

113TH CONGRESS
1ST SESSION

H. R. 616

To amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified manufacturing facility construction costs.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2013

Mr. HONDA (for himself and Mr. CARNEY) 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 credit against tax for qualified manufacturing facility construction costs.

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 “Scaling Up Manufac-
5 turing Act of 2013”.

6 **SEC. 2. CREDIT FOR MANUFACTURING FACILITY COSTS.**

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 is amended by adding at the end the following new
10 section:

1 **“SEC. 45S. MANUFACTURING FACILITY EXPENDITURES.**

2 “(a) GENERAL RULE.—For purposes of section 38,
3 in the case of an eligible business, the manufacturing facil-
4 ity expenditure credit for any taxable year is an amount
5 equal to 25 percent of the qualified facility construction
6 expenditures of the taxpayer for the taxable year.

7 “(b) ELIGIBLE BUSINESS.—For purposes of this sec-
8 tion, the term ‘eligible business’ means any corporation
9 or partnership—

10 “(1) which is engaged in an active trade or
11 business,

12 “(2) which is headquartered in the United
13 States,

14 “(3) substantially all of the management or ad-
15 ministrative activities of which are performed in the
16 United States,

17 “(4) which has not (prior to placing into service
18 the manufacturing facility designated for purposes
19 of this section) placed in service a dedicated com-
20 mercial manufacturing facility,

21 “(5) with respect to which all debt obligations
22 issued by, and equity interests in, have a rating of
23 B minus (or its substantial equivalent) or higher
24 from a credit rating agency registered with the Secu-
25 rities and Exchange Commission as a nationally rec-
26 ognized statistical rating organization (as defined in

1 section 3(a) of the Securities Exchange Act of
2 1934).

3 “(c) QUALIFIED FACILITY CONSTRUCTION EXPENDI-
4 TURES.—For purposes of this section—

5 “(1) IN GENERAL.—The term ‘qualified facility
6 construction expenditures’ means amounts paid or
7 incurred by the taxpayer—

8 “(A) for the construction of a facility (des-
9 ignated for purposes of this section by the tax-
10 payer at such time and in such form and man-
11 ner as the Secretary shall prescribe) in the
12 United States to manufacture a qualified prod-
13 uct (including amounts for professional services
14 necessary for the planning of such construc-
15 tion), and

16 “(B) for the purchase of specialized equip-
17 ment for use at such facility and required for
18 the manufacture of such product.

19 “(2) QUALIFIED PRODUCT.—The term ‘quali-
20 fied product’ means any product which, prior to con-
21 struction of the facility with respect to which a cred-
22 it is allowed under this section, the taxpayer has
23 produced and sold to a bona fide purchaser, and
24 such purchaser has placed such product in service.

1 “(d) SPECIAL RULES.—For purposes of this sec-
2 tion—

3 “(1) RECAPTURE.—

4 “(A) IN GENERAL.—If, as of the close of
5 any taxable year, there is a recapture event
6 with respect to any facility of the taxpayer with
7 respect to which a credit was allowed under this
8 section, then the tax of the taxpayer under this
9 chapter for such taxable year shall be increased
10 by an amount equal to the product of—

11 “(i) the applicable recapture percent-
12 age, and

13 “(ii) the aggregate decrease in the
14 credits allowed under section 38 for all
15 prior taxable years which would have re-
16 sulted if the qualified facility construction
17 expenditures of the taxpayer described in
18 subsection (c)(1) with respect to such facil-
19 ity had been zero.

20 “(B) APPLICABLE RECAPTURE PERCENT-
21 AGE.—

22 “(i) IN GENERAL.—For purposes of
23 this subsection, the applicable recapture
24 percentage shall be determined in accord-
25 ance with the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Year 1	100
Year 2	80
Year 3	60
Year 4	40
Year 5	20
Years 6 and thereafter	0.

1 “(ii) YEARS.—For purposes of clause
2 (i), year 1 shall begin on the first day of
3 the taxable year in which the facility with
4 respect to which a credit was allowed
5 under this subsection was placed in service.

6 “(C) RECAPTURE EVENT.—For purposes
7 of this paragraph—

8 “(i) IN GENERAL.—A recapture event
9 occurs with respect to any facility if—

10 “(I) the taxpayer becomes insol-
11 vent, or

12 “(II) the taxpayer disposes of the
13 facility to another person who, at this
14 time of the disposition, is not an eligi-
15 ble business.

16 “(ii) SPECIAL RULE FOR FACILITIES
17 NOT PLACED IN SERVICE WITHIN 5
18 YEARS.—In the case of a facility with re-
19 spect to which a credit is allowed under
20 this section which is not placed in service
21 before the close of the 5th taxable year be-

1 ginning after the first taxable year for
2 which the credit was so allowed, a recap-
3 ture event shall be treated as having oc-
4 curred with respect to such facility in year
5 1.

6 “(2) CREDIT MAY BE ASSIGNED.—The amount
7 of qualified facility construction expenditures with
8 respect to a facility which would (but for this para-
9 graph) be taken into account under subsection (a)
10 for any taxable year by any person (hereafter in this
11 paragraph referred to as the ‘initial taxpayer’)—

12 “(A) may be taken into account by any
13 other person to whom such expenditures are as-
14 signed by the initial taxpayer, and

15 “(B) shall not be taken into account by
16 initial taxpayer.

17 Any person to whom such expenditures are assigned
18 under subparagraph (A) shall be treated for pur-
19 poses of this title as the taxpayer with respect to
20 such expenditures.

21 “(3) CONTROLLED GROUP.—All members of the
22 same controlled group of corporations (within the
23 meaning of section 52(a)) and all persons under
24 common control (within the meaning of section

1 52(b)) shall be treated as 1 person for purposes of
2 this section.

3 “(4) PREDECESSOR.—Any reference in this sec-
4 tion to a corporation or partnership shall include a
5 reference to any predecessor of such corporation or
6 partnership.

7 “(5) DENIAL OF DOUBLE BENEFIT.—For pur-
8 poses of this subtitle, if a credit is allowed under
9 this section in connection with any expenditure for
10 any property, the basis of such property shall be re-
11 duced by the amount of the credit so allowed.”.

12 (b) DENIAL OF DOUBLE BENEFIT.—Section 280C of
13 such Code is amended by inserting after subsection (h)
14 the following new subsection:

15 “(i) MANUFACTURING FACILITY EXPENDITURES.—
16 No deduction shall be allowed for that portion of the ex-
17 penses otherwise allowable as a deduction taken into ac-
18 count in determining the credit under section 45S for the
19 taxable year which is equal to the amount of the credit
20 determined for such taxable year under section 45S(a).”.

21 (c) CREDIT TO BE PART OF GENERAL BUSINESS
22 CREDIT.—Subsection (b) of section 38 of such Code is
23 amended by striking “plus” at the end of paragraph (35),
24 by striking the period at the end of paragraph (36) and

1 inserting “, plus”, and by inserting after paragraph (36)
2 the following:

3 “(37) manufacturing facility expenditure credit
4 determined under section 45S(a).”.

5 (d) CONFORMING AMENDMENT.—Subsection (a) of
6 section 1016 of such Code is amended by striking “and”
7 at the end of paragraph (36), by striking the period at
8 the end of paragraph (37) and inserting “, and”, and by
9 adding at the end the following new paragraph:

10 “(38) to the extent provided in section
11 45S(d)(2).”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to amounts paid or incurred after
14 the date of the enactment of this Act.

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