

111TH CONGRESS
2D SESSION

H. R. 5990

To amend the Internal Revenue Code of 1986 to allow a business credit
for investments in rural microbusinesses.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2010

Mr. KIND (for himself and Mr. HERGER) 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
business credit for investments in rural microbusinesses.

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 “Rural Microbusiness
5 Investment Credit Act of 2010”.

6 **SEC. 2. RURAL MICROBUSINESS INVESTMENT 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. 45S. RURAL MICROBUSINESS INVESTMENT CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 38, the
3 amount of the rural microbusiness investment credit deter-
4 mined under this section for any taxable year with respect
5 to a rural microbusiness is equal to 35 percent of the
6 qualified new investments in the rural microbusiness for
7 the taxable year.

8 “(b) LIMITATIONS.—

9 “(1) PER BUSINESS LIMITATIONS.—The
10 amount allowed as a credit under subsection (a) with
11 respect to any rural microbusiness for a taxable year
12 shall not exceed—

13 “(A) \$10,000, reduced (but not below
14 zero), by

15 “(B) the amount allowed under subsection
16 (a) to the rural microbusiness for all preceding
17 taxable years.

18 “(2) PER TAXPAYER LIMITATIONS.—The
19 amount allowed as a credit under subsection (a) with
20 respect to any taxpayer with respect to all rural
21 microbusinesses of the taxpayer for a taxable year
22 shall not exceed—

23 “(A) \$10,000, reduced (but not below
24 zero), by

1 “(B) the amount allowed under subsection
 2 (a) to the taxpayer with respect to rural micro-
 3 businesses for all preceding taxable years.

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

5 “(1) QUALIFIED NEW INVESTMENT.—The term
 6 ‘qualified new investment’ means the excess of—

7 “(A) qualified expenditures paid or in-
 8 curred for the taxable year, over

9 “(B) the greater of—

10 “(i) qualified expenditures paid or in-
 11 curred for the preceding taxable year, or

12 “(ii) the average annual qualified ex-
 13 penditures paid or incurred over the pre-
 14 ceding three taxable years.

15 If the rural microbusiness was not in existence (or
 16 expenditures relating to such microbusiness were not
 17 taken into account under subsection (a)) for the en-
 18 tire 3-year period referred to in subparagraph
 19 (B)(ii), such subparagraph shall be applied on the
 20 basis of the period during which such entity (or
 21 trade or business) was in existence or such expendi-
 22 tures taken into account.

23 “(2) QUALIFIED EXPENDITURES.—

24 “(A) IN GENERAL.—The term ‘qualified
 25 expenditures’ means any amount which is paid

1 or incurred with respect to a rural microbusi-
2 ness which is not described in subparagraph
3 (B). Such term includes costs for capital plant
4 and equipment, inventory expenses, and wages.

5 “(B) EXCEPTION.—Such term does not in-
6 clude—

7 “(i) any interest cost, or

8 “(ii) the cost of any vehicle and costs
9 associated with purchasing a vehicle.

10 “(3) RURAL MICROBUSINESS.—

11 “(A) IN GENERAL.—The term ‘rural
12 microbusiness’ means a trade or business car-
13 ried on as a proprietorship, partnership, trust
14 (to the extent that the trust is a pass-thru enti-
15 ty), S corporation, or other pass-thru entity
16 if—

17 “(i) such trade or business is carried
18 on in a distressed rural area for the first
19 taxable year in which the credit under sub-
20 section (a) is allowable to the trade or
21 business,

22 “(ii) such trade or business meets the
23 gross revenue test under subparagraph (C)
24 for the first taxable year in which the cred-

1 it under subsection (a) is allowable to the
2 trade or business,

3 “(iii) such trade or business employed
4 not more than 5 full-time equivalent em-
5 ployees during the taxable year, and

6 “(iv) in the case of a trade or busi-
7 ness the majority of the activity of which
8 is in agricultural production, each indi-
9 vidual who is an owner, shareholder, or
10 holds a capital interest, profits interests, or
11 beneficial interests (as the case may be) in
12 such trade or business is a first-time farm-
13 er (as defined in section 147(c)(2)(C)).

