

118TH CONGRESS  
1ST SESSION

# H. R. 2849

To amend the Internal Revenue Code of 1986 to establish a credit for the domestic production of rare earth magnets, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2023

Mr. RESCENTIALER (for himself and Mr. SWALWELL) 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 establish a credit for the domestic production of rare earth magnets, and for other purposes.

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 “Rare Earth Magnet  
5 Manufacturing Production Tax Credit Act of 2023”.

6 **SEC. 2. CREDIT FOR PRODUCTION OF RARE EARTH**  
7 **MAGNETS.**

8 (a) IN GENERAL.—The Internal Revenue Code of  
9 1986 is amended by inserting the following new section  
10 after section 45AA:

1 **“SEC. 45BB. CREDIT FOR PRODUCTION OF RARE EARTH**  
2 **MAGNETS.**

3 “(a) IN GENERAL.—

4 “(1) ALLOWANCE OF CREDIT.—For purposes of  
5 section 38, the credit for production of rare earth  
6 magnets determined under this section for any tax-  
7 able year is an amount equal to the sum of the cred-  
8 it amounts determined under subsection (b) with re-  
9 spect to rare earth magnets which are—

10 “(A) manufactured or produced by the tax-  
11 payer, and

12 “(B) sold by such taxpayer to an unrelated  
13 person during the taxable year.

14 “(2) UNRELATED PERSON.—

15 “(A) IN GENERAL.—For purposes of this  
16 subsection, a taxpayer shall be treated as selling  
17 rare earth magnets to an unrelated person if  
18 such magnet is sold to such person by a person  
19 related to the taxpayer.

20 “(B) ELECTION.—

21 “(i) IN GENERAL.—At the election of  
22 the taxpayer (in such form and manner as  
23 the Secretary may prescribe), a sale of rare  
24 earth magnets by such taxpayer to a re-  
25 lated person shall be deemed to have been  
26 made to an unrelated person.

1                   “(ii) REQUIREMENT.—As a condition  
2                   of, and prior to, any election described in  
3                   clause (i), the Secretary may require such  
4                   information or registration as the Sec-  
5                   retary deems necessary for purposes of  
6                   preventing duplication, fraud, or any im-  
7                   proper or excessive amount determined  
8                   under paragraph (1).

9                   “(b) CREDIT AMOUNT.—

10                   “(1) IN GENERAL.—The amount determined  
11                   under this subsection is—

12                   “(A) \$20 per kilogram of rare earth  
13                   magnets manufactured or produced in the  
14                   United States by the taxpayer during the tax-  
15                   able year, and

16                   “(B) \$30 per kilogram of rare earth  
17                   magnets manufactured or produced in the  
18                   United States by the taxpayer during the tax-  
19                   able year if not less than 90 percent of the com-  
20                   ponent rare earth materials of such magnets  
21                   are produced within the United States.

22                   “(2) PHASE-OUT.—

23                   “(A) IN GENERAL.—In the case of any  
24                   rare earth magnet manufactured or produced  
25                   after December 31, 2032, the amount deter-

1 mined under this section with respect to such  
2 rare earth magnet shall be equal to the product  
3 of—

4 “(i) the amount determined under  
5 paragraph (1) with respect to such rare  
6 earth magnet, as determined without re-  
7 gard to this subsection, multiplied by

8 “(ii) the phase-out percentage de-  
9 scribed in subparagraph (B).

10 “(B) PHASE-OUT PERCENTAGE.—The  
11 phase-out percentage described in this para-  
12 graph is—

13 “(i) in the case of any rare earth  
14 magnet manufactured or produced in cal-  
15 endar year 2033, 70 percent,

16 “(ii) in the case of any rare earth  
17 magnet manufactured or produced in cal-  
18 endar year 2034 or 2035, 35 percent, or

19 “(iii) in the case of any rare earth  
20 magnet manufactured or produced after  
21 December 31, 2035, 0 percent.

22 “(c) DEFINITIONS.—For the purposes of this sec-  
23 tion—

1           “(1) RARE EARTH MAGNET.—The term ‘rare  
2 earth magnet’ means a permanent magnet com-  
3 prised of—

4           “(A) an alloy of neodymium, iron, and  
5 boron, which may also include praseodymium,  
6 terbium, or dysprosium, or

7           “(B) an alloy of samarium and cobalt,  
8 which may also include gadolinium or any asso-  
9 ciated host mineral of a component rare earth  
10 material.

11           “(2) COMPONENT RARE EARTH MATERIAL.—  
12 The term ‘component rare earth material’ means ne-  
13 odymium, praseodymium, dysprosium, terbium, sa-  
14 marium, gadolinium, and cobalt.

15           “(3) MANUFACTURED.—The term ‘manufac-  
16 tured’ means the manufacturing of a rare earth  
17 magnet, including the alloying, reduction, strip cast-  
18 ing, milling, sintering, recycling, pressing, and  
19 metallization of component rare earth material.

20           “(4) NON-ALLIED FOREIGN NATION.—The term  
21 ‘non-allied foreign nation’ has the meaning given to  
22 the term ‘covered nation’ in section 4872(d) of title  
23 10, United States Code.

24           “(5) UNITED STATES AND POSSESSION OF THE  
25 UNITED STATES.—The terms ‘United States’ and

1 ‘possession of the United States’ have the meaning  
2 given such terms in section 638.

3 “(d) SPECIAL RULES.—

4 “(1) RESTRICTION ON COMPONENT  
5 SOURCING.—No credit shall be allowed under this  
6 section with respect to a rare earth magnet if any  
7 component rare earth material used to manufacture  
8 or produce such magnet is produced in a non-allied  
9 foreign nation.

10 “(2) TRADE OR BUSINESS REQUIREMENT.—No  
11 credit shall be allowed under this section with re-  
12 spect to a rare earth magnet unless such magnet is  
13 manufactured or produced in the ordinary course of  
14 a trade or business of the taxpayer.

15 “(e) ELECTIVE PAYMENT FOR PRODUCTION OF  
16 RARE EARTH MAGNETS.—

17 “(1) IN GENERAL.—In the case of a taxpayer  
18 making an election (at such time and in such man-  
19 ner as the Secretary may provide) under this section  
20 with respect to any portion of the credit allowed  
21 under subsection (a), such taxpayer shall be treated  
22 as making a payment against the tax imposed by  
23 this subtitle for the taxable year equal to the amount  
24 of such portion.

1           “(2) TIMING.—The payment described in para-  
2           graph (1) shall be treated as made on the later of  
3           the due date of the return of tax for such taxable  
4           year or the date on which such return is filed.”.

5           (b) CREDIT TO BE PART OF GENERAL BUSINESS  
6 CREDIT.—Section 38(b) of such Code is amended by strik-  
7 ing “plus” at the end of paragraph (40), by striking the  
8 period at the end of paragraph (41) and inserting “, plus”,  
9 and by adding at the end the following new paragraph:

10           “(42) the credit for production of rare earth  
11           magnets determined under section 45BB(a).”.

12           (c) CONFORMING AMENDMENT.—The table of sec-  
13 tions for subpart D of part IV of subchapter A of chapter  
14 1 of such Code is amended by inserting after the item  
15 relating to section 45AA the following new item:

“Sec. 45BB. Credit for production of rare earth magnets.”.

16           (d) EFFECTIVE DATE.—The amendments made by  
17 this Act shall apply to taxable years beginning after De-  
18 cember 31, 2023.

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