

116TH CONGRESS
2D SESSION

S. 3945

To amend the Internal Revenue Code of 1986 to provide incentives for relocating manufacturing of pharmaceuticals and medical supplies and devices to the United States.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2020

Mrs. LOEFFLER (for herself, Ms. ERNST, and Mr. CRUZ) 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 provide incentives for relocating manufacturing of pharmaceuticals and medical supplies and devices to the United States.

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 “Bring Entrepreneurial
5 Advancements To Consumers Here In North America
6 Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds as follows:

1 (1) In late December 2019, authorities in the
2 city of Wuhan in China’s Hubei Province reported a
3 cluster of pneumonia cases of unknown cause.

4 (2) The Government of the People’s Republic of
5 China eventually identified the cause of the outbreak
6 to be a novel coronavirus that would later be under-
7 stood to cause a respiratory illness in humans,
8 known as COVID–19.

9 (3) The pandemic spread of COVID–19 and the
10 geographic location of its origin caused reverbera-
11 tions in medical supply chains that reached around
12 the world.

13 (4) The COVID–19 pandemic highlights the
14 United States dependency on China for critical med-
15 ical supplies and pharmaceutical products.

16 (5) The Government of the People’s Republic of
17 China and the Chinese Communist Party prioritize
18 state support for biotechnology manufacturing as a
19 strategic industry under the “Made in China 2025”
20 initiative.

21 (6) According to the United States Food and
22 Drug Administration, as of 2018, China is the larg-
23 est exporter of medical devices and the second larg-
24 est exporter of drugs and biologics to the United
25 States.

1 (7) Chinese pharmaceutical companies produce
 2 more than 90 percent of the supply of antibiotics, vi-
 3 tamin C, ibuprofen, and hydrocortisone in the
 4 United States.

5 (8) In March 2020, Xinhua News Service, a
 6 Chinese state-controlled news agency, reprinted an
 7 article insinuating that if China were to announce
 8 its “strategic control” of medical products and ban
 9 exports to the United States, “the United States
 10 would be plunged into the vast ocean of novel
 11 coronavirus.”

12 (9) The ability of the Government of the Peo-
 13 ple’s Republic of China and the Chinese Communist
 14 Party to control the medical supply chain poses a
 15 risk to the national security of the United States.

16 (10) Companies should be incentivized through
 17 a competitive tax structure to manufacture and
 18 produce pharmaceuticals and medical devices in the
 19 United States.

20 **SEC. 3. TAX INCENTIVES FOR RELOCATING MANUFAC-**
 21 **TURING OF PHARMACEUTICALS AND MED-**
 22 **ICAL SUPPLIES AND DEVICES TO THE**
 23 **UNITED STATES.**

24 (a) ACCELERATED DEPRECIATION FOR NONRESI-
 25 DENTIAL REAL PROPERTY.—Section 168 of the Internal

1 Revenue Code of 1986 is amended by adding at the end
 2 the following new subsection:

3 “(n) ACCELERATED DEPRECIATION FOR NONRESI-
 4 DENTIAL REAL PROPERTY ACQUIRED IN CONNECTION
 5 WITH THE RELOCATION OF MANUFACTURING OF PHAR-
 6 MACEUTICALS AND MEDICAL SUPPLIES AND DEVICES TO
 7 THE UNITED STATES.—

8 “(1) TREATMENT AS 20-YEAR PROPERTY.—For
 9 purposes of this section, qualified nonresidential real
 10 property shall be treated as 20-year property.

11 “(2) APPLICATION OF BONUS DEPRECIATION.—
 12 For application of bonus depreciation to qualified
 13 nonresidential real property, see subsection (k).

14 “(3) QUALIFIED NONRESIDENTIAL REAL PROP-
 15 ERTY.—For purposes of this subsection, the term
 16 ‘qualified nonresidential real property’ means non-
 17 residential real property placed in service in the
 18 United States by a qualified manufacturer if such
 19 property is acquired by such qualified manufacturer
 20 in connection with a qualified relocation of manufac-
 21 turing.

