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114TH CONGRESS
1ST SESSION

H. R. 3390

To amend the Internal Revenue Code of 1986 to provide credits for the production of renewable chemicals and investments in renewable chemical production facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. PASCRELL (for himself, Mr. FITZPATRICK, and Mr. NEAL) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to provide credits for the production of renewable chemicals and investments in renewable chemical production facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Qualifying Renewable Chemical Production or Investment Tax Credit Act of 2015".

SEC. 2. CREDITS FOR PRODUCTION OF RENEWABLE CHEMICALS AND INVESTMENTS IN RENEWABLE CHEMICAL PRODUCTION FACILITIES.

(a) PRODUCTION OF RENEWABLE CHEMICALS.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 45S. CREDIT FOR PRODUCTION OF RENEWABLE CHEMICALS.

''(a) IN GENERAL.—For purposes of section 38, the production credit for renewable chemicals for any taxable year is an amount (determined separately for each renewable chemical produced by the taxpayer) equal to $0.15 per pound of biobased content of renewable chemical produced by the taxpayer during the taxable year.

''(b) LIMITATION.—The amount of the credit determined under subsection (a) with respect to a renewable chemical produced by the taxpayer during any taxable year shall not exceed the credit amount allocated for purposes of this section by the Secretary to the taxpayer with respect to such chemical for such taxable year under section 48E(e).

''(c) BIOBASED CONTENT.—For purposes of this section, the term 'biobased content' means, with respect to any renewable chemical, the biobased content of the total mass of organic carbon in such chemical (expressed as a percentage), determined by testing representative samples using the American Society for Testing and Materials (ASTM) D6866.

"(d) RENEWABLE CHEMICAL.—For purposes of this section—

"(1) IN GENERAL.—The term 'renewable chemical' means any chemical which—

"(A) is produced by the taxpayer in the United States (or in a territory or possession of the United States) from renewable biomass. For purposes of this section, the term 'renewable biomass' has the meaning given such term in section 9001(13) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101(13));

"(B) is sold, or used, by the taxpayer—

"(i) for the production of chemical products, polymers, plastics, or formulated products, or

"(ii) as chemicals, polymers, plastics, or formulated products;

"(C) the biobased content percentage of which is 95 percent or higher;

"(D) is the product of, or reliant upon, biological conversion, thermal conversion, or a combination of biological and thermal conversion, of renewable biomass;

"(E) is not sold or used for the production of any food, feed, or fuel;

"(F) is not a combination of renewable chemicals on the list under subparagraph (G) (or added to the list under paragraph (2)) for which a credit has been taken under this section or section 48E; and

"(G) is included on the following list of renewable chemicals eligible for credit: acetic acid; acrylic acid; acyl glutamate; adipic acid; algae oils; algae sugars; aromatics; 1,4-butanediol (BDO); iso-butanol; n-butanol; carboxylic acids; cellulosic sugar; diethyl methylene malonate; ethyl acetate; farnesene; gamma-butyrolactone; hexamethylenediamine (HMD); 3-hydroxy propionic acid; glucaric acid; C10 hydrocarbons; isoprene; itaconic acid; ketals; levulinic acid; olefins; polyhydroxyalkonate (PHA); polylactic acid (PLA); polyitaconic acid; polyols from vegetable oils; poly(xylitan levulinate ketal); 1,3-

propanediol; 1,2-propanediol; succinic acid; terpenes; thiols; p-xylene.

"(2) ADDITIONAL RENEWABLE CHEMICALS.—The Secretary may add chemicals to the list of renewable chemicals established in paragraph (1)(G). Not later than 180 days after the enactment of this section, the Secretary, in consultation with the Secretary of Agriculture, shall establish a program to consider applications from taxpayers to add renewable chemicals to the list. Any chemical added to the list must meet the requirements set forth in subparagraphs (A) through (F) of paragraph (1).

"(e) COORDINATION WITH INVESTMENT CREDIT FOR RENEWABLE CHEMICAL PRODUCTION FACILITIES.—See section 48E(f) for rules coordinating section 48E with this section.

"(f) TERMINATION.—Notwithstanding any other provision of this section, the Secretary may not allocate any credit amount under this section to any taxable year which begins more than 5 years after the date of the enactment of this section.".

(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code is amended by striking "plus" at the end of paragraph (35), by striking the period at the end of

paragraph (36) and inserting ", plus", and by adding at the end the following new paragraph:

"(37) the renewable chemicals production credit determined under section 45S(a).".

(b) INVESTMENT CREDIT IN LIEU OF PRODUCTION CREDIT.—

(1) IN GENERAL.—Section 46 of such Code is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the renewable chemical production facilities credit.".

(2) RENEWABLE CHEMICAL PRODUCTION FACILITIES CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after section 48D the following:

"SEC. 48E. INVESTMENT CREDIT FOR RENEWABLE CHEMICAL PRODUCTION FACILITIES.

