

115TH CONGRESS
1ST SESSION

H. R. 3149

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

JUNE 29, 2017

Mr. PASCRELL (for himself, Ms. SÁNCHEZ, Mr. FITZPATRICK, and Mr. COSTELLO of Pennsylvania) 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 credits for the production of renewable chemicals and investments in renewable chemical production facilities, 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 “Renewable Chemicals
5 Act of 2017”.

1 **SEC. 2. CREDITS FOR PRODUCTION OF RENEWABLE CHEMI-**
 2 **CALS AND INVESTMENTS IN RENEWABLE**
 3 **CHEMICAL PRODUCTION FACILITIES.**

4 (a) PRODUCTION OF RENEWABLE CHEMICALS.—

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

9 **“SEC. 45S. CREDIT FOR PRODUCTION OF RENEWABLE**
 10 **CHEMICALS.**

11 “(a) IN GENERAL.—For purposes of section 38, the
 12 production credit for renewable chemicals for any taxable
 13 year is an amount (determined separately for each renew-
 14 able chemical) equal to \$0.15 per pound of biobased con-
 15 tent of each renewable chemical produced during the tax-
 16 able year—

17 “(1) by the taxpayer, or

18 “(2) for the taxpayer by a contract manufac-
 19 turer under a binding written agreement.

20 “(b) LIMITATION.—The amount of the credit deter-
 21 mined under subsection (a) with respect to a renewable
 22 chemical produced during any taxable year shall not ex-
 23 ceed the credit amount allocated for purposes of this sec-
 24 tion by the Secretary to the taxpayer with respect to such
 25 chemical for such taxable year under section 48E(e).

26 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) RENEWABLE CHEMICAL.—

2 “(A) IN GENERAL.—The term ‘renewable
3 chemical’ means any chemical which—

4 “(i) is produced in the United States
5 (or in a territory or possession of the
6 United States) from renewable biomass,

7 “(ii) is sold or used by the taxpayer—

8 “(I) for the production of chem-
9 ical products, polymers, plastics, or
10 formulated products, or

11 “(II) as chemicals, polymers,
12 plastics, or formulated products,

13 “(iii) is not less than 95 percent
14 biobased content,

15 “(iv) is the product of, or is reliant
16 upon, biological conversion, thermal con-
17 version, or a combination of biological and
18 thermal conversion of renewable biomass,

19 “(v) is not sold or used for the pro-
20 duction of any food, feed, or fuel,

21 “(vi) is not a combination of renew-
22 able chemicals on the list under clause (vii)
23 (or added to such list under subparagraph
24 (B)) for which a credit has been claimed

1 by the taxpayer in any taxable year under
2 this section or section 48E, and

3 “(vii) is acetic acid, acrylic acid, acyl
4 glutamate, adipic acid, algae oils, algae
5 sugars, 1,4-butanediol (BDO), iso-butanol,
6 n-butanol, C10 and higher hydrocarbons
7 produced from olefin metathesis, carboxylic
8 acids produced from olefin metathesis, cel-
9 lulosic sugar, diethyl methylene malonate,
10 dodecanedioic acid (DDDA), esters pro-
11 duced from olefin metathesis, ethyl acetate,
12 ethylene glycol, farnesene, 2,5-
13 furandicarboxylic acid, gamma-butyro-
14 lactone, glucaric acid,
15 hexamethylenediamine (HMD), 3-hydroxy
16 propionic acid, iso-butene, isoprene,
17 itaconic acid, lactide, levulinic acid,
18 polyhydroxyalkonate (PHA), polylactic acid
19 (PLA), polyethylene furanoate (PEF), pol-
20 yethylene terephthalate (PET),
21 polyitaconic acid, polyols from vegetable
22 oils, poly(xylitan levulinate ketal), 1,3-
23 propanediol, 1,2-propanediol, rhamnolipids,
24 short and medium chain carboxylic acids
25 produced from anaerobic digestion, suc-

1 cinic acid, terephthalic acid, vegetable fatty
2 acid-derived ethyl esters containing vege-
3 table oil, or p-xylene.

4 “(B) ADDITIONAL RENEWABLE CHEMI-
5 CALS.—The Secretary may add chemicals to the
6 list of renewable chemicals in subparagraph
7 (A)(vii). Not later than 180 days after the en-
8 actment of this section, the Secretary, in con-
9 sultation with the Secretary of Agriculture,
10 shall establish a program to consider applica-
11 tions from taxpayers to add renewable chemi-
12 cals to such list. Any chemical added to such
13 list must meet the requirements set forth in
14 clauses (i) through (v) of subparagraph (A)
15 (without regard to the phrase ‘by the taxpayer’
16 in clause (ii) thereof).

