

112TH CONGRESS
2D SESSION

H. R. 5795

To amend the Internal Revenue Code of 1986 to reduce the rate of tax
on domestic manufacturing income to 20 percent.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2012

Mr. KIND (for himself, Mr. LEVIN, Mr. RANGEL, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL, Mr. LARSON of Connecticut, Mr. PASCRELL, Mr. CROWLEY, and Mr. STARK) 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 reduce
the rate of tax on domestic manufacturing income to
20 percent.

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 “Rebuilding American
5 Manufacturing Act of 2012”.

1 **SEC. 2. 20 PERCENT INCOME TAX RATE FOR DOMESTIC**
2 **MANUFACTURING INCOME.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-
4 ter 1 of the Internal Revenue Code of 1986 is amended
5 by adding at the end the following new section:

6 **“SEC. 200. DOMESTIC MANUFACTURING INCOME.**

7 “(a) ALLOWANCE OF DEDUCTION.—There shall be
8 allowed as a deduction an amount equal to 43 percent of
9 the lesser of—

10 “(1) the domestic manufacturing income of the
11 taxpayer for the taxable year, or

12 “(2) taxable income (determined without regard
13 to this section and section 199) for the taxable year.

14 “(b) LIMITATION BASED ON DOMESTIC INVEST-
15 MENT.—For purposes of this section—

16 “(1) IN GENERAL.—The amount of the deduc-
17 tion allowable under subsection (a) for any taxable
18 year shall not exceed 25 percent of the taxpayer’s
19 qualifying domestic investment for the taxable year.

20 “(2) QUALIFYING DOMESTIC INVESTMENT
21 AMOUNT.—The term ‘qualifying domestic invest-
22 ment’ means, with respect to any taxpayer for any
23 taxable year, the sum of—

24 “(A) the W-2 wages of such taxpayer for
25 such taxable year,

1 “(B) the sum of the deductions allowable
2 under sections 167, 169, 179, and 179D to
3 such taxpayer for such taxable year, plus

4 “(C) the deduction allowable under section
5 174 to such taxpayer for such taxable year.

6 “(3) W-2 WAGES.—The term ‘W-2 wages’
7 means, with respect to any person for any taxable
8 year, the sum of the amounts described in para-
9 graphs (3) and (8) of section 6051(a) paid by such
10 person with respect to employment of employees by
11 such person during the calendar year ending during
12 such taxable year. Such term shall not include any
13 amount which is not properly included in a return
14 filed with the Social Security Administration on or
15 before the 60th day after the due date (including ex-
16 tensions) for such return.

17 “(4) LIMITATION TO AMOUNTS ATTRIBUTABLE
18 TO DOMESTIC PRODUCTION.—The term ‘qualifying
19 domestic investment’ shall not include any amount
20 which is not properly allocable to domestic manufac-
21 turing gross receipts for purposes of subsection (c)
22 (and shall include any amount which is so allocable
23 under subsection (c)(4)).

24 “(5) ACQUISITIONS AND DISPOSITIONS.—The
25 Secretary shall provide for the application of this

1 subsection in cases where the taxpayer acquire, or
2 disposes of, the major portion of a trade or business
3 or the major portion of a separate unit of a trade
4 or business during the taxable year.

5 “(c) DOMESTIC MANUFACTURING INCOME.—For
6 purposes of this section—

7 “(1) IN GENERAL.—The term ‘domestic manu-
8 facturing income’ for any taxable year means an
9 amount equal to the excess (if any) of—

10 “(A) the taxpayer’s domestic manufac-
11 turing gross receipts for such taxable year, over

12 “(B) the sum of—

13 “(i) the cost of goods sold that are al-
14 locable to such receipts, and

15 “(ii) other expenses, losses, or deduc-
16 tions (other than the deduction allowed
17 under this section), which are properly al-
18 locable to such receipts.

19 “(2) ALLOCATION METHOD.—The Secretary
20 shall prescribe rules for the proper allocation of
21 items described in paragraph (1) for purposes of de-
22 termining domestic manufacturing income. Such
23 rules shall provide for the proper allocation of items
24 whether or not such items are directly allocable to
25 domestic manufacturing gross receipts.

1 “(3) SPECIAL RULES FOR DETERMINING
2 COSTS.—

3 “(A) IN GENERAL.—For purposes of deter-
4 mining costs under clause (i) of paragraph
5 (1)(B), any item or service brought into the
6 United States shall be treated as acquired by
7 purchase, and its cost shall be treated as not
8 less than its value immediately after it entered
9 the United States. A similar rule shall apply in
10 determining the adjusted basis of leased or
11 rented property where the lease or rental gives
12 rise to domestic manufacturing gross receipts.

13 “(B) EXPORTS FOR FURTHER MANUFAC-
14 TURE.—In the case of any property described
15 in subparagraph (A) that had been exported by
16 the taxpayer for further manufacture, the in-
17 crease in cost or adjusted basis under subpara-
18 graph (A) shall not exceed the difference be-
19 tween the value of the property when exported
20 and the value of the property when brought
21 back into the United States after the further
22 manufacture.

