

112TH CONGRESS  
1ST SESSION

# S. 1410

To amend the Internal Revenue Code of 1986 to provide incentives for  
life sciences research.

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IN THE SENATE OF THE UNITED STATES

JULY 25, 2011

Mr. CASEY introduced the following bill; which was read twice and referred  
to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide  
incentives for life sciences research.

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 “Life Sciences Jobs and  
5 Investment Act of 2011”.

6 **SEC. 2. INCREASED CREDIT FOR INITIAL LIFE SCIENCES**  
7 **RESEARCH.**

8 (a) IN GENERAL.—Section 41 of the Internal Rev-  
9 enue Code of 1986 is amended by redesignating subsection

1 (h) as subsection (i) and inserting after subsection (g) the  
2 following new subsection:

3 “(h) SPECIAL RULES FOR INCREASED INITIAL LIFE  
4 SCIENCES RESEARCH.—

5 “(1) IN GENERAL.—In the case of qualified ini-  
6 tial life sciences research expenses for any taxable  
7 year with respect to which the taxpayer elects the  
8 application of this subsection—

9 “(A) INCREASED CREDIT.—Subsection (a)  
10 shall be applied by substituting ‘40 percent’ for  
11 ‘20 percent’.

12 “(B) AMOUNTS PAID WITH RESPECT TO  
13 QUALIFIED LIFE SCIENCES RESEARCH TO CER-  
14 TAIN RESEARCH CONSORTIA, ELIGIBLE SMALL  
15 BUSINESSES, UNIVERSITIES, AND FEDERAL  
16 LABORATORIES.—Subsection (b)(3)(A) shall be  
17 applied by substituting ‘100 percent’ for ‘65  
18 percent’, in the case of amounts paid or in-  
19 curred to persons described in subclauses (I)  
20 and (III) of subsection (b)(3)(C)(ii) or sub-  
21 clause (I), (II), or (III) of subsection  
22 (b)(3)(D)(i), with respect to qualified life  
23 sciences research.

24 “(C) ALTERNATIVE SIMPLIFIED CREDIT IN  
25 CASE OF QUALIFIED INITIAL LIFE SCIENCE RE-

1 SEARCH.—Paragraph (5) of subsection (c) shall  
2 be applied—

3 “(i) by substituting ‘28 percent’ for  
4 ‘14 percent’ in subparagraph (A), and

5 “(ii) by substituting ‘12 percent’ for  
6 ‘6 percent’ in subparagraph (B)(ii).

7 “(2) DEFINITIONS.—For purposes of this sub-  
8 section—

9 “(A) QUALIFIED INITIAL LIFE SCIENCES  
10 RESEARCH EXPENSES.—

11 “(i) IN GENERAL.—The term ‘quali-  
12 fied initial life sciences research expenses’  
13 means so much of the amounts taken into  
14 account under subsection (a) as—

15 “(I) are attributable to qualified  
16 life sciences research, and

17 “(II) do not exceed  
18 \$150,000,000.

19 “(ii) EXCLUDED EXPENSES.—Such  
20 term does not include any amount paid or  
21 incurred by the taxpayer to compensate  
22 any covered employee (as defined in section  
23 162(m)(3)) for services, to pay dividends  
24 to the shareholders of the taxpayer, or to

1 pay interest or principal on any debt secu-  
2 rity of the taxpayer.

3 “(iii) SUBSTANTIATION OF COMPLI-  
4 ANCE.—

5 “(I) IN GENERAL.—The taxpayer  
6 must substantiate its compliance with  
7 clause (ii) with written documents and  
8 such other credible evidence as the  
9 Secretary may reasonably require, and  
10 shall bear the burden of proof with re-  
11 spect to such substantiation.

12 “(II) CERTIFICATION.—The chief  
13 executive officer and the independent  
14 director serving as head of the audit  
15 committee of the taxpayer, or com-  
16 parable entity officials, shall attest in  
17 writing to the taxpayer’s compliance  
18 with the requirements of clause (ii).