14 All persons treated as a single employer under
15 subsection (a) or (b) or section 52 or subsection
16 (m) or (o) of section 414 shall be treated as a
17 trade or business for purposes of this subpara-
18 graph.

19 “(B) EXCEPTIONS.—Such term shall not
20 include—

21 “(i) any trade or business which in-
22 cludes, in whole or in part, any private or
23 commercial golf course, country club, mas-
24 sage parlor, hot tub facility, suntan facil-
25 ity, racetrack or other facility used for

1 gambling, or any store the principal busi-
2 ness of which is the sale of alcoholic bev-
3 erages for consumption off premises, or

4 “(ii) any trade or business with re-
5 spect to which records are required under
6 section 2257 of title 18, United States
7 Code, to be maintained with respect to any
8 performer.

9 “(C) GROSS REVENUE TEST.—

10 “(i) IN GENERAL.—A trade or busi-
11 ness meets the gross revenue test of this
12 subparagraph for any taxable year if the
13 average annual gross revenue of the trade
14 or business for the 3-taxable year period
15 ending with the taxable year does not ex-
16 ceed \$1,000,000.

17 “(ii) AGGREGATION RULES.—All per-
18 sons treated as a single employer under
19 subsection (a) or (b) or section 52 or sub-
20 section (m) or (o) of section 414 shall be
21 treated as a trade or business for purposes
22 of clause (i).

23 “(iii) SPECIAL RULES FOR ENTITIES
24 NOT IN EXISTENCE FOR ENTIRE 3-YEAR
25 PERIOD, ETC.—Rules similar to the rules

1 of subparagraphs (A), (B), and (D) of sec-
2 tion 448(c)(3) shall apply for purposes of
3 this subparagraph.

4 “(D) SELF-EMPLOYED INDIVIDUALS.—For
5 purposes of this paragraph, if, with respect to
6 a trade or business, an individual is treated as
7 an employee under section 401(c), such indi-
8 vidual shall be treated as an employee of such
9 trade or business for purposes of the preceding
10 sentence.

11 “(E) FULL-TIME EQUIVALENT EM-
12 PLOYEE.—For purposes of this paragraph—

13 “(i) IN GENERAL.—The term ‘full-
14 time equivalent employee’ means a number
15 of employees equal to the number deter-
16 mined by dividing—

17 “(I) the total number of hours of
18 service for which wages were paid by
19 the employer to employees during the
20 taxable year, by

21 “(II) 2,080.

22 Such number shall be rounded to the next
23 lowest whole number if not otherwise a
24 whole number.

1 “(ii) EXCESS HOURS NOT COUNT-
2 ED.—If an employee works in excess of
3 2,080 hours of service during any taxable
4 year, such excess shall not be taken into
5 account under clause (i).

6 “(iii) HOURS OF SERVICE.—The Sec-
7 retary, in consultation with the Secretary
8 of Labor, shall prescribe such regulations,
9 rules, and guidance as may be necessary to
10 determine the hours of service of an em-
11 ployee, including rules for the application
12 of this paragraph to employees who are not
13 compensated on an hourly basis.

14 “(4) DISTRESSED RURAL AREA.—

15 “(A) IN GENERAL.—The term ‘distressed
16 rural area’ means any area in the United
17 States—

18 “(i) that has lost at least 5 percent of
19 its population over the last 10 years,

20 “(ii) that lost at least 10 percent if its
21 population over the last 20 years,

22 “(iii) that has median family income
23 below 85 percent of the national median
24 family income,

1 “(iv) that has a poverty rate that ex-
2 ceeds 12.5 percent, or

3 “(v) where average unemployment in
4 the preceding year exceeds 125 percent of
5 the national average.