23 “(4) TREATMENT OF CERTAIN ACCELERATED
24 DEPRECIATION DEDUCTIONS.—In the case of prop-
25 erty placed in service after December 31, 2007, and

1 before the first taxable year of the taxpayer begin-
2 ning after December 31, 2012, the deduction under
3 section 168 with respect to such property which is
4 treated as properly allocable to domestic manufac-
5 turing gross receipts of the taxpayer for any taxable
6 year shall be determined without regard to section
7 168(k)(1).

8 “(5) TREATMENT OF DEFERRED COMPENSA-
9 TION UNDER NONQUALIFIED PLANS.—In the case of
10 compensation paid or incurred by the taxpayer which
11 is deferred under a nonqualified deferred compensa-
12 tion plan (as defined in section 409A(d)(1)), the
13 amount under paragraph (1)(B)(ii) shall be deter-
14 mined as though the deduction for such compensa-
15 tion is allowed for the taxable year in which the
16 services for which such compensation was paid or in-
17 curred are performed. This paragraph shall not
18 apply with respect to compensation paid or incurred
19 for services performed in taxable years beginning be-
20 fore the first taxable year of the taxpayer beginning
21 after December 31, 2012.

22 “(d) DOMESTIC MANUFACTURING GROSS RE-
23 CEIPTS.—For purposes of this section—

24 “(1) IN GENERAL.—The term ‘domestic manu-
25 facturing gross receipts’ means the gross receipts of

1 the taxpayer which are derived from any lease, rent-
2 al, license, sale, exchange, or other disposition of
3 qualified property which was manufactured, pro-
4 duced, or grown by the taxpayer in whole or in sig-
5 nificant part within the United States. Such term
6 shall not include gross receipts of the taxpayer which
7 are derived from the sale of food and beverages pre-
8 pared by the taxpayer at a retail establishment.

9 “(2) SPECIAL RULE FOR CERTAIN GOVERN-
10 MENT CONTRACTS.—Gross receipts derived from the
11 manufacture or production of any property shall not
12 fail to be treated as meeting the requirements of
13 paragraph (1) solely because title or risk of loss with
14 respect to such property is held by the Federal Gov-
15 ernment if—

16 “(A) such property is manufactured or
17 produced by the taxpayer pursuant to a con-
18 tract with the Federal Government, and

19 “(B) the Federal Acquisition Regulation
20 requires that title or risk of loss with respect to
21 such property be transferred to the Federal
22 Government before the manufacture or produc-
23 tion of such property is complete.

24 “(3) QUALIFIED PROPERTY.—The term ‘quali-
25 fied property’ means—

1 “(A) any tangible personal property other
2 than—

3 “(i) oil, gas, and primary products
4 thereof (within the meaning of section
5 199(d)(9)(C)),

6 “(ii) property with respect to which
7 section 613 applies,

8 “(iii) property described in paragraph
9 (3) or (4) of section 168(f), and

10 “(iv) electricity and potable water,
11 and

12 “(B) any computer software other than
13 video games rated M, AO, RP, or any similar
14 rating as determined by the Secretary, by the
15 Entertainment Software Rating Board.

16 “(4) PARTNERSHIPS OWNED BY EXPANDED AF-
17 FILIATED GROUPS.—For purposes of this subsection,
18 if all of the interests in the capital and profits of a
19 partnership are owned by members of a single ex-
20 panded affiliated group at all times during the tax-
21 able year of such partnership, the partnership and
22 all members of such group shall be treated as a sin-
23 gle taxpayer during such period.

24 “(5) RELATED PERSONS.—

1 “(A) IN GENERAL.—The term ‘domestic
2 manufacturing gross receipts’ shall not include
3 any gross receipts of the taxpayer derived from
4 property leased, licensed, or rented by the tax-
5 payer for use by any related person.

6 “(B) RELATED PERSON.—For purposes of
7 subparagraph (A), a person shall be treated as
8 related to another person if such persons are
9 treated as a single employer under subsection
10 (a) or (b) of section 52 or subsection (m) or (o)
11 of section 414, except that determinations
12 under subsections (a) and (b) of section 52
13 shall be made without regard to section
14 1563(b).

15 “(e) SPECIAL RULES.—

16 “(1) ELECTIVE APPLICATION OF DEDUCTION.—
17 Except as otherwise provided by the Secretary, the
18 taxpayer may elect not to take any item of income
19 into account as domestic manufacturing gross re-
20 ceipts for purposes of this section.

21 “(2) COORDINATION WITH SECTION 199.—If a
22 deduction is allowed under this section with respect
23 to any taxpayer for any taxable year, any gross re-
24 ceipts of the taxpayer which are taken into account
25 under this section for such taxable year (and any

1 items properly allocable thereto under subsections
2 (b) or (c)) shall not be taken into account under sec-
3 tion 199 for such taxable year.

