

117TH CONGRESS
2D SESSION

S. 4680

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

IN THE SENATE OF THE UNITED STATES

JULY 28, 2022

Ms. CORTEZ MASTO 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 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 2022”.

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

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 45U. CREDIT FOR PRODUCTION OF RARE EARTH**
4 **MAGNETS.**

5 “(a) IN GENERAL.—For the purposes of section 38,
6 the credit for production of rare earth magnets determined
7 under this section for any taxable year is an amount equal
8 to the sum of—

9 “(1) \$20 per kilogram of rare earth magnets
10 manufactured in the United States by the taxpayer
11 during the taxable year which are not described in
12 paragraph (2), plus

13 “(2) \$30 per kilogram of rare earth magnets
14 manufactured in the United States by the taxpayer
15 during the taxable year if not less than 90 percent
16 of the component rare earth material of such
17 magnets are manufactured within the United States.

18 “(b) PHASE-OUT.—

19 “(1) IN GENERAL.—In the case of any rare
20 earth magnet manufactured after December 31,
21 2030, the amount determined under this section
22 with respect to such rare earth magnet shall be
23 equal to the product of—

24 “(A) the amount determined under sub-
25 section (a) with respect to such rare earth mag-

1 net, as determined without regard to this sub-
2 section, multiplied by

3 “(B) the phase-out percentage described in
4 paragraph (2).

5 “(2) PHASE-OUT PERCENTAGE.—The phase-out
6 percentage described in this paragraph is—

7 “(A) in the case of any rare earth magnet
8 manufactured in calendar year 2031, 70 per-
9 cent,

10 “(B) in the case of any rare earth magnet
11 manufactured in calendar year 2032, 35 per-
12 cent, and

13 “(C) in the case of any rare earth magnet
14 manufactured after December 31, 2033, 0 per-
15 cent.

16 “(c) RESTRICTION ON COMPONENT SOURCING.—The
17 credit determined under subsection (a) shall not apply
18 with respect to any rare earth magnet if any component
19 rare earth material used to manufacture such magnet was
20 manufactured in a non-allied foreign nation.

21 “(d) DEFINITIONS.—For the purposes of this sec-
22 tion—

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

1 “(A) an alloy of neodymium, iron, and
2 boron, which may also include praseodymium,
3 terbium, or dysprosium, or

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

8 “(2) COMPONENT RARE EARTH MATERIAL.—
9 The term ‘component rare earth material’ means ne-
10 odmium, praseodymium, dysprosium, terbium, sa-
11 marium, gadolinium, or cobalt.

12 “(3) UNITED STATES AND POSSESSION OF THE
13 UNITED STATES.—The terms ‘United States’ and
14 ‘possession of the United States’ have the meaning
15 given such terms in section 638.

16 “(4) MANUFACTURED.—The term ‘manufac-
17 tured’ means the manufacturing of a rare earth
18 magnet, including the alloying, reduction, strip cast-
19 ing, and metallization of component rare earth mate-
20 rial.

21 “(5) NON-ALLIED FOREIGN NATION.—The term
22 ‘non-allied foreign nation’ has the meaning given to
23 the term ‘covered nation’ in section 4872(d)(2) of
24 title 10, United States Code.

1 “(e) TRADE OR BUSINESS REQUIREMENT.—No cred-
2 it shall be allowed under this section with respect to any
3 property unless such property is manufactured in the ordi-
4 nary course of a trade or business of the taxpayer.

5 “(f) ELECTION FOR DIRECT PAYMENT.—

6 “(1) IN GENERAL.—In the case of any rare
7 earth magnets manufactured in the United States by
8 the taxpayer during the taxable year, the amount of
9 any credit determined under subsection (a) with re-
10 spect to such property for such taxable year shall,
11 at the election of the taxpayer, be treated as a pay-
12 ment equal to such amount which is made by the
13 taxpayer against the tax imposed by chapter 1 for
14 such taxable year (regardless of whether such tax
15 would have been on such taxpayer).

16 “(2) FORM AND EFFECT OF ELECTION.—An
17 election under paragraph (1) shall be made at such
18 time and in such manner as the Secretary may pre-
19 scribe. Such election, once made, shall—

20 “(A) be irrevocable with respect to the
21 property to which such election applies, and

22 “(B) reduce the amount of the credit
23 which would (but for this subsection) be allow-
24 able under this section with respect to such

1 property for the taxable year in which such
 2 property is manufactured to zero.

3 “(3) APPLICATION TO PARTNERSHIPS AND S
 4 CORPORATIONS.—In the case of a partnership or S
 5 corporation which makes an election under para-
 6 graph (1)—

7 “(A) such paragraph shall apply with re-
 8 spect to such partnership or corporation with-
 9 out regard to the fact that no tax is imposed
 10 by chapter 1 on such partnership or corpora-
 11 tion, and

12 “(B)(i) in the case of a partnership, each
 13 partner’s distributive share of the credit deter-
 14 mined under subsection (a) with respect to the
 15 rare earth magnets shall be deemed to be zero,
 16 and

17 “(ii) in the case of an S corporation, each
 18 shareholder’s pro rata share of the credit deter-
 19 mined under subsection (a) with respect to such
 20 property shall be deemed to be zero.”.

21 (b) CREDIT TO BE PART OF GENERAL BUSINESS
 22 CREDIT.—Section 38(b) of the Internal Revenue Code of
 23 1986 is amended—

24 (1) by striking “plus” at the end of paragraph
 25 (32),

1 (2) by striking the period at the end of para-
2 graph (33) and inserting “, plus”, and

3 (3) by adding at the end the following new
4 paragraph:

5 “(34) the credit for production of rare earth
6 magnets determined under section 45U(a).”.

7 (c) CONFORMING AMENDMENT.—The table of sec-
8 tions for subpart D of part IV of subchapter A of chapter
9 1 of the Internal Revenue Code of 1986 is amended by
10 adding at the end the following new item:

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

11 (d) EFFECTIVE DATE.—The amendments made by
12 this Act shall apply to taxable years beginning after De-
13 cember 31, 2021.

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