

114TH CONGRESS  
1ST SESSION

# H. R. 3390

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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. PASCRELL (for himself, Mr. FITZPATRICK, and Mr. NEAL) 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 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 “Qualifying Renewable  
5       Chemical Production or Investment Tax Credit Act of  
6       2015”.

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 produced by the taxpayer) equal to \$0.15  
15 per pound of biobased content of renewable chemical pro-  
16 duced by the taxpayer during the taxable year.

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

24 “(c) BIOBASED CONTENT.—For purposes of this sec-  
25 tion, the term ‘biobased content’ means, with respect to  
26 any renewable chemical, the biobased content of the total

1 mass of organic carbon in such chemical (expressed as a  
2 percentage), determined by testing representative samples  
3 using the American Society for Testing and Materials  
4 (ASTM) D6866.

5 “(d) RENEWABLE CHEMICAL.—For purposes of this  
6 section—

7 “(1) IN GENERAL.—The term ‘renewable chem-  
8 ical’ means any chemical which—

9 “(A) is produced by the taxpayer in the  
10 United States (or in a territory or possession of  
11 the United States) from renewable biomass.  
12 For purposes of this section, the term ‘renew-  
13 able biomass’ has the meaning given such term  
14 in section 9001(13) of the Farm Security and  
15 Rural Investment Act of 2002 (7 U.S.C.  
16 8101(13));

17 “(B) is sold, or used, by the taxpayer—

18 “(i) for the production of chemical  
19 products, polymers, plastics, or formulated  
20 products, or

21 “(ii) as chemicals, polymers, plastics,  
22 or formulated products;

23 “(C) the biobased content percentage of  
24 which is 95 percent or higher;

1           “(D) is the product of, or reliant upon, bi-  
2           ological conversion, thermal conversion, or a  
3           combination of biological and thermal conver-  
4           sion, of renewable biomass;

5           “(E) is not sold or used for the production  
6           of any food, feed, or fuel;

7           “(F) is not a combination of renewable  
8           chemicals on the list under subparagraph (G)  
9           (or added to the list under paragraph (2)) for  
10          which a credit has been taken under this sec-  
11          tion or section 48E; and

12          “(G) is included on the following list of re-  
13          newable chemicals eligible for credit: acetic acid;  
14          acrylic acid; acyl glutamate; adipic acid; algae  
15          oils; algae sugars; aromatics; 1,4-butanediol  
16          (BDO); iso-butanol; n-butanol; carboxylic acids;  
17          cellulosic sugar; diethyl methylene malonate;  
18          ethyl acetate; farnesene; gamma-butyrolactone;  
19          hexamethylenediamine (HMD); 3-hydroxy pro-  
20          pionic acid; glucaric acid; C10 hydrocarbons;  
21          isoprene; itaconic acid; ketals; levulinic acid;  
22          olefins; polyhydroxyalkonate (PHA); polylactic  
23          acid (PLA); polyitaconic acid; polyols from veg-  
24          etable oils; poly(xylitan levulinate ketal); 1,3-

1           propanediol; 1,2-propanediol; succinic acid;  
2           terpenes; thiols; p-xylene.

3           “(2) ADDITIONAL RENEWABLE CHEMICALS.—

4           The Secretary may add chemicals to the list of re-  
5           newable chemicals established in paragraph (1)(G).  
6           Not later than 180 days after the enactment of this  
7           section, the Secretary, in consultation with the Sec-  
8           retary of Agriculture, shall establish a program to  
9           consider applications from taxpayers to add renew-  
10          able chemicals to the list. Any chemical added to the  
11          list must meet the requirements set forth in sub-  
12          paragraphs (A) through (F) of paragraph (1).

13          “(e) COORDINATION WITH INVESTMENT CREDIT FOR  
14          RENEWABLE CHEMICAL PRODUCTION FACILITIES.—See  
15          section 48E(f) for rules coordinating section 48E with this  
16          section.

17          “(f) TERMINATION.—Notwithstanding any other pro-  
18          vision of this section, the Secretary may not allocate any  
19          credit amount under this section to any taxable year which  
20          begins more than 5 years after the date of the enactment  
21          of this section.”.

22                 (2) CREDIT TO BE PART OF GENERAL BUSI-  
23                 NESS CREDIT.—Subsection (b) of section 38 of such  
24                 Code is amended by striking “plus” at the end of  
25                 paragraph (35), by striking the period at the end of

1 paragraph (36) and inserting “, plus”, and by add-  
2 ing at the end the following new paragraph:

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

5 (b) INVESTMENT CREDIT IN LIEU OF PRODUCTION  
6 CREDIT.—

7 (1) IN GENERAL.—Section 46 of such Code is  
8 amended by striking “and” at the end of paragraph  
9 (5), by striking the period at the end of paragraph  
10 (6) and inserting “, and”, and by adding at the end  
11 the following new paragraph:

12 “(6) the renewable chemical production facili-  
13 ties credit.”.

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

18 **“SEC. 48E. INVESTMENT CREDIT FOR RENEWABLE CHEM-  
19 ICAL PRODUCTION FACILITIES.**

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

1       “(b) LIMITATION.—The amount of the credit deter-  
2 mined under subsection (a) with respect to a renewable  
3 chemical production facility of the taxpayer during any  
4 taxable year shall not exceed the credit amount allocated  
5 for purposes of this section by the Secretary to the tax-  
6 payer for such taxable year under subsection (e).

