

111TH CONGRESS
2D SESSION

S. 4018

To amend the Internal Revenue Code of 1986 to provide incentives for
life sciences research.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2010

Mr. CASEY 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
incentives for life sciences research.

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 “Life Sciences Jobs and
5 Investment Act of 2010”.

6 **SEC. 2. INCREASED CREDIT FOR INITIAL LIFE SCIENCES**
7 **RESEARCH.**

8 (a) IN GENERAL.—Subsection (h) of section 41 of the
9 Internal Revenue Code of 1986 is amended by redesignig-

1 nating subsection (h) as subsection (i) and inserting after
 2 subsection (g) the following new subsection:

3 “(h) SPECIAL RULES FOR INCREASED INITIAL LIFE
 4 SCIENCES RESEARCH.—

5 “(1) IN GENERAL.—In the case of qualified ini-
 6 tial life sciences research expenses for any taxable
 7 year with respect to which the taxpayer elects the
 8 application of this subsection—

9 “(A) INCREASED CREDIT.—Subsection (a)
 10 shall be applied by substituting ‘40 percent’ for
 11 ‘20 percent’.

12 “(B) AMOUNTS PAID WITH RESPECT TO
 13 QUALIFIED LIFE SCIENCES RESEARCH TO CER-
 14 TAIN RESEARCH CONSORTIA, ELIGIBLE SMALL
 15 BUSINESSES, UNIVERSITIES, AND FEDERAL
 16 LABORATORIES.—Subsection (b)(3)(A) shall be
 17 applied by substituting ‘100 percent’ for ‘65
 18 percent’, in the case of amounts paid or in-
 19 curred to persons described in subclauses (I)
 20 and (III) of subsection (b)(3)(C)(ii) or sub-
 21 clause (I), (II), or (III) of subsection
 22 (b)(3)(D)(i), with respect to qualified life
 23 sciences research.

1 “(C) ALTERNATIVE SIMPLIFIED CREDIT IN
 2 CASE OF INITIAL QUALIFIED LIFE SCIENCE RE-
 3 SEARCH.—

4 “(i) Subsection (c)(5)(A) shall be ap-
 5 plied by substituting ‘28 percent’ for ‘14
 6 percent’, and

7 “(ii) subsection (c)(5)(B) shall be ap-
 8 plied by substituting ‘12 percent’ for ‘6
 9 percent’.

10 “(2) DEFINITIONS.—For purposes of this sub-
 11 section—

12 “(A) QUALIFIED INITIAL LIFE SCIENCES
 13 RESEARCH EXPENSES.—

14 “(i) IN GENERAL.—The term ‘quali-
 15 fied initial life sciences research expenses’
 16 means so much of the amounts taken into
 17 account under subsection (a) as—

18 “(I) are attributable to qualified
 19 life sciences research, and

20 “(II) do not exceed
 21 \$150,000,000.

22 “(ii) EXCLUDED EXPENSES.—Such
 23 term does not include any amount paid or
 24 incurred by the taxpayer to compensate
 25 any covered employee (as defined in section

1 162(m)(3)) for services, to pay dividends
 2 to the shareholders of the taxpayer, or to
 3 pay interest or principal on any debt secu-
 4 rity of the taxpayer.

5 “(iii) SUBSTANTIATION OF COMPLI-
 6 ANCE.—

7 “(I) IN GENERAL.—The taxpayer
 8 must substantiate its compliance with
 9 clause (ii) with written documents and
 10 such other credible evidence as the
 11 Secretary may reasonably require, and
 12 shall bear the burden of proof with re-
 13 spect to such substantiation.

14 “(II) CERTIFICATION.—The chief
 15 executive officer and the independent
 16 director serving as head of the audit
 17 committee of the taxpayer, or com-
 18 parable entity officials, shall attest in
 19 writing to the taxpayer’s compliance
 20 with the requirements of clause (ii).

21 “(B) QUALIFIED LIFE SCIENCES RE-
 22 SEARCH.—

23 “(i) IN GENERAL.—The term ‘quali-
 24 fied life sciences research’ means any
 25 qualified research—

1 “(I) with respect to the branch of
2 knowledge or study of biology, bio-
3 chemistry, biophysics, bioengineering,
4 biotechnology, microbiology, genetics,
5 or physiology (in each case as such
6 knowledge or study relates to human
7 beings), and

8 “(II) that is considered scientific
9 research and development for pur-
10 poses of North American Industry
11 Classification System code 5417.

