

108TH CONGRESS
1ST SESSION

S. 1885

To amend the Internal Revenue Code of 1986 to provide tax incentives
for manufacturing businesses in the United States.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2003

Mr. DASCHLE (for Mr. KERRY) 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
tax incentives for manufacturing businesses in the United
States.

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 “Manufacturing Job
5 Production Act of 2003”.

6 **SEC. 2. TEMPORARY MANUFACTURING JOB CREATION TAX**

7 **CREDIT.**

8 (a) IN GENERAL.—Subpart F of part IV of sub-
9 chapter A of chapter 1 (relating to rules for computing

1 work opportunity credit) is amended by inserting after
 2 section 51A the following new section:

3 **“SEC. 51B. REFUND OF PAYROLL TAXES ATTRIBUTABLE TO**
 4 **NEW MANUFACTURING EMPLOYEES DURING**
 5 **2004 AND 2005.**

6 “(a) GENERAL RULE.—In the case of an employee’s
 7 first taxable year beginning in any applicable calendar
 8 year, the amount of the work opportunity credit deter-
 9 mined under section 51 (without regard to this section)
 10 for the taxable year shall be increased by the increased
 11 manufacturing wages payroll tax rebate amount.

12 “(b) APPLICABLE CALENDAR YEAR.—For purposes
 13 of this section, the term ‘applicable calendar year’ means
 14 2004 and 2005.

15 “(c) INCREASED MANUFACTURING WAGES PAYROLL
 16 TAX REBATE AMOUNT.—

17 “(1) IN GENERAL.—For purposes of this sec-
 18 tion, the term ‘increased manufacturing wages pay-
 19 roll tax rebate amount’ means an amount equal to
 20 the applicable percentage of the excess (if any) of—

21 “(A) the qualified manufacturing wages
 22 paid or incurred by the employer with respect
 23 to employment during the applicable calendar
 24 year, over

25 “(B) the sum of—

1 “(i) the qualified manufacturing
2 wages paid or incurred by the employer
3 with respect to employment during the pre-
4 vious calendar year, plus

5 “(ii) an amount equal to the amount
6 determined under clause (i) multiplied by a
7 percentage equal to the percentage change
8 in the contribution and benefit base under
9 section 230 of the Social Security Act from
10 the applicable calendar year to the pre-
11 vious calendar year.

12 “(2) APPLICABLE PERCENTAGE.—For purposes
13 of this subsection, the term ‘applicable percentage’
14 means—

15 “(A) for 2004, 50 percent, and

16 “(B) for 2005, 25 percent.

17 “(d) OTHER DEFINITIONS AND RULES.—For pur-
18 poses of this section—

19 “(1) QUALIFIED MANUFACTURING WAGES.—

20 “(A) IN GENERAL.—The term ‘qualified
21 manufacturing wages’ means wages which are
22 paid by the taxpayer and included under section
23 263A in the cost of property produced by the
24 taxpayer.

1 “(B) WAGES.—The term ‘wages’ has the
2 meaning given such term by section 3121(a),
3 except that in the case of any employer subject
4 to tax under chapter 22 with respect to any em-
5 ployee, the such term includes compensation
6 within the meaning of section 3231(e).

7 “(C) UNITED STATES.—For purposes of
8 this paragraph, the term ‘United States’ in-
9 cludes the territories and possessions of the
10 United States.

11 “(2) PREDECESSORS.—Any reference in this
12 section to an employer shall include a reference to
13 a predecessor.

14 “(3) OTHER RULES.—Rules similar to the rules
15 of sections 51(k) and 52 shall apply.

16 “(e) REGULATIONS.—The Secretary shall prescribe
17 such regulations as may be necessary to carry out this
18 section, including regulations for the application of this
19 section in the case of acquisitions and dispositions.”.

20 (b) CONFORMING AMENDMENT.—The table of sec-
21 tions for subpart F of part IV of subchapter A of chapter
22 1 is amended by inserting after the item relating to section
23 51A the following new item:

 “Sec. 51B. Refund of payroll taxes attributable to new manufacturing em-
 ployees during 2004 and 2005.”.

1 **SEC. 3. MODIFICATIONS OF EXCLUSIONS AND ROLLOVERS**
2 **OF GAIN ON QUALIFIED SMALL BUSINESS**
3 **STOCK.**

4 (a) EXCLUSION OF GAIN ON QUALIFIED SMALL
5 BUSINESS STOCK.—

6 (1) INCREASE IN EXCLUSION PERCENTAGE.—

7 (A) IN GENERAL.—Section 1202(a)(1) (re-
8 lating to exclusion for gain from certain small
9 business stock) is amended by striking “50 per-
10 cent” and inserting “75 percent”.