17 “(2) BIOBASED CONTENT.—The term ‘biobased
18 content’ means, with respect to any renewable chem-
19 ical, the biobased content of the total mass of or-
20 ganic carbon in such chemical (expressed as a per-
21 centage), determined by testing representative sam-
22 ples using the American Society for Testing and Ma-
23 terials (ASTM) D6866.

24 “(3) RENEWABLE BIOMASS.—The term ‘renew-
25 able biomass’ has the meaning given such term in

1 section 9001(13) of the Farm Security and Rural
2 Investment Act of 2002 (7 U.S.C. 8101(13)).

3 “(d) NATIONAL LIMITATION ON CREDITS FOR RE-
4 NEWABLE CHEMICALS.—See section 48E(e) for rules re-
5 lating to national limitation on credits under this section.

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

10 “(f) TERMINATION.—Notwithstanding any other pro-
11 vision of this section or section 48E, the Secretary may
12 not allocate any credit amount under this section to any
13 taxable year which begins more than 5 years after the date
14 of the enactment of this section.”.

15 (2) CREDIT TO BE PART OF GENERAL BUSI-
16 NESS CREDIT.—Subsection (b) of section 38 of such
17 Code is amended by striking “plus” at the end of
18 paragraph (35), by striking the period at the end of
19 paragraph (36) and inserting “, plus”, and by add-
20 ing at the end the following new paragraph:

21 “(37) the renewable chemicals production credit
22 determined under section 45S(a).”.

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

1 (1) IN GENERAL.—Section 46 of the Internal
2 Revenue Code of 1986 is amended by striking “and”
3 at the end of paragraph (5), by striking the period
4 at the end of paragraph (6) and inserting “, and”,
5 and by adding at the end the following new para-
6 graph:

7 “(7) the renewable chemical production facili-
8 ties credit.”.

9 (2) RENEWABLE CHEMICAL PRODUCTION FA-
10 CILITIES CREDIT.—Subpart E of part IV of sub-
11 chapter A of chapter 1 of such Code is amended by
12 inserting after section 48D the following:

13 **“SEC. 48E. INVESTMENT CREDIT FOR RENEWABLE CHEM-**
14 **ICAL PRODUCTION FACILITIES.**

15 “(a) IN GENERAL.—For purposes of section 46, the
16 renewable chemical production facilities credit for any tax-
17 able year is an amount equal to 30 percent of the basis
18 of any eligible property which is a part of a renewable
19 chemical production facility placed in service by the tax-
20 payer during such taxable year.

21 “(b) LIMITATION.—The amount of the credit deter-
22 mined under subsection (a) with respect to a renewable
23 chemical production facility of the taxpayer during any
24 taxable year shall not exceed the credit amount allocated

1 for purposes of this section by the Secretary to the tax-
 2 payer for such taxable year under subsection (e).

3 “(c) RENEWABLE CHEMICAL PRODUCTION FACIL-
 4 ITY.—For purposes of this section—

5 “(1) IN GENERAL.—The term ‘renewable chem-
 6 ical production facility’ means a facility—

7 “(A) which is owned by the taxpayer,

8 “(B) which is originally placed in service
 9 after the date of the enactment of this section
 10 and before the first day of the taxable year
 11 which begins 6 years after the date of the en-
 12 actment of this section,

13 “(C) with respect to which—

14 “(i) no credit has been allowed under
 15 section 45S for chemicals produced at such
 16 facility in any previous taxable year, and

17 “(ii) the taxpayer makes an irrev-
 18 ocable election to have this section apply,
 19 and

20 “(D) which is used to produce renewable
 21 chemicals.

22 “(2) ELIGIBLE PROPERTY.—The term ‘eligible
 23 property’ means any property—

24 “(A) which is—

25 “(i) tangible personal property, or

1 “(ii) other tangible property (not in-
2 cluding a building or its structural compo-
3 nents),

4 but only if such property is used as an integral
5 part of the renewable chemical production facil-
6 ity, and

7 “(B) with respect to which depreciation (or
8 amortization in lieu of depreciation) is allow-
9 able.

10 “(3) RENEWABLE CHEMICAL.—The term ‘re-
11 newable chemical’ has the meaning given such term
12 by section 45S(c)(1).

