

108TH CONGRESS
2D SESSION

S. 2872

To amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2004

Mr. BUNNING (for himself and Mr. NELSON of Nebraska) 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 a credit to certain agriculture-related businesses for the cost of protecting certain chemicals.

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 “The Agricultural Busi-
5 ness Security Tax Credit Act of 2004”.

6 **SEC. 2. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to business related credits) is amended by
10 adding at the end the following new section:

1 **“SEC. 45G. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 38, in
3 the case of an eligible agricultural business, the agricul-
4 tural chemicals security credit determined under this sec-
5 tion for the taxable year is 50 percent of the aggregate
6 amount paid or incurred by the eligible agricultural busi-
7 ness for the purpose of protecting any specified hazardous
8 chemical or any food-use pesticide from unauthorized ac-
9 cess.

10 “(b) FACILITY LIMITATION.—The amount of the
11 credit determined under subsection (a) with respect to any
12 facility for any taxable year shall not exceed—

13 “(1) \$50,000, reduced by

14 “(2) the aggregate amount of credits deter-
15 mined under subsection (a) with respect to such fa-
16 cility for the 5 prior taxable years.

17 “(c) ANNUAL LIMITATION.—The amount of the cred-
18 it determined under subsection (a) with respect to any tax-
19 payer for any taxable year shall not exceed \$2,000,000.

20 “(d) ELIGIBLE AGRICULTURAL BUSINESS.—For pur-
21 poses of this section, the term ‘eligible agricultural busi-
22 ness’ means any person in the trade or business of—

23 “(1) being a retailer of agricultural products, or

24 “(2) manufacturing, formulating, or distrib-
25 uting food-use pesticides.

1 “(e) SPECIFIED HAZARDOUS CHEMICALS.—For pur-
2 poses of this section, the term ‘specified hazardous chem-
3 ical’ means any extremely hazardous substance listed
4 under section 302(a)(2) of the Emergency Planning and
5 Community Right-to-Know Act of 1986, and any haz-
6 ardous material listed under section 101 of part 172 of
7 title 49, Code of Federal Regulations, which is held for
8 sale in the trade or business of being a retailer of agricul-
9 tural products.

10 “(f) FOOD-USE PESTICIDE.—For purposes of this
11 section, the term ‘food-use pesticide’ means any pesticide
12 (as defined in section 2(u) of the Federal Insecticide, Fun-
13 gicide, and Rodenticide Act), including all active and inert
14 ingredients thereof, which is customarily used on food,
15 feed, or crops.

16 “(g) CONTROLLED GROUPS.—Rules similar to the
17 rules of paragraphs (1) and (2) of section 41(f) shall apply
18 for purposes of this section.

19 “(h) REGULATIONS.—The Secretary may prescribe
20 such regulations as may be necessary or appropriate to
21 carry out the purposes of this section, including regula-
22 tions which—

23 “(1) provide for the proper treatment of
24 amounts which are paid or incurred for the purpose

1 of protecting any specified hazardous chemical or
2 any food-use pesticide and for other purposes, and

3 “(2) provide for the treatment of related prop-
4 erties as one facility for purposes of subsection (b).”.

5 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
6 NESS CREDIT.—Section 38(b) of such Code is amended
7 by striking “plus” at the end of paragraph (14), by strik-
8 ing the period at the end of paragraph (15) and inserting
9 “, plus”, and by adding at the end the following new para-
10 graph:

11 “(16) in the case of an eligible agricultural
12 business (as defined in section 45G(d)), the agricul-
13 tural chemicals security credit determined under sec-
14 tion 45G(a).”.

15 (c) NO CARRYBACKS.—Subsection (d) of section 39
16 of such Code (relating to carryback and carryforward of
17 unused credits) is amended by adding at the end the fol-
18 lowing:

19 “(11) NO CARRYBACK OF SECTION 46G CREDIT
20 BEFORE EFFECTIVE DATE.—No portion of the un-
21 used business credit for any taxable year which is
22 attributable to the agricultural chemicals security
23 credit determined under section 45G may be carried
24 back to a taxable year beginning before the date of
25 the enactment of this paragraph.”.

1 (d) DENIAL OF DOUBLE BENEFIT.—Section 280C of
2 such Code is amended by adding at the end the following
3 new subsection:

4 “(d) CREDIT FOR SECURITY OF AGRICULTURAL
5 CHEMICALS.—No deduction shall be allowed for that por-
6 tion of the expenses (otherwise allowable as a deduction)
7 taken into account in determining the credit under section
8 45G for the taxable year which is equal to the amount
9 of the credit determined for such taxable year under sec-
10 tion 45G(a).”.

11 (e) CLERICAL AMENDMENT.—The table of sections
12 for subpart D of part IV of subchapter A of chapter 1
13 of such Code is amended by adding at the end the fol-
14 lowing new item:

“Sec. 45G. Agricultural chemicals security credit.”.

15 (f) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to amounts paid or incurred after
17 the date of the enactment of this Act.

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