I

118TH CONGRESS
2D SESSION

H. R. 9914

To amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of grocery stores in certain underserved areas.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2024

Mr. COHEN 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 provide tax incentives for the establishment of grocery stores in certain underserved areas.

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 ‘‘Fresh Food Act’’.

SEC. 2. TAX INCENTIVES FOR ESTABLISHMENT OF GROCERY STORES IN CERTAIN UNDERSERVED AREAS.

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after subchapter V the following new subchapter:

“Subchapter W—Tax Incentives for Grocery Stores in Underserved Areas

“SEC. 1400. INCREASED WORK OPPORTUNITY TAX CREDIT.

“(a) IN GENERAL.—In the case of an individual employed in the trade or business of operating a new underserved area grocery store (as certified by the designated local agency (as defined in section 51(d)(12)), the limitation otherwise in effect under section 51(b)(3) with respect to such individual shall be increased by $1,000.

“(b) ALTERNATIVE CERTIFICATION.—The Secretary may provide for alternative methods for certification of an individual described in subsection (a) in such manner as the Secretary (in coordination with the head of any relevant Federal agency) determines appropriate.

“(c) TERMINATION.—Subsection (a) shall only apply to wages paid in taxable years beginning after December 31, 2024, and before January 1, 2031.

“SEC. 1400A. CREDIT FOR SALES OF FRESH FRUITS, VEGETABLES, MEAT, AND DAIRY.

“(a) IN GENERAL.—For purposes of section 38, the underserved area grocery store fruits, vegetables, meat, and dairy credit determined under this section for the taxable year is an amount equal to the applicable percentage of the cost of goods sold by the taxpayer with respect to the retail sale of fresh fruits, vegetables, meat, and dairy in the trade or business of operating a new underserved area grocery store.

"(b) COST OF GOODS SOLD.—For purposes of subsection (a), the cost of goods sold with respect to any taxable year is the total amount (as determined under the method of accounting of the taxpayer) of purchases made by the taxpayer for goods acquired for resale and sold during such taxable year.

"(c) APPLICABLE PERCENTAGE.—

"(1) IN GENERAL.—For purposes of subsection (a), the applicable percentage shall be—

"(A) in the case of any new underserved area grocery store which is placed in service during a taxable year which includes the date on which the Secretary determines (pursuant to section 1400B(4)(C)) that the area in which such grocery store is located qualifies as an underserved area, or which is placed in service during a taxable year beginning after such date—

"(i) with respect to the taxable year in which such grocery store is placed in service, 30 percent, "(ii) with respect to the taxable year subsequent to the taxable year described in clause (i), 30 percent,

"(iii) with respect to the taxable year subsequent to the taxable year described in clause (ii), 28 percent,

"(iv) with respect to the taxable year subsequent to the taxable year described in clause (iii), 26 percent, and

"(v) with respect to any taxable year subsequent to the taxable year described in clause (iv), 0 percent, or

"(B) in the case of any new underserved area grocery store which was placed in service during a taxable year which ended prior to the date on which the Secretary determines (pursuant to section 1400B(4)(C)) that the area in which such grocery store is located qualifies as an underserved area—

"(i) with respect to the taxable year which includes such date, 30 percent,

"(ii) with respect to the taxable year subsequent to the taxable year described in clause (i), 28 percent, "(iii) with respect to the taxable year subsequent to the taxable year described in clause (ii), 26 percent, and

"(iv) with respect to any taxable year subsequent to the taxable year described in clause (iii), 0 percent.

"(2) BONUS FOR LOCALLY SOURCED FRUITS, VEGETABLES, MEAT, AND DAIRY.—For purposes of subsection (a), in the case of any taxable year described in paragraph (1) (with the exception of any taxable year described in subparagraph (A)(v) or (B)(iv) of such paragraph), the applicable percentage for such taxable year shall be increased by 5 percentage points with respect to any fresh fruits, vegetables, meat, and dairy which are sourced—

"(A) from any location within the same State in which the new underserved area grocery store is located, or

"(B) from any location which is within a 100-mile radius of the new underserved area grocery store.

"(d) TERMINATION.—Subsection (a) shall only apply to taxable years beginning after December 31, 2024, and before January 1, 2031.