22 “(4) QUALIFIED MANUFACTURER.—For pur-
 23 poses of this subsection, the term ‘qualified manu-
 24 facturer’ means any person engaged in the trade or

1 business of manufacturing a qualified medical prod-
2 uct.

3 “(5) QUALIFIED MEDICAL PRODUCT.—For pur-
4 poses of this subsection, the term ‘qualified medical
5 product’ means any pharmaceutical, medical device,
6 or medical supply.

7 “(6) QUALIFIED RELOCATION OF MANUFAC-
8 TURING.—For purposes of this subsection—

9 “(A) IN GENERAL.—The term ‘qualified
10 relocation of manufacturing’ means, with re-
11 spect to any qualified manufacturer, the reloca-
12 tion of the manufacturing of a qualified medical
13 product from a foreign country to the United
14 States.

15 “(B) RELOCATION OF PROPERTY NOT RE-
16 QUIRED.—For purposes of subparagraph (A),
17 manufacturing shall not fail to be treated as re-
18 located merely because property used in such
19 manufacturing was not relocated.

20 “(C) RELOCATION OF NOT LESS THAN
21 EQUIVALENT PRODUCTIVE CAPACITY RE-
22 QUIRED.—For purposes of subparagraph (A),
23 manufacturing shall not be treated as relocated
24 unless the property manufactured in the United
25 States is substantially identical to the property

1 previously manufactured in a foreign country
 2 and the increase in the units of production of
 3 such property in the United States by the quali-
 4 fied manufacturer is not less than the reduction
 5 in the units of production of such property in
 6 such foreign country by such qualified manufac-
 7 turer.

8 “(7) APPLICATION TO POSSESSIONS OF THE
 9 UNITED STATES.—For purposes of this subsection,
 10 the term ‘United States’ includes any possession of
 11 the United States.”.

12 (b) EXCLUSION OF GAIN ON DISPOSITION OF PROP-
 13 PERTY IN CONNECTION WITH QUALIFIED RELOCATION OF
 14 MANUFACTURING.—

15 (1) IN GENERAL.—Part III of subchapter B of
 16 chapter 1 of such Code is amended by inserting
 17 after section 139H the following new section:

18 **“SEC. 139I. EXCLUSION OF GAIN ON DISPOSITION OF PROP-**
 19 **PERTY IN CONNECTION WITH QUALIFIED RE-**
 20 **LOCATION OF MANUFACTURING.**

21 “(a) IN GENERAL.—In the case of a qualified manu-
 22 facturer, gross income shall not include gain from the sale
 23 or exchange of qualified relocation disposition property.

24 “(b) QUALIFIED RELOCATION DISPOSITION PROP-
 25 PERTY.—For purposes of this section, the term ‘qualified

1 relocation disposition property’ means any property
2 which—

3 “(1) is sold or exchanged by a qualified manu-
4 facturer in connection with a qualified relocation of
5 manufacturing, and

6 “(2) was used by such qualified manufacturer
7 in the trade or business of manufacturing a qualified
8 medical product in the foreign country from which
9 such manufacturing is being relocated.

10 “(c) OTHER TERMS.—Terms used in this section
11 which are also used in subsection (n) of section 168 shall
12 have the same meaning when used in this section as when
13 used in such subsection.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-
15 tions for part III of subchapter B of chapter 1 of
16 such Code is amended by inserting after the item re-
17 lating to section 139H the following new item:

“Sec. 139I. Exclusion of gain on disposition of property in connection with
qualified relocation of manufacturing.”.

18 (c) EFFECTIVE DATES.—

19 (1) ACCELERATED DEPRECIATION.—The
20 amendment made by subsection (a) shall apply to
21 property placed in service after the date of the en-
22 actment of this Act.

1 (2) EXCLUSION OF GAIN.—The amendments
2 made by subsection (b) shall apply to sales and ex-
3 changes after the date of the enactment of this Act.

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