in  
2 service not earlier than the date on which such rail-  
3 cars are used under the leaseback referred to in sub-  
4 paragraph (B).

5 “(4) SYNDICATION.—For purposes of sub-  
6 section (a)(1), if—

7 “(A) any qualified freight railcar is origi-  
8 nally placed in service after the date of enact-  
9 ment of this section by the lessor of such rail-  
10 car,

11 “(B) such railcar is sold by such lessor or  
12 any subsequent purchaser within 3 months  
13 after the date such railcar was originally placed  
14 in service (or, in the case of more than 1 railcar  
15 subject to the same lease, within 3 months after  
16 the date the final railcar is placed in service  
17 and the time the last railcar is placed in service  
18 does not exceed 12 months), and

19 “(C) the user of such railcar after the last  
20 sale during such 3-month period remains the  
21 same as when such railcar was originally placed  
22 in service,

23 such railcars shall be treated as originally placed in  
24 service not earlier than the date of such last sale.

1           “(5) RECAPTURE.—The benefit of any credit  
2           allowable under subsection (a) shall, under regula-  
3           tions prescribed by the Secretary, be recaptured with  
4           respect to any qualified freight railcar that is sold or  
5           otherwise disposed of by the taxpayer during the 5-  
6           year period beginning on the date on which such  
7           railcar is originally placed in service. The preceding  
8           sentence shall not apply to a qualified freight railcar  
9           that is sold by and subsequently leased back to the  
10          taxpayer.

11          “(6) REPORTING REQUIREMENTS.—The Sec-  
12          retary, in consultation with the Surface Transpor-  
13          tation Board, may develop appropriate reporting re-  
14          quirements for taxpayers utilizing this credit.

15          “(e) TERMINATION.—This section shall not apply to  
16          any freight railcars acquired, or with respect to which at  
17          least 50 percent of the rebuilding is completed, after De-  
18          cember 31, 2011.”.

19          (b) CREDIT ALLOWED AS BUSINESS CREDIT.—Sec-  
20          tion 38(b) of the Internal Revenue Code of 1986 (relating  
21          to current year business credit) is amended by striking  
22          “plus” at the end of paragraph (34), by striking the period  
23          at the end of paragraph (35) and inserting “, plus” and  
24          by adding at the end the following new paragraph:

1           “(36) the freight railcar replacement or mod-  
2           ernization credit determined under section 45R.”.

3           (c) COORDINATION WITH SECTION 55.—Section  
4 38(c)(4)(B) of the Internal Revenue Code of 1986 is  
5 amended by striking “and” at the end of clause (vii), by  
6 striking the period at the end of clause (viii) and inserting  
7 “, and” and by adding at the end the following new clause:

8                           “(ix) the credit determined under sec-  
9                           tion 45R.”.

10          (d) CLERICAL AMENDMENT.—The table of sections  
11 for subpart D of part IV of subchapter A of chapter 1  
12 of the Internal Revenue Code of 1986 is amended by in-  
13 serting after the item relating to section 45Q the following  
14 new item:

          “Sec. 45R. Freight railcar replacement or modernization credit.”.

15          (e) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to property placed in service, and  
17 amounts paid or incurred, after December 31, 2009.

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