S. 1237

To amend the Internal Revenue Code of 1986 to allow manufacturing businesses to establish tax-free manufacturing reinvestment accounts to assist them in providing for new equipment and facilities and workforce training.

IN THE SENATE OF THE UNITED STATES

JUNE 21 (legislative day, JUNE 16), 2011

Mr. BLUMENTHAL (for himself, Mr. LIEBERMAN, and Mr. ROCKEFELLER) 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 allow manufacturing businesses to establish tax-free manufacturing reinvestment accounts to assist them in providing for new equipment and facilities and workforce training.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Manufacturing Reinvestment Account Act of 2011”.

SEC. 2. MANUFACTURING REINVESTMENT ACCOUNTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 199 the following new section:

“SEC. 199A. MANUFACTURING REINVESTMENT ACCOUNTS.

“(a) DEDUCTION ALLOWED.—In the case of a taxpayer engaged in a manufacturing business, there shall be allowed as a deduction for the taxable year the amount paid in cash by the taxpayer during the taxable year to a manufacturing reinvestment account (hereinafter referred to as an ‘MRA’) for the taxpayer’s benefit.

“(b) LIMITATION.—

“(1) IN GENERAL.—The amount which a taxpayer may pay into an MRA for the taxable year shall not exceed the lesser of—

“(A) the domestic manufacturing gross receipts of the taxpayer for the taxable year, or

“(B) $500,000.

“(2) CONTROLLED GROUPS.—

“(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

“(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in
applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

“(c) MRA.—For purposes of this section, the term ‘MRA’ means a trust created or organized in the United States for the exclusive benefit of the taxpayer, but only if the written governing instrument creating the trust meets the following requirements:

“(1) No contribution will be accepted for any taxable year unless it is in cash.

“(2) Contributions will not be accepted for any taxable year in excess of the amount allowed as a deduction under subsection (a) for such year.

“(3) The trustee is an eligible institution.

“(4) No part of the trust assets will be invested in life insurance contracts.

“(5) No part of the trust assets will be invested in any collectible (as defined in section 408(m)).

“(6) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

“(d) Tax Treatment of Accounts.—

“(1) In general.—An MRA is exempt from taxation under this subtitle unless the account has ceased to be an MRA. Notwithstanding the pre-
ceding sentence, an MRA is subject to the taxes im-
posed by section 511 (relating to imposition of tax
on unrelated business income of charitable, etc. or-
ganizations).

“(2) ACCOUNT TERMINATIONS.—Rules similar
to the rules of paragraphs (2) and (4) of section
408(e) shall apply to MRAs, and any amount treat-
ed as distributed under such rules shall be treated
as not used to pay qualified reinvestment expenses.

“(e) TREATMENT OF DISTRIBUTIONS.—

“(1) IN GENERAL.—Except as provided in para-
graphs (3) and (4), there shall be includible in the
gross income of the taxpayer for any taxable year—

“(A) any amount distributed from an MRA
of the taxpayer during such taxable year, and

“(B) any deemed distribution under—

“(i) subsection (g)(1) (relating to de-
posits not distributed within 7 years),

“(ii) subsection (g)(2) (relating to ces-
sation in manufacturing business), and

“(iii) subparagraph (A) or (B) of sub-
section (g)(3) (relating to prohibited trans-
actions and pledging account as security).

“(2) ADDITIONAL TAX.—
“(A) IN GENERAL.—The tax imposed by this chapter on the taxpayer for any taxable year in which there is a distribution from an MRA shall be increased by 10 percent of the amount of such distribution which is includible in gross income.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to distributions during the taxable year to the extent necessary, under regulations prescribed by the Secretary, to avoid bankruptcy.

“(3) REDUCED INCLUSION FOR AMOUNTS REINVESTED.—Only 43 percent of the aggregate amount distributed from an MRA during the taxable year shall be includible in income under paragraph (1)(A) to the extent that such aggregate amount does not exceed the aggregate amount of qualified reinvestment expenses paid or incurred by the taxpayer during such year.

“(4) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to an MRA to the extent that such contribution exceeds the limitation applicable under subsection
(b) if requirements similar to the requirements of section 408(d)(4) are met.

“(f) DEFINITIONS.—For purposes of this section—

“(1) MANUFACTURING BUSINESS.—The term ‘manufacturing business’ means any trade or business having domestic manufacturing gross receipts.

“(2) DOMESTIC MANUFACTURING GROSS RECEIPTS.—The term ‘domestic manufacturing gross receipts’ means gross receipts of the taxpayer which are derived from any lease, rental, license, sale, exchange, or other disposition of tangible personal property which was manufactured by the taxpayer in whole or in significant part within the United States. Rules similar to the rules of section 199 shall apply in determining the gross receipts of the taxpayer for purposes of the preceding sentence.

“(3) QUALIFIED REINVESTMENT EXPENSES.—The term ‘qualified reinvestment expenses’ means—

“(A) expenses for property to be used by the taxpayer in a manufacturing business, and

“(B) expenses for job training and workforce development for employees of the taxpayer.

“(4) ELIGIBLE INSTITUTION.—
“(A) IN GENERAL.—The term ‘eligible institution’ means—

“(i) any insured depository institution, which—

“(I) is not controlled by a bank holding company or savings and loan holding company that is also an eligible institution,

“(II) has total assets of equal to or less than $25,000,000,000, as reported in the call report as of the end of the fourth quarter of calendar year 2009, and

“(III) is not directly or indirectly controlled by any company or other entity that has total consolidated assets of more than $25,000,000,000, as so reported;

“(ii) any bank holding company which has total consolidated assets of equal to or less than $25,000,000,000;

“(iii) any savings and loan holding company which has total consolidated assets of equal to or less than $25,000,000,000;
“(iv) any community development financial institution loan fund which has total assets of equal to or less than $25,000,000,000; and

“(v) any small business lending company that has total assets of equal to or less than $25,000,000,000.

