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1ST SESSION

H. R. 1953

To amend the Internal Revenue Code of 1986 to encourage the development of a commercial space industry in the United States.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1995

Mr. WALKER (for himself, Mr. ZIMMER, Mr. ENGLISH of Pennsylvania, Mr. ROHRABACHER, Mrs. SEASTRAND, Mr. WELDON of Florida, and Mr. SENSENBRENNER) 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 encourage the development of a commercial space industry in 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 “Space Business Incen-
5 tives Act of 1995”.

6 **SEC. 2. DEDUCTION FOR PURCHASE OF COMMERCIAL**
7 **SPACE CENTER STOCK.**

8 (a) IN GENERAL.—Part VI of subchapter B of chap-
9 ter 1 of the Internal Revenue Code of 1986 (relating to

1 itemized deductions for individuals and corporations) is
2 amended by adding at the end the following new section:

3 **“SEC. 198. DEDUCTION FOR PURCHASE OF COMMERCIAL**
4 **SPACE CENTER STOCK.**

5 “(a) IN GENERAL.—At the election of the taxpayer,
6 there shall be allowed as a deduction an amount equal to
7 the aggregate amount paid during the taxable year for the
8 purchase of qualified Commercial Space Center stock.

9 “(b) MAXIMUM DEDUCTION.—

10 “(1) IN GENERAL.—The maximum amount al-
11 lowed as a deduction under subsection (a) to a tax-
12 payer for the taxable year shall not exceed \$100,000
13 (\$50,000 in the case of a married individual filing
14 a separate return).

15 “(2) CONTROLLED GROUPS.—

16 “(A) IN GENERAL.—All corporations which
17 are members of the same parent-subsidary con-
18 trolled group shall be treated as 1 corporation
19 for purposes of paragraph (1), and the dollar
20 amount applicable under paragraph (1) shall be
21 allocated among the members of such group in
22 proportion to their respective purchases of stock
23 during the taxable year for which the deduction
24 is allowable by this section.

1 “(B) PARENT-SUBSIDIARY CONTROLLED
2 GROUP.—For purposes of subparagraph (A),
3 the term ‘parent-subsidary controlled group’
4 means any controlled group of corporations as
5 defined in section 1563(a)(1), except that—

6 “(i) ‘more than 50 percent’ shall be
7 substituted for ‘at least 80 percent’ each
8 place it appears in section 1563(a)(1), and

9 “(ii) section 1563(a)(4) shall not
10 apply.

11 “(3) ALLOCATION OF DEDUCTION WHERE
12 STOCK PURCHASED EXCEEDS LIMITATION.—If the
13 amount of stock purchased by any person exceeds
14 the limitation under this subsection with respect to
15 such person, the deduction allowed under this sec-
16 tion shall be allocated pro rata among the stock so
17 purchased in accordance with the purchase price per
18 share.

19 “(c) QUALIFIED COMMERCIAL SPACE CENTER
20 STOCK.—For purposes of this section—

21 “(1) IN GENERAL.—The term ‘qualified Com-
22 mercial Space Center stock’ means any common
23 stock in a C corporation if—

24 “(A) as of the date of issuance, such cor-
25 poration is a qualified Commercial Space Cen-

1 ter business (or, in the case of a new corpora-
2 tion, is being organized for purposes of being a
3 qualified Commercial Space Center business),

4 “(B) such stock is acquired by the tax-
5 payer at its original issue (directly or through
6 an underwriter)—

7 “(i) in exchange for money or other
8 property (not including stock), or

9 “(ii) as compensation for services pro-
10 vided to such corporation (other than serv-
11 ices performed as an underwriter of such
12 stock), and

13 “(C) the proceeds of such issue are used
14 by such issuer during the 36-month period be-
15 ginning on the date of issuance to establish or
16 operate a Commercial Space Center or for oper-
17 ations within such a Center.