11 (B) 100-PERCENT EXCLUSION FOR CRIT-
12 ICAL TECHNOLOGY, SMALL MANUFACTURING,
13 AND SPECIALIZED SMALL BUSINESS INVEST-
14 MENT BUSINESSES.—Section 1202(a) is amend-
15 ed by adding at the end the following new para-
16 graph:

17 “(3) CRITICAL TECHNOLOGY, SMALL MANUFAC-
18 TURING, AND SPECIALIZED SMALL BUSINESS IN-
19 VESTMENT BUSINESSES.—

20 “(A) IN GENERAL.—In the case of quali-
21 fied small business stock acquired after the date
22 of the enactment of this paragraph which is
23 stock in—

24 “(i) a critical technology corporation,

25 “(ii) a manufacturing corporation, or

1 “(iii) a corporation which is a special-
2 ized small business investment company
3 (as defined in subsection (c)(2)(B)(ii)),
4 paragraph (1) shall be applied by substituting
5 ‘100 percent’ for ‘75 percent’.

6 “(B) CRITICAL TECHNOLOGY CORPORA-
7 TION.—The term ‘critical technology corpora-
8 tion’ means a corporation substantially all of
9 the active business activities of which during
10 substantially all of a taxpayer’s holding period
11 of stock in the corporation are in connection
12 with—

13 “(i) transportation or homeland secu-
14 rity technologies,

15 “(ii) antiterrorism technologies,

16 “(iii) technologies enhancing security
17 by improving methods of personal identi-
18 fication (including biometrics),

19 “(iv) environmental technologies for
20 pollution minimization, remediation, or
21 waste management,

22 “(v) national defense technologies, or

23 “(vi) energy efficiency or the develop-
24 ment of non-fossil based fuel source tech-
25 nologies.

1 “(C) MANUFACTURING CORPORATION.—
 2 The term ‘manufacturing corporation’ means a
 3 corporation substantially all of the active busi-
 4 ness activities of which during substantially all
 5 of a taxpayer’s holding period of stock in the
 6 corporation are in connection with manufac-
 7 turing (as determined under the North Amer-
 8 ican Industrial Classification System).”.

9 (C) EMPOWERMENT ZONE CONFORMING
 10 AMENDMENT.—Section 1202(a)(2)(A) is
 11 amended—

12 (i) by striking “60 percent” and in-
 13 serting “100 percent”, and

14 (ii) by striking “50 percent” and in-
 15 serting “75 percent”.

16 (2) DECREASE IN HOLDING PERIOD.—

17 (A) IN GENERAL.—Section 1202(a)(1) is
 18 amended by striking “5 years” and inserting “4
 19 years”.

20 (B) CONFORMING AMENDMENT.—Section
 21 1202(j)(1)(A) is amended by striking “5 years”
 22 and inserting “4 years”.

23 (3) EXCLUSION AVAILABLE TO CORPORA-
 24 TIONS.—

1 (A) IN GENERAL.—Subsection (a) of sec-
 2 tion 1202 (relating to partial exclusion for
 3 gains from certain small business stock) is
 4 amended by striking “other than a corpora-
 5 tion”.

6 (B) TECHNICAL AMENDMENT.—Subsection
 7 (c) of section 1202 is amended by adding at the
 8 end the following new paragraph:

9 “(4) STOCK HELD AMONG MEMBERS OF CON-
 10 TROLLED GROUP NOT ELIGIBLE.—Stock of a mem-
 11 ber of a parent-subsidiary controlled group (as de-
 12 fined in subsection (d)(3)) shall not be treated as
 13 qualified small business stock while held by another
 14 member of such group.”.

15 (4) STOCK OF LARGER BUSINESSES ELIGIBLE
 16 FOR EXCLUSION.—

17 (A) IN GENERAL.—Paragraph (1) of sec-
 18 tion 1202(d) (defining qualified small business)
 19 is amended by striking “\$50,000,000” each
 20 place it appears and inserting “\$100,000,000”.

21 (B) INFLATION ADJUSTMENT.—Section
 22 1202(d) (defining qualified small business) is
 23 amended by adding at the end the following:

24 “(5) INFLATION ADJUSTMENT OF ASSET LIM-
 25 ITATION.—In the case of stock issued in any calendar

1 year after 2004, the \$100,000,000 amount con-
2 tained in paragraph (1) shall be increased by an
3 amount equal to—

4 “(A) such dollar amount, multiplied by

5 “(B) the cost-of-living adjustment deter-
6 mined under section 1(f)(3) for the calendar
7 year, determined by substituting ‘calendar year
8 2003’ for ‘calendar year 1992’ in subparagraph
9 (B) thereof.