19 “(B) QUALIFIED LIFE SCIENCES RE-  
20 SEARCH.—

21 “(i) IN GENERAL.—The term ‘quali-  
22 fied life sciences research’ means any  
23 qualified research—

24 “(I) with respect to the branch of  
25 knowledge or study of biology, bio-

1 chemistry, biophysics, bioengineering,  
2 biotechnology, microbiology, genetics,  
3 or physiology (in each case as such  
4 knowledge or study relates to human  
5 beings), and

6 “(II) that is considered scientific  
7 research and development for pur-  
8 poses of North American Industry  
9 Classification System code 5417.

10 “(ii) EXCEPTIONS.—Such term does  
11 not include sociology or psychology.

12 “(3) COORDINATION WITH 965A.—This sub-  
13 section shall not apply with respect to any taxpayer  
14 for any taxable year for which an election is in effect  
15 under section 965A (relating to limited deduction for  
16 life sciences jobs and investment in United States).

17 “(4) ELECTION.—Any election under this sub-  
18 section shall be made in such manner as may be pre-  
19 scribed by the Secretary, and shall be made with re-  
20 spect to a taxable year not later than the due date  
21 (including extensions of time) for filing the tax-  
22 payer’s return for such taxable year.

23 “(5) TERMINATION.—This subsection shall not  
24 apply to any taxable year beginning after December  
25 31, 2016.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 3. INCENTIVES TO INVEST IN LIFE SCIENCES JOBS,**  
5 **RESEARCH, AND FACILITIES.**

6 (a) IN GENERAL.—Subpart F of part III of sub-  
7 chapter N of chapter 1 of the Internal Revenue Code of  
8 1986 is amended by adding at the end the following new  
9 section:

10 **“SEC. 965A. LIMITED DEDUCTION FOR LIFE SCIENCES JOBS**  
11 **AND INVESTMENT IN UNITED STATES.**

12 “(a) DEDUCTION.—

13 “(1) IN GENERAL.—In the case of a corpora-  
14 tion which is a United States shareholder and for  
15 which the election under this section is in effect for  
16 the taxable year, there shall be allowed as a deduc-  
17 tion an amount equal to 85 percent of the cash divi-  
18 dends which are received during such taxable year  
19 by such shareholder from controlled foreign corpora-  
20 tions.

21 “(2) DIVIDENDS PAID INDIRECTLY FROM CON-  
22 TROLLED FOREIGN CORPORATIONS.—If, within the  
23 taxable year for which the election under this section  
24 is in effect, a United States shareholder receives a  
25 cash distribution from a controlled foreign corpora-

1 tion which is excluded from gross income under sec-  
2 tion 959(a), such distribution shall be treated for  
3 purposes of this section as a cash dividend to the ex-  
4 tent of any amount included in income by such  
5 United States shareholder under section  
6 951(a)(1)(A), including as a result of any cash divi-  
7 dend during such taxable year to—

8 “(A) such controlled foreign corporation  
9 from another controlled foreign corporation that  
10 is in a chain of ownership described in section  
11 958(a), or

12 “(B) any other controlled foreign corpora-  
13 tion in such chain of ownership from another  
14 controlled foreign corporation in such chain of  
15 ownership, but only to the extent of cash dis-  
16 tributions described in section 959(b) which are  
17 made during such taxable year to the controlled  
18 foreign corporation from which such United  
19 States shareholder received such distribution.

20 “(b) LIMITATIONS.—

21 “(1) IN GENERAL.—The amount of dividends  
22 taken into account under subsection (a) shall not ex-  
23 ceed the lesser of—

24 “(A) \$150,000,000, or

1           “(B) the amount shown on the applicable  
2           financial statement as earnings permanently re-  
3           invested outside the United States.

4           The amounts described in subparagraph (B) shall be  
5           treated as being zero if there is no such statement  
6           or such statement fails to show a specific amount of  
7           such earnings.