"(a) IN GENERAL.—For purposes of section 46, the renewable chemical production facilities credit for any taxable year is an amount equal to 30 percent of the basis of any eligible property which is a part of a renewable chemical production facility placed in service by the taxpayer during such taxable year.

"(b) LIMITATION.—The amount of the credit determined under subsection (a) with respect to a renewable chemical production facility of the taxpayer during any taxable year shall not exceed the credit amount allocated for purposes of this section by the Secretary to the taxpayer for such taxable year under subsection (e).

"(c) RENEWABLE CHEMICAL PRODUCTION FACILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'renewable chemical production facility' means a facility used to produce renewable chemicals—

"(A) which is owned by the taxpayer,

"(B) which is originally placed after the date of the enactment of this section and before the first day of the taxable year which begins 6 years after the date of the enactment of this section, and

"(C) with respect to which—

"(i) no credit has been allowed under section 45S, and

"(ii) the taxpayer makes an irrevocable election to have this section apply to such facility.

"(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property—

"(A) which is—

"(i) tangible personal property, or

"(ii) other tangible property (not including a building or its structural components),

but only if such property is used as an integral part of the renewable chemical production facility, and

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(3) RENEWABLE CHEMICAL.—The term 'renewable chemical' has the meaning given such term by section 45S(d).

"(d) SPECIAL RULES.—

"(1) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section 45S for any taxable year with respect to any renewable chemical production facility.

"(2) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990 shall apply for purposes of this section.

"(e) NATIONAL LIMITATION ON CREDITS FOR RENEWABLE CHEMICALS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Agriculture, shall establish a program to allocate credit amounts under this section and section 45S to applicants for taxable years.

"(2) LIMITATIONS.—

"(A) AGGREGATE LIMITATION.—The total amount of credits that may be allocated under such program shall not exceed $500,000,000.

"(B) TAXPAYER LIMITATION.—The amount of credits that may be allocated to any taxpayer for any taxable year under such program shall not exceed $25,000,000. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, shall be treated as one person.

"(3) SELECTION CRITERIA.—In determining which taxpayers to make allocations of credit amount under such program, the Secretary shall take into consideration—

"(A) the number of jobs created and maintained (directly and indirectly) in the United States (including territories and possessions of the United States) as result of such allocation during the credit period and thereafter,

"(B) the degree to which the production of the renewable chemical demonstrates reduced dependence on imported feedstocks, petroleum, non-renewable resources, or other fossil fuels,

"(C) the technological innovation involved in the production method of the renewable chemical,

"(D) the energy efficiency and reduction in lifecycle greenhouse gases of the renewable chemical or of the production method of the renewable chemical, and

"(E) whether there is a reasonable expectation of commercial viability.

"(4) REDISTRIBUTION.—If a credit amount allocated to a taxpayer for a taxable year with respect to any renewable chemical or renewable chemical production facility (determined without regard to this paragraph) exceeds the amount of the credit with respect to such chemical determined under this section on the taxpayer's return for such taxable year—

"(A) the credit amount allocated to such taxpayer for such taxable year with respect to such renewable chemical shall be treated as being the amount so determined on the taxpayer's return, and

"(B) such excess may, subject to subsection (e), be reallocated by the Secretary consistent with the requirements of paragraphs (2)(B) and (3).

"(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making an allocation of credit amount under this section, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

"(f) COORDINATION WITH PRODUCTION CREDIT FOR RENEWABLE CHEMICALS.—

"(1) IN GENERAL.—If a taxpayer makes an election under paragraph (2) with respect to a renewable chemical production facility, a credit shall not be allowed under section 45S for any renewable chemical produced by such facility.

"(2) ELECTION.—If no credit has been allowed under section 45S with respect to a renewable chemical produced by a renewable chemical production facility, a taxpayer may make an irrevocable election to have this section apply with respect to such facility in lieu of section 45S with respect to such renewable chemical.

"(g) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary to carry out this section and section 45S.

"(h) TERMINATION.—The Secretary may not allocate any credit amount under this section to any taxable year which begins more than 5 years after the date of the enactment of this section.".

(c) CREDITS ALLOWABLE AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) of such Code is amended by redesignating clauses (vii) through (ix) as clauses (ix) through (xi), respectively, and by inserting after clause (vi) the following new clauses:

"(vii) the credit determined under section 45S,

"(viii) the credit determined under section 46 to the extent that such credit is attributable to the renewable chemical production facilities credit under section 48E,".

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45S. Credit for production of renewable chemicals.".

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 48E. Investment credit for renewable chemical production facilities.".

(e) EFFECTIVE DATES.—

(1) PRODUCTION CREDIT.—The amendments made by subsection (a) shall apply to renewable chemicals produced after the date of the enactment of this Act, in taxable years ending after such date.

(2) INVESTMENT CREDIT.—The amendments made by subsection (b) shall apply to renewable chemical production facilities placed in service after the date of the enactment of this Act, in taxable years ending after such date.

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