12 “(ii) EXCEPTIONS.—Such term does
13 not include sociology or psychology.

14 “(3) COORDINATION WITH 965A.—This sub-
15 section shall not apply with respect to any taxpayer
16 for any taxable year for which an election is in effect
17 under section 965A (relating to limited deduction for
18 life sciences jobs and investment in United States).

19 “(4) ELECTION.—Any election under this sub-
20 section shall be made in such manner as may be pre-
21 scribed by the Secretary, and shall be made with re-
22 spect to a taxable year not later than the due date
23 (including extensions of time) for filing the tax-
24 payer’s return for such taxable year.

1 “(5) TERMINATION.—This subsection shall not
2 apply to any taxable year beginning after December
3 31, 2015.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 the date of the enactment of this Act.

7 **SEC. 3. INCENTIVES TO INVEST IN LIFE SCIENCES JOBS,**
8 **RESEARCH, AND FACILITIES.**

9 (a) IN GENERAL.—Subpart F of part III of sub-
10 chapter N of chapter 1 of the Internal Revenue Code of
11 1986 is amended by adding at the end the following new
12 section:

13 **“SEC. 965A. LIMITED DEDUCTION FOR LIFE SCIENCES JOBS**
14 **AND INVESTMENT IN UNITED STATES.**

15 “(a) DEDUCTION.—

16 “(1) IN GENERAL.—In the case of a corpora-
17 tion which is a United States shareholder and for
18 which the election under this section is in effect for
19 the taxable year, there shall be allowed as a deduc-
20 tion an amount equal to 100 percent of the cash
21 dividends which are received during such taxable
22 year by such shareholder from controlled foreign cor-
23 porations.

24 “(2) DIVIDENDS PAID INDIRECTLY FROM CON-
25 TROLLED FOREIGN CORPORATIONS.—If, within the

1 taxable year for which the election under this section
2 is in effect, a United States shareholder receives a
3 cash distribution from a controlled foreign corpora-
4 tion which is excluded from gross income under sec-
5 tion 959(a), such distribution shall be treated for
6 purposes of this section as a cash dividend to the ex-
7 tent of any amount included in income by such
8 United States shareholder under section
9 951(a)(1)(A), including as a result of any cash divi-
10 dend during such taxable year to—

11 “(A) such controlled foreign corporation
12 from another controlled foreign corporation that
13 is in a chain of ownership described in section
14 958(a), or

15 “(B) any other controlled foreign corpora-
16 tion in such chain of ownership from another
17 controlled foreign corporation in such chain of
18 ownership, but only to the extent of cash dis-
19 tributions described in section 959(b) which are
20 made during such taxable year to the controlled
21 foreign corporation from which such United
22 States shareholder received such distribution.

23 “(b) LIMITATIONS.—

1 “(1) IN GENERAL.—The amount of dividends
2 taken into account under subsection (a) shall not ex-
3 ceed the lesser of—

4 “(A) \$150,000,000, or

5 “(B) the amount shown on the applicable
6 financial statement as earnings permanently re-
7 invested outside the United States.

8 The amounts described in subparagraph (B) shall be
9 treated as being zero if there is no such statement
10 or such statement fails to show a specific amount of
11 such earnings.

12 “(2) REQUIREMENT TO INVEST IN LIFE
13 SCIENCES.—Subsection (a) shall not apply to any
14 dividend received by a United States shareholder un-
15 less the amount of the dividend is invested solely in
16 the United States and solely for the purpose of—

17 “(A) the new hiring of additional sci-
18 entists, researchers, and comparable personnel
19 engaged in qualified life sciences research,

20 “(B) payments to persons described in sec-
21 tion 41(h)(1)(B) and to other qualified organi-
22 zations which are used by such persons or orga-
23 nizations for qualified life sciences research, or

1 “(C) the building or leasing of new facili-
2 ties to be used primarily in the conduct of
3 qualified life sciences research.

4 “(3) PROHIBITED USES.—Subsection (a) shall
5 not apply to the amount of any dividend which is
6 used by the taxpayer to pay remuneration for serv-
7 ices of any covered employee (as defined in section
8 162(m)(3)), to pay dividends to the shareholders of
9 the taxpayer, or to pay interest or principal on any
10 debt security of the taxpayer.