"SEC. 1400B. DEFINITIONS.

"For purposes of this subchapter—

"(1) FRESH FRUITS, VEGETABLES, MEAT, AND DAIRY.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'fresh fruits, vegetables, meat, and dairy' means any product of agriculture (as defined in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))) which is suitable for human consumption.

"(B) EXCLUSION OF CANNED OR FROZEN FOODS.—The term 'fresh fruits, vegetables, meat, and dairy' shall not include any product described in subparagraph (A) which is canned or frozen.

"(2) GROCERY STORE.—

"(A) IN GENERAL.—The term 'grocery store' means any building if—

"(i) not more than 80,000 square feet of such building is used for selling items at retail,

"(ii) at least 25 percent of the square feet of such building which is used for selling items at retail is used for selling fresh fruits, vegetables, meat, and dairy, and "(iii) at least 25 percent of the gross sales of items sold at retail from such building are attributable to sales of fresh fruits, vegetables, meat, and dairy.

"(B) MALLS AND SHOPPING CENTERS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'building' includes any portion of a larger building or structure (such as a mall or shopping center)—

"(I) which is owned, leased, or occupied by the taxpayer, and

"(II) in which the taxpayer, as part of its trade or business, makes retail sales of fresh fruits, vegetables, meat, and dairy.

"(ii) APPLICATION OF REQUIREMENTS.—In the case of any portion of a larger building or structure described in clause (i), the requirements under subparagraph (A) shall be applied solely with respect to such portion and not with respect to the larger building or structure described in such clause.

"(3) NEW UNDERSERVED AREA GROCERY STORE.—

"(A) IN GENERAL.—The term 'new underserved area grocery store' means any grocery store of the taxpayer which is located in—

"(i) an underserved area (as determined by the Secretary under paragraph (4)(C) after December 31, 2024), or

"(ii) a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)).

"(B) DURATION OF STATUS.—

"(i) UNDERSERVED AREA.—In the case of any grocery store which is in operation during a period in which the Secretary has determined (pursuant to paragraph (4)(C)) that the area in which such grocery store is located qualifies as an underserved area, such grocery store shall not fail to satisfy the requirement described in subparagraph (A) solely by reason of the area in which such grocery store is located subsequently ceasing to be an underserved area.

"(ii) Rural area.—In the case of any grocery store which is in operation during a period in which a determination is made after December 31, 2024, that the area in which such grocery store is located qualifies as a rural area, such grocery store shall not fail to satisfy the requirement described in subparagraph (A) solely by reason of the area in which such grocery store is located subsequently ceasing to be a rural area.

"(4) Underserved area.—

"(A) In general.—The term 'underserved area' means any population census tract in which—

"(i) not less than 500 people, or 33 percent of the population of such tract, reside—

"(I) in the case of a tract located within a metropolitan area, more than 1 mile from a grocery store, or

"(II) in the case of a tract not located within a metropolitan area, more than 10 miles from a grocery store, "(ii) the poverty rate for such tract is at least 20 percent, and

"(iii)(I) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

"(II) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

"(B) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census) shall be used for purposes of determinations of underserved areas under this paragraph.

"(C) DETERMINATION OF UNDERSERVED AREA.—For purposes of determining whether a population census tract qualifies as an underserved area for purposes of this paragraph, the Secretary shall make such determinations in coordination with the Secretary of Agriculture in such manner as is determined appropriate, including use of the Food Access Research Atlas established by the Department of Agriculture.

"(D) METROPOLITAN AREA.—The term 'metropolitan area' has the same meaning given the term 'metropolitan statistical area' under section 143(k)(2)(B).".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking "plus" at the end of paragraph (40), by striking the period at the end of paragraph (41) and inserting ", plus", and by adding at the end the following new paragraph:

"(42) the underserved area grocery store fruits, vegetables, meat, and dairy credit determined under section 1400A.".

(2) SPECIFIED CREDITS.—Section 38(c)(4)(B) of such Code is amended—

(A) in clause (xi), by striking "and" at the end,

(B) in clause (xii), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(xiii) the credit determined under section 1400A.".

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subchapter V the following new item:

"SUBCHAPTER W. TAX INCENTIVES FOR GROCERY STORES IN UNDERSERVED AREAS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2024.

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