

105TH CONGRESS
2D SESSION

S. 1885

To amend the Internal Revenue Code of 1986 to provide for a medical innovation tax credit for clinical testing research expenses attributable to academic medical centers and other qualified hospital research organizations.

IN THE SENATE OF THE UNITED STATES

MARCH 31, 1998

Mr. D'AMATO (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mrs. BOXER) 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 for a medical innovation tax credit for clinical testing research expenses attributable to academic medical centers and other qualified hospital research organizations.

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. CREDIT FOR CLINICAL TESTING RESEARCH EX-**
 2 **PENSES ATTRIBUTABLE TO CERTAIN QUALI-**
 3 **FIED ACADEMIC INSTITUTIONS INCLUDING**
 4 **TEACHING HOSPITALS.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
 6 chapter A of chapter 1 of the Internal Revenue Code of
 7 1986 (relating to business related credits) is amended by
 8 inserting after section 41 the following:

9 **“SEC. 41A. CREDIT FOR MEDICAL INNOVATION EXPENSES.**

10 “(a) GENERAL RULE.—For purposes of section 38,
 11 the medical innovation credit determined under this sec-
 12 tion for the taxable year shall be an amount equal to 20
 13 percent of the excess (if any) of—

14 “(1) the qualified medical innovation expenses
 15 for the taxable year, over

16 “(2) the medical innovation base period
 17 amount.

18 “(b) QUALIFIED MEDICAL INNOVATION EX-
 19 PENSES.—For purposes of this section—

20 “(1) IN GENERAL.—The term ‘qualified medical
 21 innovation expenses’ means the amounts which are
 22 paid or incurred by the taxpayer during the taxable
 23 year directly or indirectly to any qualified academic
 24 institution for clinical testing research activities.

25 “(2) CLINICAL TESTING RESEARCH ACTIVI-
 26 TIES.—

“(A) IN GENERAL.—The term ‘clinical testing research activities’ means human clinical testing conducted at any qualified academic institution in the development of any product, which occurs before—

“(i) the date on which an application with respect to such product is approved under section 505(b), 506, or 507 of the Federal Food, Drug, and Cosmetic Act,

“(ii) the date on which a license for such product is issued under section 351 of the Public Health Service Act, or

“(iii) the date classification or approval of such product which is a device intended for human use is given under section 513, 514, or 515 of the Federal Food, Drug, and Cosmetic Act.

“(B) PRODUCT.—The term ‘product’ means any drug, biologic, or medical device.

“(3) QUALIFIED ACADEMIC INSTITUTION.—The term ‘qualified academic institution’ means any of the following institutions:

“(A) EDUCATIONAL INSTITUTION.—A qualified organization described in section 170(b)(1)(A)(iii) which is owned or affiliated

1 with an institution of higher education as de-
 2 scribed in section 3304(f).

3 “(B) CHARITABLE RESEARCH HOSPITAL.—

4 A charitable research hospital which—

5 “(i) is owned by an organization de-
 6 scribed in section 501(c)(3) and exempt
 7 from taxation under section 501(a),

8 “(ii) is not a private foundation, and

9 “(iii) is designated as a cancer center
 10 by the National Cancer Institute.

11 “(4) EXCLUSION FOR AMOUNTS FUNDED BY
 12 GRANTS, ETC.—The term ‘qualified medical innova-
 13 tion expenses’ shall not include any amount to the
 14 extent such amount is funded by any grant, con-
 15 tract, or otherwise by another person (or any gov-
 16 ernmental entity).

17 “(c) MEDICAL INNOVATION BASE PERIOD
 18 AMOUNT.—For purposes of this section, the term ‘medical
 19 innovation base period amount’ means the average annual
 20 qualified medical innovation expenses paid by the taxpayer
 21 during the 3-taxable year period ending with the taxable
 22 year immediately preceding the first taxable year of the
 23 taxpayer beginning after December 31, 1997.

24 “(d) SPECIAL RULES.—

1 “(1) LIMITATION ON FOREIGN TESTING.—No
2 credit shall be allowed under this section with re-
3 spect to any clinical testing research activities con-
4 ducted outside the United States.

5 “(2) CERTAIN RULES MADE APPLICABLE.—
6 Rules similar to the rules of subsections (f) and (g)
7 of section 41 shall apply for purposes of this section.

8 “(3) ELECTION.—This section shall apply to
9 any taxpayer for any taxable year only if such tax-
10 payer elects (at such time and in such manner as
11 the Secretary may by regulation prescribe) to have
12 this section apply for such taxable year.

13 “(4) COORDINATION WITH CREDIT FOR IN-
14 CREASING RESEARCH EXPENDITURES AND WITH
15 CREDIT FOR CLINICAL TESTING EXPENSES FOR CER-
16 TAIN DRUGS FOR RARE DISEASES.—Any qualified
17 medical innovation expense for a taxable year to
18 which an election under this section applies shall not
19 be taken into account for purposes of determining
20 the credit allowable under section 41 or 45C for
21 such taxable year.”

22 (b) GENERAL BUSINESS CREDIT.—Section 38(b) of
23 the Internal Revenue Code of 1986 (relating to current
24 year business credit) is amended by striking “plus” at the
25 end of paragraph (11), by striking the period at the end

1 of paragraph (12) and inserting “, plus”, and by adding
 2 at the end the following:

3 “(13) the medical innovation expenses credit
 4 determined under section 41A(a).”

5 (c) DEDUCTION FOR UNUSED PORTION OF CRED-
 6 IT.—Section 196(c) of the Internal Revenue Code of 1986
 7 (defining qualified business credits) is amended by strik-
 8 ing “and” at the end of paragraph (6), by striking the
 9 period at the end of paragraph (7) and inserting “, and”,
 10 and by adding at the end the following:

11 “(8) the medical innovation expenses credit de-
 12 termined under section 41A(a).”

13 (d) CONFORMING AMENDMENT.—The table of sec-
 14 tions for subpart D of part IV of subchapter A of chapter
 15 1 of the Internal Revenue Code of 1986 is amended by
 16 adding after the item relating to section 41 the following:

“Sec. 41A. Credit for medical innovation expenses.”

17 (e) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to taxable years beginning after
 19 December 31, 1997.

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