18 “(2) QUALIFIED COMMERCIAL SPACE CENTER
19 BUSINESS.—The term ‘qualified Commercial Space
20 Center business’ means any domestic corporation
21 which, at the time of issuance of the stock involved,
22 is conducting a business at least 75 percent of the
23 gross receipts of which for the taxable year are at-
24 tributable to—

1 “(A) operations within a Commercial
2 Space Center, or

3 “(B) the establishment or operation of a
4 Commercial Space Center,
5 in the active conduct of a trade or business.

6 “(3) COMMERCIAL SPACE CENTER.—The term
7 ‘Commercial Space Center’ means any facility des-
8 ignated as such for purposes of this section by the
9 Secretary of Transportation.

10 “(4) CERTAIN PURCHASES BY CORPORATION OF
11 ITS OWN STOCK.—A rule similar to the rule of sec-
12 tion 1202(c)(3) shall apply for purposes of this sub-
13 section.

14 “(d) DISPOSITIONS OF STOCK.—

15 “(1) BASIS REDUCTION.—For purposes of this
16 title, the basis of any qualified Commercial Space
17 Center stock shall be reduced by the amount of the
18 deduction allowed under this section with respect to
19 such stock.

20 “(2) DEDUCTION RECAPTURED AS ORDINARY
21 INCOME.—For purposes of section 1245—

22 “(A) any stock the basis of which is re-
23 duced under paragraph (1) (and any other
24 property the basis of which is determined in
25 whole or in part by reference to the adjusted

1 basis of such stock) shall be treated as section
2 1245 property, and

3 “(B) any reduction under paragraph (1)
4 shall be treated as a deduction allowed for de-
5 preciation.

6 If an exchange of any stock described in paragraph
7 (1) qualifies under section 354(a), 355(a), or
8 356(a), the amount of gain recognized under section
9 1245 by reason of this paragraph shall not exceed
10 the amount of gain recognized in the exchange (de-
11 termined without regard to this paragraph).

12 “(3) CERTAIN EVENTS TREATED AS DISPOSI-
13 TIONS.—For purposes of determining the amount
14 treated as ordinary income under section 1245 by
15 reason of paragraph (2), paragraph (3) of section
16 1245(b) (relating to certain tax-free transactions)
17 shall not apply.

18 “(4) INTEREST CHARGED IF DISPOSITION
19 WITHIN 3 YEARS OF PURCHASE.—

20 “(A) IN GENERAL.—If—

21 “(i) a taxpayer disposes of any quali-
22 fied Commercial Space Center stock with
23 respect to which a deduction was allowed
24 under subsection (a) (or any other prop-
25 erty the basis of which is determined in

1 whole or in part by reference to the ad-
2 justed basis of such stock) before the end
3 of the 3-year period beginning on the date
4 such stock was purchased by the taxpayer,
5 and

6 “(ii) section 1245(a) applies to such
7 disposition by reason of paragraph (2),

8 then the tax imposed by this chapter for the
9 taxable year in which such disposition occurs
10 shall be increased by the Commercial Space
11 Center stock recapture amount.

12 “(B) COMMERCIAL SPACE CENTER STOCK
13 RECAPTURE AMOUNT.—For purposes of sub-
14 paragraph (A), the term ‘Commercial Space
15 Center stock recapture amount’ means an
16 amount equal to the amount of interest (deter-
17 mined at the underpayment rate applicable
18 under section 6621) which would accrue—

19 “(i) during the period beginning on
20 the date such stock was purchased by the
21 taxpayer and ending on the date such
22 stock was disposed of by the taxpayer,

23 “(ii) on an amount equal to the aggre-
24 gate decrease in tax of the taxpayer result-
25 ing from the deduction allowed under this

1 section with respect to the stock so dis-
2 posed of.

3 “(C) SPECIAL RULE.—Any increase in tax
4 under subparagraph (A) shall not be treated as
5 a tax imposed by this chapter for purposes of—

6 “(i) determining the amount of any
7 credit allowable under this chapter, and

8 “(ii) determining the amount of the
9 tax imposed by section 55.