6 “(B) EXCEPTION.—Such term does not in-
7 clude any area which is—

8 “(i) a city or town that has a popu-
9 lation of more than 50,000 inhabitants, or

10 “(ii) an urbanized area contiguous
11 and adjacent to a city or town described in
12 clause (i).

13 “(C) RELEVANT SOURCES OF INFORMA-
14 TION.—In determining whether an area is a
15 distressed rural area under subparagraph (A)
16 or (B), such determination shall be made in ac-
17 cordance with the most recent information from
18 the Bureau of the Census, the Bureau of Labor
19 Statistics, or other government entity with rel-
20 evant information.

21 “(5) RELATED PERSONS.—A person shall be
22 treated as related to another person if the relation-
23 ship between such persons would result in the dis-
24 allowance of losses under section 267 or 707(b) (but,
25 in applying section 267 (b) and (c) for purposes of

1 this section, paragraph (4) of section 267(c) shall be
2 treated as providing that the family of an individual
3 shall include only his spouse, ancestors, and lineal
4 descendants).

5 “(d) MATERIAL PARTICIPATION.—No amount shall
6 be allowed as a credit under subsection (a) to a taxpayer
7 unless that taxpayer materially participates in the quali-
8 fied rural microbusiness with respect to which the quali-
9 fied expenditure is paid or incurred. For purposes of the
10 preceding sentence, material participation shall be deter-
11 mined under rules similar to the rules of section 469(h).

12 “(e) DENIAL OF DOUBLE BENEFIT.—No deduction
13 or credit shall be allowed under any other provision of this
14 chapter for any amount taken into account in determining
15 the credit under this section.

16 “(f) OTHER RULES.—

17 “(1) MARRIED COUPLE MUST FILE JOINT RE-
18 TURN.—Rules similar to the rules of paragraphs (2),
19 (3), and (4) of section 21(e) shall apply for purposes
20 of this section.

21 “(2) DENIAL OF CREDIT TO DEPENDENTS.—No
22 credit shall be allowed under this section to any indi-
23 vidual with respect to whom a deduction is allowed
24 under section 151 is allowable to another taxpayer

1 for a taxable year beginning in the calendar year in
 2 which such individual's calendar year begins.”.

3 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 4 NESS CREDIT.—Section 38(b) of such Code (defining cur-
 5 rent year business credit) is amended by striking “plus”
 6 at the end of paragraph (35), by striking the period at
 7 the end of paragraph (36) and inserting “, plus”, and by
 8 adding at the end the following new paragraph:

9 “(37) the rural microbusiness investment credit
 10 determined under section 45R(a).”.

11 (c) CARRYOVER OF UNUSED CREDIT.—Subsection
 12 (a) of section 39 of such Code is amended by adding at
 13 the end the following new paragraph:

14 “(4) 5-YEAR CARRYBACK FOR RURAL MICRO-
 15 BUSINESS INVESTMENT CREDIT.—Notwithstanding
 16 subsection (d), in the case of the rural microbusiness
 17 investment credit—

18 “(A) this section shall be applied sepa-
 19 rately from the business credit and the mar-
 20 ginal oil and gas well production credit (other
 21 than the rural microbusiness investment credit),

22 “(B) paragraph (1) shall be applied by
 23 substituting ‘each of the 5 taxable years’ for
 24 ‘the taxable year’ in subparagraph (A) thereof,
 25 and

1 “(C) paragraph (2) shall be applied—
2 “(i) by substituting ‘25 taxable years’
3 for ‘21 taxable years’ in subparagraph (A)
4 thereof, and
5 “(ii) by substituting ‘24 taxable years’
6 for ‘20 taxable years’ in subparagraph (B)
7 thereof.”.

8 (d) CONFORMING AMENDMENT.—The table of sec-
9 tions for subpart D of part IV of subchapter A of chapter
10 1 of such Code is amended by adding at the end the fol-
11 lowing new item:

“Sec. 45S. Rural microbusiness investment credit.”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to expenditures made in taxable
14 years beginning after the date of the enactment of this
15 Act.

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