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

9               “(1) IN GENERAL.—The term ‘renewable chem-  
10 ical production facility’ means a facility used to  
11 produce renewable chemicals—

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

13                       “(B) which is originally placed after the  
14 date of the enactment of this section and before  
15 the first day of the taxable year which begins  
16 6 years after the date of the enactment of this  
17 section, and

18                       “(C) with respect to which—

19                               “(i) no credit has been allowed under  
20 section 45S, and

21                               “(ii) the taxpayer makes an irrev-  
22 ocable election to have this section apply to  
23 such facility.

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

1 “(A) which is—

2 “(i) tangible personal property, or

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

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

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

12 “(3) RENEWABLE CHEMICAL.—The term ‘re-  
13 newable chemical’ has the meaning given such term  
14 by section 45S(d).

15 “(d) SPECIAL RULES.—

16 “(1) DENIAL OF PRODUCTION CREDIT.—No  
17 credit shall be allowed under section 45S for any  
18 taxable year with respect to any renewable chemical  
19 production facility.

20 “(2) CERTAIN QUALIFIED PROGRESS EXPENDI-  
21 TURES RULES MADE APPLICABLE.—Rules similar to  
22 the rules of subsections (c)(4) and (d) of section 46  
23 (as in effect on the day before the enactment of the  
24 Revenue Reconciliation Act of 1990 shall apply for  
25 purposes of this section.



1       “(e) NATIONAL LIMITATION ON CREDITS FOR RE-  
2 NEWABLE CHEMICALS.—

3           “(1) IN GENERAL.—Not later than 180 days  
4 after the date of the enactment of this section, the  
5 Secretary, in consultation with the Secretary of Ag-  
6 riculture, shall establish a program to allocate credit  
7 amounts under this section and section 45S to appli-  
8 cants for taxable years.

9           “(2) LIMITATIONS.—

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

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

22           “(3) SELECTION CRITERIA.—In determining  
23 which taxpayers to make allocations of credit  
24 amount under such program, the Secretary shall  
25 take into consideration—

1           “(A) the number of jobs created and main-  
2           tained (directly and indirectly) in the United  
3           States (including territories and possessions of  
4           the United States) as result of such allocation  
5           during the credit period and thereafter,

6           “(B) the degree to which the production of  
7           the renewable chemical demonstrates reduced  
8           dependence on imported feedstocks, petroleum,  
9           non-renewable resources, or other fossil fuels,

10           “(C) the technological innovation involved  
11           in the production method of the renewable  
12           chemical,

13           “(D) the energy efficiency and reduction in  
14           lifecycle greenhouse gases of the renewable  
15           chemical or of the production method of the re-  
16           newable chemical, and

17           “(E) whether there is a reasonable expec-  
18           tation of commercial viability.

19           “(4) REDISTRIBUTION.—If a credit amount al-  
20           located to a taxpayer for a taxable year with respect  
21           to any renewable chemical or renewable chemical  
22           production facility (determined without regard to  
23           this paragraph) exceeds the amount of the credit  
24           with respect to such chemical determined under this

1 section on the taxpayer’s return for such taxable  
2 year—

3 “(A) the credit amount allocated to such  
4 taxpayer for such taxable year with respect to  
5 such renewable chemical shall be treated as  
6 being the amount so determined on the tax-  
7 payer’s return, and

8 “(B) such excess may, subject to sub-  
9 section (e), be reallocated by the Secretary con-  
10 sistent with the requirements of paragraphs  
11 (2)(B) and (3).

12 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-  
13 retary shall, upon making an allocation of credit  
14 amount under this section, publicly disclose the iden-  
15 tity of the applicant and the amount of the credit  
16 with respect to such applicant.

17 “(f) COORDINATION WITH PRODUCTION CREDIT FOR  
18 RENEWABLE CHEMICALS.—

19 “(1) IN GENERAL.—If a taxpayer makes an  
20 election under paragraph (2) with respect to a re-  
21 newable chemical production facility, a credit shall  
22 not be allowed under section 45S for any renewable  
23 chemical produced by such facility.

24 “(2) ELECTION.—If no credit has been allowed  
25 under section 45S with respect to a renewable chem-

1 ical produced by a renewable chemical production fa-  
2 cility, a taxpayer may make an irrevocable election  
3 to have this section apply with respect to such facil-  
4 ity in lieu of section 45S with respect to such renew-  
5 able chemical.

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

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

13 (c) CREDITS ALLOWABLE AGAINST ALTERNATIVE  
14 MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) of  
15 such Code is amended by redesignating clauses (vii)  
16 through (ix) as clauses (ix) through (xi), respectively, and  
17 by inserting after clause (vi) the following new clauses:

18 “(vii) the credit determined under sec-  
19 tion 45S,

20 “(viii) the credit determined under  
21 section 46 to the extent that such credit is  
22 attributable to the renewable chemical pro-  
23 duction facilities credit under section  
24 48E,”.

25 (d) CLERICAL AMENDMENTS.—

1           (1) The table of sections for subpart D of part  
2           IV of subchapter A of chapter 1 of such Code is  
3           amended by adding at the end the following new  
4           item:

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

5           (2) The table of sections for subpart E of part  
6           IV of subchapter A of chapter 1 of such Code is  
7           amended by adding at the end the following new  
8           item:

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

9           (e) EFFECTIVE DATES.—

10           (1) PRODUCTION CREDIT.—The amendments  
11           made by subsection (a) shall apply to renewable  
12           chemicals produced after the date of the enactment  
13           of this Act, in taxable years ending after such date.

14           (2) INVESTMENT CREDIT.—The amendments  
15           made by subsection (b) shall apply to renewable  
16           chemical production facilities placed in service after  
17           the date of the enactment of this Act, in taxable  
18           years ending after such date.

○