10 If any amount as adjusted under the preceding sen-
11 tence is not a multiple of \$10,000, such amount
12 shall be rounded to the nearest multiple of
13 \$10,000.”.

14 (b) INCREASE IN PERIOD TO PURCHASE REPLACE-
15 MENT STOCK AND QUALIFY FOR ROLLOVER.—

16 (1) IN GENERAL.—Section 1045(a)(2) (relating
17 to nonrecognition of gain) is amended by striking
18 “60-day” and inserting “180-day”.

19 (2) CONFORMING AMENDMENT.—Section
20 1045(b)(2) is amended by striking “60-day” and in-
21 serting “180-day”.

22 (c) EFFECTIVE DATES.—

23 (1) EXCLUSION.—The amendments made by
24 subsection (a) shall apply to stock issued after the
25 date of the enactment of this Act.

1 (2) ROLLOVER.—The amendment made by sub-
 2 section (b) shall apply to sales after the date of the
 3 enactment of this Act.

4 **SEC. 4. DEFERRED PAYMENT OF TAX BY CERTAIN SMALL**
 5 **BUSINESSES.**

6 (a) IN GENERAL.—Subchapter B of chapter 62 of the
 7 Internal Revenue Code of 1986 (relating to extensions of
 8 time for payment of tax) is amended by adding at the end
 9 the following new section:

10 **“SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX FOR**
 11 **CERTAIN SMALL BUSINESSES.**

12 “(a) IN GENERAL.—An eligible small business may
 13 elect to pay the tax imposed by chapter 1 in 4 equal in-
 14 stallments (6 equal installments in the case of a qualified
 15 manufacturer).

16 “(b) LIMITATION.—The maximum amount of tax
 17 which may be paid in installments under this section for
 18 any taxable year shall not exceed whichever of the fol-
 19 lowing is the least:

20 “(1) The tax imposed by chapter 1 for the tax-
 21 able year.

22 “(2) The amount contributed by the taxpayer
 23 into a BRIDGE Account during such year.

24 “(3) The excess of—

1 “(A) \$250,000 (\$400,000 in the case of a
2 qualified manufacturer), over

3 “(B) the aggregate amount of tax for
4 which an election under this section was made
5 by the taxpayer (or any predecessor) for all
6 prior taxable years.

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

8 “(1) ELIGIBLE SMALL BUSINESS.—

9 “(A) IN GENERAL.—The term ‘eligible
10 small business’ means, with respect to any tax-
11 able year, any person if—

12 “(i) such person meets the active busi-
13 ness requirements of section 1202(e)
14 throughout such taxable year,

15 “(ii) the taxpayer has gross receipts
16 of \$10,000,000 or less for the taxable year,

17 “(iii) the gross receipts of the tax-
18 payer for such taxable year are at least 10
19 percent greater than the average annual
20 gross receipts of the taxpayer (or any pred-
21 ecessor) for the 2 prior taxable years, and

22 “(iv) the taxpayer uses an accrual
23 method of accounting.

24 “(B) CERTAIN RULES TO APPLY.—Rules
25 similar to the rules of paragraphs (2) and (3)

1 of section 448(c) shall apply for purposes of
2 this subsection.

3 “(2) QUALIFIED MANUFACTURER.—The term
4 ‘qualified manufacturer’ means an eligible small
5 business substantially all of the business activities of
6 which are in connection with manufacturing (as de-
7 termined under the North American Industrial Clas-
8 sification System).

9 “(d) DATE FOR PAYMENT OF INSTALLMENTS; TIME
10 FOR PAYMENT OF INTEREST.—

11 “(1) DATE FOR PAYMENT OF INSTALLMENTS.—

12 “(A) IN GENERAL.—If an election is made
13 under this section for any taxable year, the first
14 installment shall be paid on or before the due
15 date for such installment and each succeeding
16 installment shall be paid on or before the date
17 which is 1 year after the date prescribed by this
18 paragraph for payment of the preceding install-
19 ment.

20 “(B) DUE DATE FOR FIRST INSTALL-
21 MENT.—The due date for the first installment
22 for a taxable year shall be whichever of the fol-
23 lowing is the earliest:

24 “(i) The date selected by the tax-
25 payer.

