

111TH CONGRESS
2^D SESSION

H. R. 5767

To amend the Internal Revenue Code of 1986 to allow a credit for equity investments in high technology and biotechnology small business concerns developing innovative technologies that stimulate private sector job growth.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2010

Mr. VAN HOLLEN (for himself, Mr. RUPPERSBERGER, Mr. POLIS of Colorado, Ms. MCCOLLUM, and Ms. SCHWARTZ) 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 allow a credit for equity investments in high technology and biotechnology small business concerns developing innovative technologies that stimulate private sector job growth.

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 “Innovative Tech-
5 nologies Investment Incentive Act of 2010”.

1 **SEC. 2. CREDIT FOR INVESTMENTS IN HIGH TECHNOLOGY**
 2 **AND BIOTECHNOLOGY BUSINESS CONCERNS**
 3 **DEVELOPING INNOVATIVE TECHNOLOGIES.**

4 (a) IN GENERAL.—Subpart B of part IV of sub-
 5 chapter A of chapter 1 of the Internal Revenue Code of
 6 1986 is amended by adding after section 30D the fol-
 7 lowing new section:

8 **“SEC. 30E. INVESTMENTS IN HIGH TECHNOLOGY AND BIO-**
 9 **TECHNOLOGY BUSINESS CONCERNS DEVEL-**
 10 **OPING INNOVATIVE TECHNOLOGIES.**

11 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 12 lowed as a credit against the tax imposed by this chapter
 13 for the taxable year an amount equal to 25 percent of the
 14 qualified equity investments made by the taxpayer during
 15 the taxable year.

16 “(b) LIMITATIONS.—

17 “(1) NATIONAL LIMITATION.—

18 “(A) IN GENERAL.—There is a national in-
 19 novative technology investment credit limitation
 20 of \$500,000,000.

21 “(B) ALLOCATION OF LIMITATION AND
 22 ISSUANCE OF CERTIFICATE.—Under regula-
 23 tions, the Administrator of the Small Business
 24 Administration shall make allocations of the na-
 25 tional innovative technology investment credit
 26 limitation among qualified equity investments

1 and shall issue an innovative technology invest-
2 ment credit certificate for each such allocation.

3 “(C) PER BUSINESS INVESTMENT LIMITA-
4 TION.—The amount of the national innovative
5 technology investment credit limitation allocated
6 to a qualified technology small business concern
7 shall not exceed 50 percent of the total amount
8 awarded to such concern under the Small Busi-
9 ness Innovation Research (SBIR) program
10 under section 9 of the Small Business Act.

11 “(D) CERTIFICATE REQUIRED FOR CREDIT
12 ELIGIBILITY.—The amount allowed as a credit
13 under subsection (a) with respect to any quali-
14 fied equity investment shall not exceed the
15 amount of the national innovative technology
16 investment credit limitation allocated to such
17 investment and shown on the innovative tech-
18 nology investment credit certificate pursuant to
19 subparagraph (E)(ii).

20 “(E) INNOVATIVE TECHNOLOGY INVEST-
21 MENT CREDIT CERTIFICATE.—For purposes of
22 this subsection, an innovative technology invest-
23 ment credit certificate is a certificate which—

24 “(i) certifies the amount of the quali-
25 fied equity investment,

1 “(ii) relates such investment to an
2 award under the Small Business Innova-
3 tion Research (SBIR) program under sec-
4 tion 9 of the Small Business Act which
5 qualifies for purposes of this section, and

6 “(iii) contains such other information
7 as the Administrator, in consultation with
8 the Secretary, determines to be necessary
9 or appropriate to carry out this section.

10 The amount of any award under the Small
11 Business Innovation Research program, once
12 related under subparagraph (B) with a qualified
13 equity investment, may not thereafter be avail-
14 able for purposes of this section.