10 “(e) TREATMENT WHERE ISSUER CEASES TO BE
11 QUALIFIED.—

12 “(1) IN GENERAL.—If, during the 5-year period
13 beginning on the date qualified Commercial Space
14 Center stock was purchased by the taxpayer, the is-
15 suer of such stock ceases to meet the requirements
16 of subsection (c)(2)(A), then notwithstanding any
17 provision of this subtitle other than paragraph (2),
18 the taxpayer shall be treated for purposes of sub-
19 section (d) as disposing of such stock (and any other
20 property the basis of which is determined in whole
21 or in part by reference to the adjusted basis of such
22 stock) during the taxable year during which such
23 cessation occurs at its fair market value as of the
24 1st day of such taxable year.

1 “(2) EXCEPTION FOR SMALL INVESTORS.—In
2 the case of an individual, paragraph (1) shall not
3 apply if the aggregate of the deductions allowed to
4 the taxpayer under this section with respect to stock
5 issued by such issuer for all taxable years ending be-
6 fore the issuer first ceased to meet the requirements
7 of subsection (c)(2)(A) does not exceed \$5,000
8 (\$10,000 in the case of a joint return).

9 “(f) SPECIAL RULES.—

10 “(1) AMOUNT PAID AFTER CLOSE OF TAXABLE
11 YEAR.—An amount paid after the close of the tax-
12 able year for the purchase of Commercial Space
13 Center stock shall be treated for purposes of sub-
14 section (a) as paid during such year if—

15 “(A) such amount is so paid not later than
16 the time prescribed by law for filing the return
17 for such taxable year (including extensions
18 thereof), and

19 “(B) the taxpayer was under a binding
20 contract as of the close of such taxable year to
21 purchase such stock.

22 “(2) LIMITATION ON AMOUNT OF DEDUC-
23 TION.—If—

1 “(A) any Commercial Space Center stock
2 is issued in exchange for property (other than
3 money or stock),

4 “(B) the basis of such stock in the hands
5 of the taxpayer is determined by reference to
6 the basis of such property, and

7 “(C) the adjusted basis (for determining
8 gain) of such property immediately before the
9 exchange exceeded its fair market value at such
10 time,

11 then the deduction under this section, and such ad-
12 justed basis, shall both be reduced by the excess de-
13 scribed in subparagraph (C).

14 “(3) APPLICATION OF LIMITS TO PARTNER-
15 SHIPS AND S CORPORATIONS.—In the case of a part-
16 nership or an S corporation, the limitations under
17 subsection (b) shall apply at the partner and share-
18 holder level and shall not apply at the partnership
19 or corporation level.

20 “(g) APPLICATION OF SECTION.—This section shall
21 apply only to stock acquired after December 31, 1995, and
22 before January 1, 2011.”

23 (b) TECHNICAL AMENDMENT.—Subsection (a) of
24 section 1016 of such Code (relating to adjustments to
25 basis) is amended by striking “and” at the end of para-

1 graph (24), by striking the period at the end of paragraph
2 (25) and inserting “, and”, and by adding at the end the
3 following new paragraph:

4 “(26) to the extent provided in section 198(d),
5 in the case of stock with respect to which a deduc-
6 tion was allowed under section 198.”

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for part VI of subchapter B of chapter 1 of such Code
9 is amended by adding at the end the following new item:

“Sec. 198. Deduction for purchase of Commercial Space Center
stock.”

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years ending after De-
12 cember 31, 1995.

13 **SEC. 3. EXCLUSION OF GAIN ON SALE OF STOCK OF COR-**
14 **PORATION SUBSTANTIALLY ENGAGED IN**
15 **SPACE-RELATED ACTIVITIES.**

16 (a) IN GENERAL.—Part I of subchapter P of chapter
17 1 of the Internal Revenue Code of 1986 (relating to treat-
18 ment of capital gains) is amended by adding at the end
19 the following new section:

20 **“SEC. 1203. GAIN ON SPACE CORPORATION STOCK.**

21 “(a) GENERAL RULE.—Gross income shall not in-
22 clude gain on the sale or exchange of qualified space cor-
23 poration stock held for more than 5 years.