“(B) INSURED DEPOSITORY INSTITUTION.—The term ‘insured depository institution’ has the meaning given such term under section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

“(C) BANK HOLDING COMPANY.—The term ‘bank holding company’ has the meaning given such term under section 2(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(2)(a)(1)).

“(D) CALL REPORT.—The term ‘call report’ means—

“(i) reports of Condition and Income submitted to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation;
“(ii) the Office of Thrift Supervision Thrift Financial Report;

“(iii) any report that is designated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Office of Thrift Supervision, as applicable, as a successor to any report referred to in clause (i) or (ii);

“(iv) standard reports of Condition and Income submitted by Community Development Financial Institution loan funds to the Community Development Financial Institutions Fund; and

“(v) with respect to an eligible institution for which no report exists that is described under clause (i), (ii), or (iii), such other report or set of information as the Secretary, in consultation with the Administrator of the Small Business Administration, may prescribe.

“(g) Special Rules.—

“(1) Tax on deposits in account which are not distributed within 7 years.—
“(A) IN GENERAL.—If, at the close of any taxable year, there is a nonqualified balance in any MRA—

“(i) there shall be deemed distributed from the MRA during such taxable year an amount equal to such balance, and

“(ii) the taxpayer’s tax imposed by this chapter for such taxable year shall be increased by 10 percent of such deemed distribution.

“(B) NONQUALIFIED BALANCE.—For purposes of subparagraph (A), the term ‘nonqualified balance’ means any balance in the MRA on the last day of the taxable year which is attributable to amounts deposited in such account before the 6th preceding taxable year.

“(C) ORDERING RULE.—For purposes of this paragraph, distributions from an MRA shall be treated as made from deposits (and income thereon) in the order in which such deposits were made, beginning with the earliest deposits.

“(2) CESSATION OF MANUFACTURING BUSINESS.—If the taxpayer ceases to be engaged in a manufacturing business, there shall be deemed dis-
tributed from the MRA of the taxpayer at the close
of the first taxable year beginning after such ces-
sation an amount equal to the balance in the MRA
(if any) at such close.

“(3) CERTAIN RULES TO APPLY.—Rules similar
to the following rules shall apply for purposes of this
section:

“(A) Section 408(e)(2) (relating to loss of
exemption of account where taxpayer engages
in prohibited transaction).

“(B) Section 408(e)(4) (relating to effect
of pledging account as security).

“(C) Section 408(h) (relating to custodial
accounts).

“(4) TIME WHEN PAYMENTS DEEMED MADE.—
For purposes of this section, a taxpayer shall be
deemed to have made a payment to an MRA on the
last day of a taxable year if such payment is made
on account of such taxable year and is made on or
before the due date (without regard to extensions)
for filing the return of tax for such taxable year.

“(5) DEDUCTION NOT ALLOWED FOR SELF-EM-
PLOYMENT TAX.—The deduction allowable by reason
of subsection (a) shall not be taken into account in
determining an individual’s net earnings from self-
employment (within the meaning of section 1402(a))
for purposes of chapter 2.

“(h) REPORTS.—The trustee of an MRA shall make
such reports regarding such account to the Secretary and
to the person for whose benefit the account is maintained
with respect to contributions, distributions, and such other
matters as the Secretary may require under regulations.
The reports required by this subsection shall be filed at
such time and in such manner and furnished to such per-
sons at such time and in such manner as may be required
by such regulations.

“(i) TERMINATION.—No deduction shall be allowed
under this section for any taxable year beginning more
than 10 years after the date of the enactment of this sec-
tion.”.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section
4973 of the Internal Revenue Code of 1986 is
amended by striking “or” at the end of paragraph
(4), by adding “or” at the end of paragraph (5), and
by inserting after paragraph (5) the following new
paragraph:

“(6) an MRA (within the meaning of section
199A(c)),”.
(2) Excess contribution defined.—Section 4973 of such Code is amended by adding at the end the following new subsection:

“(h) Excess contributions to MRAs.—For purposes of this section, in the case of MRAs (within the meaning of section 199A(c)), the term ‘excess contributions’ means the amount by which the amount contributed for the taxable year to the MRAs of the taxpayer exceeds the amount which may be contributed to such MRAs under section 199A(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of an MRA in a distribution to which section 199A(e)(3) applies shall be treated as an amount not contributed.”.

(c) Tax on prohibited transactions.—

(1) In general.—Paragraph (1) of section 4975(e) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (H), and by inserting after subparagraph (F) the following:

“(F) an MRA described in section 199A(e), or”.
(2) SPECIAL RULE.—Subsection (c) of section 4975 of such Code is amended by adding at the end the following:

“(7) SPECIAL RULE FOR MANUFACTURING RE-INVESTMENT ACCOUNTS.—A person for whose benefit an MRA (within the meaning of section 199A(e)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an MRA by reason of the application of section 199A(g)(3)(A) to such account.”.

(d) FAILURE TO PROVIDE REPORTS ON MRAS.—Paragraph (2) of section 6693(a) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (A) through (E) as subparagraphs (B) and (F), respectively, and by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

“(A) section 199A(h) (relating to manufacturing reinvestment accounts),”.

(e) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 199 the following new item:

“Sec. 199A. Manufacturing reinvestment accounts.”.
(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.