15 “(2) LIMITATION BASED ON PERCENTAGE OWN-
16 ERSHIP.—The amount of the credit under subsection
17 (a) allowed to the taxpayer with respect to a quali-
18 fied equity investment in a qualified technology
19 small business concern shall be zero if, after such in-
20 vestment, the taxpayer owns (within the meaning of
21 section 318) 50 percent or more of—

22 “(A) in the case that such concern is a
23 corporation, the outstanding stock of the cor-
24 poration (either by vote or value), and

1 “(B) in the case that such concern is not
2 a corporation, the capital and profits interests
3 of such concern.

4 “(c) QUALIFIED EQUITY INVESTMENT.—For pur-
5 poses of this section—

6 “(1) IN GENERAL.—The term ‘qualified equity
7 investment’ means any equity investment in a quali-
8 fied technology small business concern made during
9 the investment period if such investment is acquired
10 by the taxpayer at its original issue (directly or
11 through an underwriter) solely in exchange for cash.

12 “(2) EQUITY INVESTMENT.—The term ‘equity
13 investment’ means—

14 “(A) any stock (other than nonqualified
15 preferred stock, as defined in section 351(g)(2))
16 in an entity which is a corporation, and

17 “(B) any capital or profits interest in an
18 entity which is not a corporation.

19 “(3) QUALIFIED TECHNOLOGY SMALL BUSINESS
20 CONCERN.—The term ‘qualified technology small
21 business concern’ means, with respect to any taxable
22 year, any small business concern (as defined in sec-
23 tion 3 of the Small Business Act) if such concern—

24 “(A) is engaged in a high technology or
25 biotechnology trade or business, and

1 “(B) employs an average of fewer than
2 500 employees on business days during such
3 year.

4 “(4) INVESTMENT PERIOD.—The term ‘invest-
5 ment period’ means the period—

6 “(A) beginning on the date the qualified
7 technology small business concern first receives
8 funds pursuant to a funding agreement under
9 the Small Business Innovation Research
10 (SBIR) program under section 9 of the Small
11 Business Act, and

12 “(B) ending on the last day of the 18-
13 month period beginning on the date on which
14 such funding agreement ceases to be in effect.

15 “(d) APPLICATION WITH OTHER CREDITS.—

16 “(1) BUSINESS CREDIT TREATED AS PART OF
17 GENERAL BUSINESS CREDIT.—Except as provided in
18 paragraph (2), the credit which would be allowed
19 under subsection (a) for any taxable year (deter-
20 mined without regard to this subsection) shall be
21 treated as a credit listed in section 38(b) for such
22 taxable year (and not allowed under subsection (a)).

23 “(2) PERSONAL CREDIT.—

24 “(A) IN GENERAL.—In the case of an indi-
25 vidual who elects the application of this para-

1 graph, for purposes of this title, the credit al-
2 lowed under subsection (a) for any taxable year
3 (determined after application of paragraph (1))
4 shall be treated as a credit allowable under sub-
5 part A for such taxable year.

6 “(B) LIMITATION BASED ON AMOUNT OF
7 TAX.—In the case of a taxable year to which
8 section 26(a)(2) does not apply, the credit al-
9 lowed under subpart A for any taxable year (de-
10 termined after application of paragraph (1)) by
11 reason of subparagraph (A) shall not exceed the
12 excess of—

13 “(i) the sum of the regular tax liabil-
14 ity (as defined in section 26(b)) plus the
15 tax imposed by section 55, over

16 “(ii) the sum of the credits allowable
17 under subpart A (other than this section)
18 and section 27 for the taxable year.

19 “(C) CARRYFORWARD OF UNUSED CRED-
20 IT.—If the credit allowable under subsection (a)
21 by reason of subparagraph (A) exceeds the limi-
22 tation imposed by section 26(a)(1) or subpara-
23 graph (B), whichever is applicable, for such tax-
24 able year, reduced by the sum of the credits al-
25 lowable under subpart A (other than this sec-

1 tion) for such taxable year, such excess shall be
2 carried to each of the succeeding 20 taxable
3 years to the extent that such unused credit may
4 not be taken into account under subsection (a)
5 by reason of subparagraph (A) for a prior tax-
6 able year because of such limitation.