8           “(2) DIVIDENDS MUST BE EXTRAORDINARY.—  
9           The amount of dividends taken into account under  
10          subsection (a) shall not exceed the excess (if any)  
11          of—

12                   “(A) the cash dividends received during  
13                   the taxable year by such shareholder from con-  
14                   trolled foreign corporations, over

15                   “(B) the sum of—

16                           “(i) the dividends received during the  
17                           base period year by such shareholder from  
18                           controlled foreign corporations,

19                           “(ii) the amounts includible in such  
20                           shareholder’s gross income for the base pe-  
21                           riod year under section 951(a)(1)(B) with  
22                           respect to controlled foreign corporations,  
23                           and

24                           “(iii) the amounts that would have  
25                           been included for the base period year but



1           for section 959(a) with respect to con-  
2           trolled foreign corporations.

3           Amounts described in subparagraph (B) shall  
4           be such amounts as shown on the most recent  
5           return filed for the base period year; except  
6           that amended returns filed after December 31,  
7           2010, shall not be taken into account.

8           “(3) REQUIREMENT TO INVEST IN LIFE  
9           SCIENCES.—Subsection (a) shall not apply to any  
10          dividend received by a United States shareholder un-  
11          less the amount of the dividend is invested solely in  
12          the United States and solely for the purpose of—

13                 “(A) the new hiring of additional sci-  
14                 entists, researchers, and comparable personnel  
15                 engaged in qualified life sciences research,

16                 “(B) payments to persons described in sec-  
17                 tion 41(h)(1)(B) and to other qualified organi-  
18                 zations which are used by such persons or orga-  
19                 nizations for qualified life sciences research, or

20                 “(C) the building or leasing of new facili-  
21                 ties to be used primarily in the conduct of  
22                 qualified life sciences research.

23          “(4) PROHIBITED USES.—Subsection (a) shall  
24          not apply to the amount of any dividend which is  
25          used by the taxpayer to pay remuneration for serv-

1       ices of any covered employee (as defined in section  
2       162(m)(3)), to pay dividends to the shareholders of  
3       the taxpayer, or to pay interest or principal on any  
4       debt security of the taxpayer.

5           “(5) NO RESERVE.—Subsection (a) shall not  
6       apply to any dividend if the taxpayer’s compliance  
7       with this section is uncertain and requires a provi-  
8       sion or reserve on the taxpayer’s applicable financial  
9       statements.

10          “(6) SEPARATE ACCOUNT.—Subsection (a)  
11       shall not apply to any dividend unless the amount of  
12       the dividend is held in a separate account, trust, or  
13       other arrangement that segregates the amount from  
14       other funds of the taxpayer until the amount is used  
15       solely for the purposes described in paragraph (3).

16          “(c) SUBSTANTIATION OF COMPLIANCE.—

17           “(1) IN GENERAL.—The taxpayer must sub-  
18       stantiate its compliance with subsection (b) with  
19       written documents and such other credible evidence  
20       as the Secretary may reasonably require, and shall  
21       bear the burden of proof with respect to such sub-  
22       stantiation.

23           “(2) CERTIFICATION.—The chief executive offi-  
24       cer and the independent director serving as head of  
25       the audit committee of the taxpayer, or comparable

1 entity officials, shall attest in writing to the tax-  
2 payer's compliance with each of the requirements of  
3 subsection (b).

4 “(d) DEFINITIONS.—For purposes of this section—

5 “(1) QUALIFIED LIFE SCIENCES RESEARCH.—

6 The term ‘qualified life sciences research’ shall have  
7 the meaning given such term by section 41(h).

8 “(2) QUALIFIED ORGANIZATION.—The term

9 ‘qualified organization’ means any organization de-  
10 scribed in subparagraph (A), (B), or (C) of section  
11 41(e)(6).

12 “(3) BASE PERIOD YEAR.—The term ‘base pe-  
13 riod year’ means the taxable year which—

14 “(A) is among the 3 most recent taxable  
15 years ending on or before December 31, 2010,  
16 and

17 “(B) results in the determination of the  
18 highest amount under subsection (b)(2)(B).

19 Rules similar to the rules of subparagraph (C) of  
20 section 965(c)(2) shall apply for purposes of this  
21 paragraph.