11 “(4) NO RESERVE.—Subsection (a) shall not
12 apply to any dividend if the taxpayer’s compliance
13 with this section is uncertain and requires a provi-
14 sion or reserve on the taxpayer’s applicable financial
15 statements.

16 “(5) SEPARATE ACCOUNT.—Subsection (a)
17 shall not apply to any dividend unless the amount of
18 the dividend is held in a separate account, trust, or
19 other arrangement that segregates the amount from
20 other funds of the taxpayer until the amount is used
21 solely for the purposes described in paragraph (2).

22 “(c) SUBSTANTIATION OF COMPLIANCE.—

23 “(1) IN GENERAL.—The taxpayer must sub-
24 stantiate its compliance with subsection (b) with
25 written documents and such other credible evidence

1 as the Secretary may reasonably require, and shall
 2 bear the burden of proof with respect to such sub-
 3 stantiation.

4 “(2) CERTIFICATION.—The chief executive offi-
 5 cer and the independent director serving as head of
 6 the audit committee of the taxpayer, or comparable
 7 entity officials, shall attest in writing to the tax-
 8 payer’s compliance with each of the requirements of
 9 subsection (b).

10 “(d) DEFINITIONS.—For purposes of this section—

11 “(1) QUALIFIED LIFE SCIENCES RESEARCH.—
 12 The term ‘qualified life sciences research’ shall have
 13 the meaning given such term by section 41(h).

14 “(2) QUALIFIED ORGANIZATION.—The term
 15 ‘qualified organization’ means any organization de-
 16 scribed in subparagraph (A), (B), or (C) of section
 17 41(e)(6).

18 “(3) APPLICABLE FINANCIAL STATEMENT; DIVI-
 19 DEND.—The terms ‘applicable financial statement’
 20 and ‘dividend’ shall have the respective meanings
 21 given such terms by section 965(c).

22 “(e) SPECIAL RULES.—For purposes of this sec-
 23 tion—

24 “(1) rules similar to the rules of paragraph (3)
 25 of section 965(b) shall apply, except that such para-

1 graph shall be applied by substituting ‘December 31,
2 2009’ for ‘October 3, 2004’, and

3 “(2) rules similar to the rules of paragraphs (4)
4 and (5) of section 965(c) shall apply, except that
5 such paragraph (5) shall be applied—

6 “(A) by substituting ‘\$150,000,000’ for
7 ‘\$500,000,000’, and

8 “(B) without regard to the reference to
9 subparagraph (C) of section 965(b)(1).

10 “(f) DENIAL OF FOREIGN TAX CREDIT.—

11 “(1) IN GENERAL.—No credit shall be allowed
12 under section 901 for any taxes paid or accrued (or
13 treated as paid or accrued) with respect to any divi-
14 dend with respect to which an election is in effect
15 under this section and which is included in income
16 under section 951(a)(1)(A).

17 “(2) DENIAL OF RELATED DEDUCTIONS.—No
18 deduction shall be allowed under this chapter for any
19 tax for which credit is not allowable by reason of
20 paragraph (1).

21 “(g) ELECTION.—Any election under this section
22 shall be made in such manner as may be prescribed by
23 the Secretary, and shall be made with respect to a taxable
24 year not later than the due date (including extensions of
25 time) for filing the taxpayer’s return for such taxable year.

1 “(h) TERMINATION.—This section shall not apply to
2 any taxable year beginning after December 31, 2015.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for subpart F of part III of subchapter N of chapter 1
5 of the Internal Revenue Code of 1986 is amended by add-
6 ing at the end the following new section:

“Sec. 965A. Limited deduction for life sciences jobs and investment in United States.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 the date of enactment.

10 **SEC. 4. COMPLIANCE AND REPORT TO CONGRESS.**

11 The Commissioner of Internal Revenue shall take
12 such steps as are necessary to ensure full compliance with
13 the provisions under section 41(h) and section 965A of
14 the Internal Revenue Code of 1986 (as added by this Act).
15 The Commissioner of Internal Revenue shall provide re-
16 ports to Congress on the status of such compliance and
17 related enforcement not later than 90 days following the
18 final due date of tax filings for the first taxable year in
19 which an entity may elect application of section 41(h) or
20 of section 965A of the Internal Revenue Code of 1986 (as
21 so added).

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