4 “(3) APPLICATION OF SECTION TO PASS-THRU
5 ENTITIES.—

6 “(A) PARTNERSHIPS AND S CORPORA-
7 TIONS.—In the case of a partnership or S cor-
8 poration—

9 “(i) this section shall be applied at the
10 partner or shareholder level,

11 “(ii) each partner or shareholder shall
12 take into account such person’s allocable
13 share of each item described in subpara-
14 graph (A) or (B) of subsection (c)(1) (de-
15 termined without regard to whether the
16 items described in such subparagraph (A)
17 exceed the items described in such sub-
18 paragraph (B)), and

19 “(iii) each partner or shareholder
20 shall be treated for purposes of subsection
21 (b) as having an amount of each item
22 taken into account in determining quali-
23 fying domestic investment of the partner-
24 ship or S corporation for the taxable year
25 equal to such person’s allocable share of

1 such item (as determined under regula-
2 tions prescribed by the Secretary).

3 “(B) TRUST AND ESTATES.—In the case
4 of a trust or estate—

5 “(i) the items referred to in subpara-
6 graph (A)(ii) (as determined therein) and
7 the qualifying domestic investment of the
8 trust or estate for the taxable year, shall
9 be apportioned between the beneficiaries
10 and the fiduciary (and among the bene-
11 ficiaries) under regulations prescribed by
12 the Secretary, and

13 “(ii) for purposes of paragraph (4),
14 adjusted gross income of the trust or es-
15 tate shall be determined as provided in sec-
16 tion 67(e) with the adjustments described
17 in such paragraph.

18 “(C) REGULATIONS.—The Secretary may
19 prescribe rules requiring or restricting the allo-
20 cation of items and qualifying domestic invest-
21 ment under this paragraph and may prescribe
22 such reporting requirements as the Secretary
23 determines appropriate.

24 “(4) APPLICATION TO INDIVIDUALS.—In the
25 case of an individual, subsection (a)(2) shall be ap-

1 plied by substituting ‘adjusted gross income’ for
2 ‘taxable income’. For purposes of the preceding sen-
3 tence, adjusted gross income shall be determined—

4 “(A) after application of sections 86, 135,
5 137, 219, 221, 222, and 469, and

6 “(B) without regard to this section and
7 section 199.

8 “(5) APPLICATION OF OTHER RULES.—Rules
9 similar to the rules of paragraphs (3), (4), (5), (6),
10 (7), and (10) of section 199(d) shall apply for pur-
11 poses of this section.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 56(d)(1)(A) of such Code is amend-
14 ed by striking “deduction under section 199” both
15 places it appears and inserting “deductions under
16 sections 199 and 200”.

17 (2) Section 56(g)(4)(C) of such Code is amend-
18 ed by adding at the end the following new clause:

19 “(vii) DEDUCTION FOR DOMESTIC
20 BUSINESS INCOME.—Clause (i) shall not
21 apply to any amount allowable as a deduc-
22 tion under section 200.”.

23 (3) The following provisions of such Code are
24 each amended by inserting “200,” after “199,”.

25 (A) Section 86(b)(2)(A).

1 (B) Section 135(e)(4)(A).

2 (C) Section 137(b)(3)(A).

3 (D) Section 219(g)(3)(A)(ii).

4 (E) Section 221(b)(2)(C)(i).

5 (F) Section 222 (b)(2)(C)(i).

6 (G) Section 246(b)(1).

7 (H) Section 469(i)(3)(F)(iii).

8 (4) Section 163(j)(6)(A)(i) of such Code is
9 amended by striking “and” at the end of subclause
10 (III) and by inserting after subclause (IV) the fol-
11 lowing new subclause:

12 “(V) any deduction allowable
13 under section 200, and”.

14 (5) Section 170(b)(2)(C) of such Code is
15 amended by striking “and” at the end of clause (iv),
16 by striking the period at the end of clause (v) and
17 inserting “, and”, and by inserting after clause (v)
18 the following new clause:

19 “(vi) section 200.”.

20 (6) Section 172(d) of such Code is amended by
21 adding at the end the following new paragraph:

22 “(8) DOMESTIC BUSINESS INCOME.—The de-
23 duction under section 200 shall not be allowed.”.

24 (7) Section 199(d)(2)(A) of such Code is
25 amended by inserting “200,” after “137,”.

1 (8) Section 613(a) of such Code is amended by
2 striking “deduction under section 199” and insert-
3 ing “deductions under sections 199 and 200”.

4 (9) Section 613A(d)(1) of such Code is amend-
5 ed by redesignating subparagraphs (C), (D), and
6 (E) as subparagraphs (D), (E), and (F), respec-
7 tively, and by inserting after subparagraph (B) the
8 following new subparagraph:

9 “(C) any deduction allowable under section
10 200.”.

11 (10) Section 1402(a) of such Code is amended
12 by striking “and” at the end of paragraph (16), by
13 redesignating paragraph (17) as paragraph (18),
14 and by inserting after paragraph (16) the following
15 new paragraph:

16 “(17) the deduction provided by section 200
17 shall not be allowed; and”.

18 (11) The table of sections for part VI of sub-
19 chapter B of chapter 1 of such Code is amended by
20 adding at the end the following new item:

“Sec. 200. Domestic manufacturing income.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2012.

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