7 “(e) SPECIAL RULES.—

8 “(1) RELATED PARTIES.—For purposes of this
9 section—

10 “(A) IN GENERAL.—All related persons
11 shall be treated as 1 person.

12 “(B) RELATED PERSONS.—A person shall
13 be treated as related to another person if the
14 relationship between such persons would result
15 in the disallowance of losses under section 267
16 or 707(b).

17 “(2) BASIS.—For purposes of this subtitle, the
18 basis of any investment with respect to which a cred-
19 it is allowable under this section shall be reduced by
20 the amount of such credit so allowed.

21 “(3) RECAPTURE.—The Secretary shall, by reg-
22 ulations, provide for recapturing the benefit of any
23 credit allowable under subsection (a) with respect to
24 any qualified equity investment which is held by the

1 taxpayer less than 3 years, except that no benefit
2 shall be recaptured in the case of—

3 “(A) transfer of such investment by reason
4 of the death of the taxpayer,

5 “(B) transfer between spouses, or

6 “(C) transfer incident to the divorce (as
7 defined in section 1041) of such taxpayer.

8 “(f) REGULATIONS.—The Secretary shall prescribe
9 such regulations as may be appropriate to carry out this
10 section, including regulations—

11 “(1) which prevent the abuse of the purposes of
12 this section, and

13 “(2) which impose appropriate reporting re-
14 quirements.”.

15 (b) CREDIT MADE PART OF GENERAL BUSINESS
16 CREDIT.—Subsection (b) of section 38 of such Code (re-
17 lating to current year business credit) is amended by strik-
18 ing “plus” at the end of paragraph (35), by striking the
19 period at the end of paragraph (36) and inserting “, plus”,
20 and by adding at the end the following new paragraph:

21 “(37) the portion of the qualified equity invest-
22 ment credit to which section 30E(d)(1) applies.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) Section 1016(a) of such Code is amended
25 by striking “and” at the end of paragraph (36), by

1 striking the period at the end of paragraph (37) and
2 inserting “, and”, and by inserting after paragraph
3 (37) the following new paragraph:

4 “(38) to the extent provided in section
5 30E(d)(2).”.

6 (2) Section 24(b)(3)(B) of such Code is amend-
7 ed by striking “and 30D” and inserting “30D, and
8 30E”.

9 (3) Section 25(e)(1)(C)(ii) of such Code is
10 amended by inserting “30E,” after “30D,”.

11 (4) Section 25A(i)(5)(B) of such Code is
12 amended by striking “and 30D” and inserting “,
13 30D, and 30E”.

14 (5) Section 25A(i)(5) of such Code is amended
15 by inserting “30E,” after “30D,”.

16 (6) Section 25B(g)(2) of such Code is amended
17 by striking “and 30D” and inserting “30D, and
18 30E”.

19 (7) Section 26(a)(1) of such Code is amended
20 by striking “and 30D” and inserting “30D, and
21 30E”.

22 (8) Section 30(c)(2)(B)(ii) of such Code is
23 amended by striking “and 30D” and inserting “,
24 30D, and 30E”.

1 (9) Section 30B(g)(2)(B)(ii) of such Code is
2 amended by striking “and 30D” and inserting
3 “30D, and 30E”.

4 (10) Section 30D(d)(2)(B)(ii) of such Code is
5 amended by striking “and 25D” and inserting “,
6 25D, and 30E”.

7 (11) Section 904(i) of such Code is amended by
8 striking “and 30D” and inserting “30D, and 30E”.

9 (12) Section 1400C(d)(2) of such Code is
10 amended by striking “and 30D” and inserting
11 “30D, and 30E”.

12 (d) CLERICAL AMENDMENT.—The table of sections
13 for subpart B of part IV of subchapter A of chapter 1
14 of such Code is amended by inserting after the item relat-
15 ing to section 30D the following new item:

“Sec. 30E. Investments in high technology and biotechnology business concerns
developing innovative technologies.”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to investments made after Decem-
18 ber 31, 2009, in taxable years ending after such date.

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