1 “(ii) The date which is 2 years after
2 the date prescribed by section 6151(a) for
3 payment of the tax for such taxable year.

4 “(2) TIME FOR PAYMENT OF INTEREST.—If the
5 time for payment of any amount of tax has been ex-
6 tended under this section—

7 “(A) INTEREST FOR PERIOD BEFORE DUE
8 DATE OF FIRST INSTALLMENT.—Interest pay-
9 able under section 6601 on any unpaid portion
10 of such amount attributable to the period before
11 the due date for the first installment shall be
12 paid annually.

13 “(B) INTEREST DURING INSTALLMENT PE-
14 RIOD.—Interest payable under section 6601 on
15 any unpaid portion of such amount attributable
16 to any period after such period shall be paid at
17 the same time as, and as a part of, each install-
18 ment payment of the tax.

19 “(C) INTEREST IN THE CASE OF CERTAIN
20 DEFICIENCIES.—In the case of a deficiency to
21 which subsection (e)(3) applies for a taxable
22 year which is assessed after the due date for
23 the first installment for such year, interest at-
24 tributable to the period before such due date,
25 and interest assigned under subparagraph (B)

1 to any installment the date for payment of
2 which has arrived on or before the date of the
3 assessment of the deficiency, shall be paid upon
4 notice and demand from the Secretary.

5 “(e) SPECIAL RULES.—

6 “(1) APPLICATION OF LIMITATION TO PART-
7 NERS AND S CORPORATION SHAREHOLDERS.—

8 “(A) IN GENERAL.—In applying this sec-
9 tion to a partnership which is an eligible small
10 business—

11 “(i) the election under subsection (a)
12 shall be made by the partnership,

13 “(ii) the amount referred to in sub-
14 section (b)(1) shall be the sum of each
15 partner’s tax which is attributable to items
16 of the partnership and assuming the high-
17 est marginal rate under section 1, and

18 “(iii) the partnership shall be treated
19 as the taxpayer referred to in paragraphs
20 (2) and (3) of subsection (b).

21 “(B) OVERALL LIMITATION ALSO APPLIED
22 AT PARTNER LEVEL.—In the case of a partner
23 in a partnership, the limitation under sub-
24 section (b)(3) shall be applied at the partner-
25 ship and partner levels.

1 “(C) SIMILAR RULES FOR S CORPORA-
2 TIONS.—Rules similar to the rules of subpara-
3 graphs (A) and (B) shall apply to shareholders
4 in an S corporation.

5 “(2) ACCELERATION OF PAYMENT IN CERTAIN
6 CASES.—

7 “(A) IN GENERAL.—If—

8 “(i) the taxpayer ceases to meet the
9 requirement of subsection (c)(1)(A)(i), or

10 “(ii) there is an ownership change
11 with respect to the taxpayer,

12 then the extension of time for payment of tax
13 provided in subsection (a) shall cease to apply,
14 and the unpaid portion of the tax payable in in-
15 stallments shall be paid on or before the due
16 date for filing the return of tax imposed by
17 chapter 1 for the first taxable year following
18 such cessation.

19 “(B) OWNERSHIP CHANGE.—For purposes
20 of subparagraph (A), in the case of a corpora-
21 tion, the term ‘ownership change’ has the
22 meaning given to such term by section 382.
23 Rules similar to the rules applicable under the
24 preceding sentence shall apply to a partnership.

1 “(3) PRORATION OF DEFICIENCY TO INSTALL-
2 MENTS.—Rules similar to the rules of section
3 6166(e) shall apply for purposes of this section.

4 “(f) BRIDGE ACCOUNT.—For purposes of this sec-
5 tion—

6 “(1) IN GENERAL.—The term ‘BRIDGE Ac-
7 count’ means a trust created or organized in the
8 United States for the exclusive benefit of an eligible
9 small business, but only if the written governing in-
10 strument creating the trust meets the following re-
11 quirements:

12 “(A) No contribution will be accepted for
13 any taxable year in excess of the amount al-
14 lowed as a deferral under subsection (b) for
15 such year.

16 “(B) The trustee is a bank (as defined in
17 section 408(n)) or another person who dem-
18 onstrates to the satisfaction of the Secretary
19 that the manner in which such person will ad-
20 minister the trust will be consistent with the re-
21 quirements of this section.

22 “(C) The assets of the trust consist en-
23 tirely of cash or of obligations which have ade-
24 quate stated interest (as defined in section

1 1274(c)(2)) and which pay such interest not
2 less often than annually.

