

111TH CONGRESS
2D SESSION

H. R. 4769

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for equity investments in high technology small business concerns.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2010

Mr. HOLT (for himself, Ms. LINDA T. SÁNCHEZ of California, and Mr. HINCHEY) 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 against income tax for equity investments in high technology small business concerns.

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 “Creating Jobs From
5 Innovative Small Businesses Act of 2010”.

6 **SEC. 2. CREDIT FOR INVESTMENTS IN SMALL TECHNOLOGY**
7 **INNOVATION COMPANIES.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding after section 45Q the following
 2 new section:

3 **“SEC. 45R. HIGH TECHNOLOGY INVESTMENT TAX CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
 5 tion 38, the high technology investment tax credit deter-
 6 mined under this section for the taxable year is an amount
 7 equal to 20 percent of the amount paid by the taxpayer
 8 during such year to acquire a qualified equity investment
 9 in a qualified high technology small business concern.

10 “(b) MAXIMUM CREDIT.—

11 “(1) IN GENERAL.—The taxpayer’s credit de-
 12 termined under this section for the taxable year
 13 shall not exceed the excess (if any) of—

14 “(A) \$100,000, over

15 “(B) the taxpayer’s (and any prede-
 16 cessor’s) aggregate credit determined under this
 17 section for all prior taxable years.

18 “(2) RELATED PARTIES.—

19 “(A) IN GENERAL.—For purposes of para-
 20 graph (1), all related persons shall be treated as
 21 1 person, and the dollar amount in paragraph
 22 (1)(A) shall be allocated among such persons
 23 under regulations prescribed by the Secretary.

24 “(B) RELATED PERSONS.—A person shall
 25 be treated as related to another person if the

1 relationship between such persons would result
2 in the disallowance of losses under section 267
3 or 707(b).

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

5 “(1) QUALIFIED EQUITY INVESTMENT.—

6 “(A) IN GENERAL.—The term ‘qualified
7 equity investment’ means any equity investment
8 in a qualified high technology small business
9 concern if—

10 “(i) such investment is acquired by
11 the taxpayer at its original issue (directly
12 or through an underwriter) solely in ex-
13 change for cash, and

14 “(ii) such investment is designated for
15 purposes of this section by such concern.

16 “(B) EQUITY INVESTMENT.—The term
17 ‘equity investment’ means—

18 “(i) any stock (other than non-
19 qualified preferred stock as defined in sec-
20 tion 351(g)(2)) in an entity which is a cor-
21 poration, and

22 “(ii) any capital interest in an entity
23 which is a partnership.

1 “(C) REDEMPTIONS.—A rule similar to the
2 rule of section 1202(c)(3) shall apply for pur-
3 poses of this subsection.

4 “(2) QUALIFIED HIGH TECHNOLOGY SMALL
5 BUSINESS CONCERN.—The term ‘qualified high tech-
6 nology small business concern’ means, with respect
7 to any taxable year, any small business concern (as
8 defined in section 3 of the Small Business Act) if—

9 “(A) such concern employs an average of
10 fewer than 500 employees on business days dur-
11 ing such year, and

12 “(B) at least 50 percent of the gross ex-
13 penditures of such entity for such year are re-
14 search or experimental expenditures under sec-
15 tion 174.

16 “(d) NATIONAL LIMITATION ON AMOUNT OF INVEST-
17 MENTS DESIGNATED.—

18 “(1) IN GENERAL.—There is a high technology
19 investment tax credit limitation for each calendar
20 year. Such limitation is—

21 “(A) \$500,000,000 for 2010,

22 “(B) \$750,000,000 for 2011 and 2012,

23 and

24 “(C) \$1,000,000,000 for 2013 and 2014.

1 “(2) ALLOCATION OF LIMITATION.—The limita-
2 tion under paragraph (1) shall be allocated by the
3 Secretary among qualified high technology small
4 business concerns selected by the Secretary.

5 “(3) CARRYOVER OF UNUSED LIMITATION.—If
6 the high technology investment tax credit limitation
7 for any calendar year exceeds the aggregate amount
8 allocated under paragraph (2) for such year, such
9 limitation for the succeeding calendar year shall be
10 increased by the amount of such excess. No amount
11 may be carried under the preceding sentence to any
12 calendar year after 2020.

13 “(e) CERTAIN TAXPAYERS NOT ELIGIBLE.—No cred-
14 it shall be determined under this section for any equity
15 investment in any qualified high technology small business
16 concern made by any individual who, at the time of the
17 investment, is—

18 “(1) an employee of such concern, or

19 “(2) a member of the family (within the mean-
20 ing of section 267(c)(4)) of an employee of such con-
21 cern.

22 “(f) BASIS REDUCTION.—The basis of any qualified
23 equity investment shall be reduced by the amount of any
24 credit determined under this section with respect to such

1 investment. This subsection shall not apply for purposes
 2 of sections 1202, 1400B, and 1400F.

3 “(g) REGULATIONS.—The Secretary shall prescribe
 4 such regulations as may be appropriate to carry out this
 5 section, including regulations—

6 “(1) which prevent the abuse of the purposes of
 7 this section,

8 “(2) which impose appropriate reporting re-
 9 quirements, and

10 “(3) which apply the provisions of this section
 11 to newly formed entities.”.

12 (b) CREDIT MADE PART OF GENERAL BUSINESS
 13 CREDIT.—Subsection (b) of section 38 of such Code (re-
 14 lating to current year business credit) is amended by strik-
 15 ing “plus” at the end of paragraph (34), by striking the
 16 period at the end of paragraph (35) and inserting “, plus”,
 17 and by adding at the end the following new paragraph:

18 “(36) the high technology investment tax credit
 19 determined under section 45R.”.

20 (c) CLERICAL AMENDMENT.—The table of sections
 21 for subpart D of part IV of subchapter A of chapter 1
 22 of such Code is amended by inserting after the item relat-
 23 ing to section 45Q the following new item:

“Sec. 45R. High technology investment tax credit.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to investments made after Decem-
3 ber 31, 2009, in taxable years ending after such date.

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