22 “(4) APPLICABLE FINANCIAL STATEMENT.—

23 The term ‘applicable financial statement’ has the  
24 meaning given such term by section 965(c)(1), ap-  
25 plied by substituting ‘the last day of the taxable year

1 with respect to which the deduction under section  
2 965A is determined’ for ‘June 30, 2003’ each place  
3 it appears.

4 “(5) DIVIDEND.—The term ‘dividend’ has the  
5 meaning given such term by section 965(c)(3).

6 “(e) SPECIAL RULES.—For purposes of this sec-  
7 tion—

8 “(1) rules similar to the rules of paragraph (3)  
9 of section 965(b) shall apply, except that such para-  
10 graph shall be applied by substituting ‘December 31,  
11 2010’ for ‘October 3, 2004’, and

12 “(2) rules similar to the rules of paragraphs (4)  
13 and (5) of section 965(c) shall apply, except that  
14 such paragraph (5) shall be applied—

15 “(A) by substituting ‘\$150,000,000’ for  
16 ‘\$500,000,000’, and

17 “(B) without regard to the reference to  
18 subparagraph (C) of section 965(b)(1).

19 “(f) DENIAL OF FOREIGN TAX CREDIT.—

20 “(1) IN GENERAL.—No credit shall be allowed  
21 under section 901 for any taxes paid or accrued (or  
22 treated as paid or accrued) with respect to the de-  
23 ductible portion of—

24 “(A) any dividend, or

1           “(B) any amount described in subsection  
2           (a)(2) which is included in income under section  
3           951(a)(1)(A).

4           No deduction shall be allowed under this chapter for  
5           any tax for which credit is not allowable by reason  
6           of the preceding sentence.

7           “(2) EXPENSES.—No deduction shall be al-  
8           lowed for expenses directly allocable to the deduct-  
9           ible portion described in paragraph (1).

10          “(3) DEDUCTIBLE PORTION.—For purposes of  
11          paragraph (1), unless the taxpayer otherwise speci-  
12          fies, the deductible portion of any dividend or other  
13          amount is the amount which bears the same ratio to  
14          the amount of such dividend or other amount as the  
15          amount allowed as a deduction under subsection (a)  
16          for the taxable year bears to the amount described  
17          in subsection (b)(2)(A) for such year.

18          “(4) COORDINATION WITH SECTION 78.—Sec-  
19          tion 78 shall not apply to any tax which is not allow-  
20          able as a credit under section 901 by reason of this  
21          subsection.

22          “(g) ELECTION.—Any election under this section  
23          shall be made in such manner as may be prescribed by  
24          the Secretary, and shall be made with respect to a taxable

1 year not later than the due date (including extensions of  
2 time) for filing the taxpayer's return for such taxable year.

3 “(h) **TERMINATION.**—This section shall not apply to  
4 any taxable year beginning after December 31, 2016.”.

5 (b) **CLERICAL AMENDMENT.**—The table of sections  
6 for subpart F of part III of subchapter N of chapter 1  
7 of the Internal Revenue Code of 1986 is amended by add-  
8 ing at the end the following new section:

“Sec. 965A. Limited deduction for life sciences jobs and investment in United  
States.”.

9 (c) **EFFECTIVE DATE.**—The amendments made by  
10 this section shall apply to taxable years beginning after  
11 the date of the enactment of this Act.

12 **SEC. 4. COMPLIANCE AND REPORT TO CONGRESS.**

13 The Commissioner of Internal Revenue shall take  
14 such steps as are necessary to ensure full compliance with  
15 the provisions under section 41(h) and section 965A of  
16 the Internal Revenue Code of 1986 (as added by this Act).  
17 The Commissioner of Internal Revenue shall provide re-  
18 ports to Congress on the status of such compliance and  
19 related enforcement not later than 90 days following the  
20 final due date of tax filings for the first taxable year in  
21 which an entity may elect application of section 41(h) or  
22 of section 965A of the Internal Revenue Code of 1986 (as  
23 so added).

○