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

7 “(E) Amounts in the trust may be used
8 only—

9 “(i) as security for a loan to the busi-
10 ness or for repayment of such loan, or

11 “(ii) to pay the installments under
12 this section.

13 “(2) ACCOUNT TAXED AS GRANTOR TRUST.—

14 The grantor of a BRIDGE Account shall be treated
15 for purposes of this title as the owner of such Ac-
16 count and shall be subject to tax thereon in accord-
17 ance with subpart E of part I of subchapter J of
18 this chapter (relating to grantors and others treated
19 as substantial owners).

20 “(3) TIME WHEN PAYMENTS DEEMED MADE.—

21 For purposes of this section, a taxpayer shall be
22 deemed to have made a payment to a BRIDGE Ac-
23 count on the last day of a taxable year if such pay-
24 ment is made on account of such taxable year and

1 is made within 3½ months after the close of such
2 taxable year.

3 “(g) REPORTS.—The Secretary may require such re-
4 porting as the Secretary determines to be appropriate to
5 carry out this section.

6 “(h) APPLICATION OF SECTION.—This section shall
7 apply to taxes imposed for taxable years beginning after
8 December 31, 2003, and before January 1, 2008.”.

9 (b) PRIORITY OF LENDER.—Subsection (b) of section
10 6323 of the Internal Revenue Code of 1986 (relating to
11 protection for certain interests even though notice filed)
12 is amended by adding at the end the following new para-
13 graph:

14 “(11) LOANS SECURED BY BRIDGE AC-
15 COUNTS.—With respect to a BRIDGE account (as
16 defined in section 6168(f)) with any bank (as de-
17 fined in section 408(n)), to the extent of any loan
18 made by such bank without actual notice or knowl-
19 edge of the existence of such lien, as against such
20 bank, if such loan is secured by such account.”.

21 (c) CLERICAL AMENDMENT.—The table of sections
22 for subchapter B of chapter 62 of the Internal Revenue
23 Code of 1986 is amended by adding at the end the fol-
24 lowing new item:

“Sec. 6168. Extension of time for payment of tax for certain
small businesses.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2003.

4 (e) STUDY BY GENERAL ACCOUNTING OFFICE.—

5 (1) STUDY.—In consultation with the Secretary
6 of the Treasury, the Comptroller General of the
7 United States shall undertake a study to evaluate
8 the applicability (including administrative aspects)
9 and impact of the amendments made by section 4 of
10 the Manufacturing Job Production Act of 2003, in-
11 cluding how it affects the capital funding needs of
12 businesses under the Act and number of businesses
13 benefiting.

14 (2) REPORT.—Not later than March 31, 2007,
15 the Comptroller General shall transmit to the Com-
16 mittee on Ways and Means of the House of Rep-
17 resentatives and the Committee on Finance of the
18 Senate a written report presenting the results of the
19 study conducted pursuant to this subsection, to-
20 gether with such recommendations for legislative or
21 administrative changes as the Comptroller General
22 determines are appropriate.

1 **SEC. 5. PERMANENT EXTENSION OF INCREASED EXPENS-**
2 **ING FOR SMALL BUSINESSES.**

3 (a) **IN GENERAL.**—Paragraph (1) of section 179(b)
4 of the Internal Revenue Code of 1986 (relating to dollar
5 limitation) is amended by striking “\$25,000 (\$100,000 in
6 the case of taxable years beginning after 2002 and before
7 2006)” and inserting “\$100,000”.

8 (b) **INCREASE IN QUALIFYING INVESTMENT AT**
9 **WHICH PHASEOUT BEGINS.**—Paragraph (2) of section
10 179(b) of the Internal Revenue Code of 1986 (relating to
11 reduction in limitation) is amended by striking “\$200,000
12 (\$400,000 in the case of taxable years beginning after
13 2002 and before 2006)” and inserting “\$400,000”.

14 (c) **OFF-THE-SHELF COMPUTER SOFTWARE.**—Para-
15 graph (1) of section 179(d) of the Internal Revenue Code
16 of 1986 (defining section 179 property) is amended by
17 striking “, and which is placed in service in a taxable year
18 beginning after 2002 and before 2006”.

19 (d) **INFLATION ADJUSTMENT.**—Subparagraph (A) of
20 section 179(b)(5) of the Internal Revenue Code of 1986
21 (relating to inflation adjustments) is amended by striking
22 “and before 2006”.

23 (e) **REVOCATION OF ELECTION.**—Paragraph (2) of
24 section 179(c) of the Internal Revenue Code of 1986 is
25 amended by striking the last sentence.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2003.

○