13 “(d) CERTAIN QUALIFIED PROGRESS EXPENDI-
14 TURES RULES MADE APPLICABLE.—Rules similar to the
15 rules of subsections (c)(4) and (d) of section 46 (as in
16 effect on the day before the enactment of the Revenue
17 Reconciliation Act of 1990) shall apply for purposes of
18 this section.

19 “(e) NATIONAL LIMITATION ON CREDITS FOR RE-
20 NEWABLE CHEMICALS.—

21 “(1) IN GENERAL.—Not later than 180 days
22 after the date of the enactment of this section, the
23 Secretary, in consultation with the Secretary of Ag-
24 riculture, shall establish a program to allocate credit
25 amounts under this section and section 45S to tax-

1 payers who produce renewable chemicals for taxable
2 years ending after the date of the enactment of this
3 section.

4 “(2) LIMITATIONS.—

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

8 “(B) TAXPAYER LIMITATION.—The
9 amount of credits that may be allocated to any
10 taxpayer for any taxable year under such pro-
11 gram shall not exceed \$25,000,000. For pur-
12 poses of the preceding sentence, all persons
13 treated as a single employer under subsection
14 (a) or (b) of section 52, or subsection (m) or
15 (o) of section 414, shall be treated as one tax-
16 payer.

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

21 “(A) the number of jobs created and main-
22 tained (directly and indirectly) in the United
23 States (including territories and possessions of
24 the United States) as a result of such allocation
25 during the credit period and thereafter,

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

5 “(C) the technological innovation involved
6 in the production method of the renewable
7 chemical,

8 “(D) the energy efficiency and reduction in
9 lifecycle greenhouse gases of the renewable
10 chemical or of the production method of the re-
11 newable chemical, and

12 “(E) whether there is a reasonable expect-
13 tation of commercial viability.

14 “(4) REDISTRIBUTION.—If a credit amount al-
15 located to a taxpayer for a taxable year with respect
16 to any renewable chemical or renewable chemical
17 production facility (determined without regard to
18 this paragraph) exceeds the amount of the credit
19 with respect to such chemical determined under this
20 section on the taxpayer’s return for such taxable
21 year—

22 “(A) the credit amount allocated to such
23 taxpayer for such taxable year with respect to
24 such renewable chemical shall be treated as

1 being the amount so determined on the tax-
2 payer's return, and

3 “(B) such excess may be reallocated by the
4 Secretary consistent with the requirements of
5 this subsection.

6 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
7 retary shall, upon making an allocation of credit
8 amount under this section, publicly disclose the iden-
9 tity of the taxpayer and the amount of the credit
10 with respect to such taxpayer.

11 “(f) COORDINATION WITH PRODUCTION CREDIT FOR
12 RENEWABLE CHEMICALS.—If a taxpayer makes an elec-
13 tion under subsection (c)(1)(C)(ii) with respect to a renew-
14 able chemical production facility, a credit shall not be al-
15 lowed under section 45S for any renewable chemical pro-
16 duced by such facility.

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

20 “(h) TERMINATION.—The Secretary may not allocate
21 any credit amount under this section to any taxable year
22 which begins more than 5 years after the date of the en-
23 actment of this section.”.

24 (c) CREDITS ALLOWABLE AGAINST ALTERNATIVE
25 MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) of

1 the Internal Revenue Code of 1986 is amended by redesignig-
 2 nating clauses (vii) through (ix) as clauses (ix) through
 3 (xi), respectively, and by inserting after clause (vi) the fol-
 4 lowing new clauses:

5 “(vii) the credit determined under sec-
 6 tion 45S,

7 “(viii) the credit determined under
 8 section 46 to the extent that such credit is
 9 attributable to the renewable chemical pro-
 10 duction facilities credit under section
 11 48E,”.

12 (d) CLERICAL AMENDMENTS.—

13 (1) The table of sections for subpart D of part
 14 IV of subchapter A of chapter 1 of the Internal Rev-
 15 enue Code of 1986 is amended by adding at the end
 16 the following new item:

“Sec. 45S. Credit for production of renewable chemicals.”.

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

“Sec. 48E. Investment credit for renewable chemical production facilities.”.

21 (e) EFFECTIVE DATES.—The amendments made by
 22 this section shall apply to renewable chemicals produced
 23 and renewable chemical production facilities placed in

- 1 service after the date of the enactment of this Act, in tax-
- 2 able years ending after such date.