24 “(b) LIMITATIONS.—

1 “(1) MAXIMUM DOLLAR AMOUNT.—

2 “(A) IN GENERAL.—The maximum
3 amount excluded under subsection (a) to a tax-
4 payer for the taxable year shall not exceed
5 \$100,000 (\$50,000 in the case of a married in-
6 dividual filing a separate return).

7 “(B) CONTROLLED GROUPS.—For pur-
8 poses of subparagraph (A), all corporations
9 which are members of the same parent-subsi-
10 diary controlled group (as defined in section
11 198(b)(2)) with respect to the taxpayer shall be
12 treated as 1 person, and the dollar amount ap-
13 plicable under subparagraph (A) shall be allo-
14 cated among the taxpayer and such persons in
15 proportion to their respective sales and ex-
16 changes of stock during the calendar year in
17 which the taxable year of the taxpayer begins.

18 “(2) EXCLUDED GAIN MUST BE LONG-TERM
19 CAPITAL GAIN.—Subsection (a) shall not apply to
20 any gain other than long-term capital gain.

21 “(c) QUALIFIED SPACE CORPORATION STOCK.—

22 “(1) IN GENERAL.—The term ‘qualified space
23 corporation stock’ means common stock in a C cor-
24 poration if—

1 “(A) as of the date of issuance, such cor-
2 poration is a qualified space corporation (or, in
3 the case of a new corporation, is being orga-
4 nized for purposes of being a qualified space
5 corporation),

6 “(B) such stock is acquired by the tax-
7 payer at its original issue (directly or through
8 an underwriter)—

9 “(i) in exchange for money or other
10 property (not including stock), or

11 “(ii) as compensation for services pro-
12 vided to such corporation (other than serv-
13 ices performed as an underwriter of such
14 stock), and

15 “(C) during substantially all of the tax-
16 payer’s holding period for such stock, such cor-
17 poration qualified as a space corporation.

18 “(2) SPACE CORPORATION.—The term ‘space
19 corporation’ means, with respect to any taxable year,
20 any domestic corporation which is a C corporation if
21 at least 75 percent of its gross receipts for such tax-
22 able year are derived from the active conduct of a
23 trade or business involving the providing of space-re-
24 lated products or services. For purposes of the pre-
25 ceding sentence, gross receipts attributable to oper-

1 ations within a Commercial Space Center, or to the
2 establishment or operation of a Commercial Space
3 Center, shall not be taken into account.

4 “(3) CERTAIN PURCHASES BY CORPORATION OF
5 ITS OWN STOCK.—A rule similar to the rule of sec-
6 tion 1202(c)(3) shall apply for purposes of this sub-
7 section.

8 “(d) SPECIAL RULES.—

9 “(1) 10-YEAR SAFE HARBOR.—If any stock
10 ceases to be qualified space corporation stock by rea-
11 son of subsection (c)(1)(C) after the 10-year period
12 beginning on the date the taxpayer acquired such
13 stock, such stock shall continue to be treated as
14 meeting the requirements of such subsection; except
15 that the amount of gain to which subsection (a) ap-
16 plies on any sale or exchange of such stock shall not
17 exceed the amount which would be qualified capital
18 gain had such stock been sold on the date of such
19 cessation.

20 “(2) OTHER RULES TO APPLY.—Rules similar
21 to the rules of subsections (f), (g), (h), (i), and (j)
22 of section 1202 shall apply for purposes of this sec-
23 tion.

1 “(e) APPLICATION OF SECTION.—This section shall
2 apply only to stock acquired after December 31, 1995, and
3 before January 1, 2011.”

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for such part I is amended by adding at the end the follow-
6 ing new item:

 “Sec. 1203. Gain on space corporation stock.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years ending after De-
9 cember 31, 1995.

10 **SEC. 4. TREATMENT OF BONDS TO FINANCE SPACE**
11 **LAUNCH AND LAUNCH SUPPORT FACILITIES.**

12 (a) IN GENERAL.—Subsection (a) of section 142 of
13 the Internal Revenue Code of 1986 (defining exempt facil-
14 ity bond) is amended by striking “or” at the end of para-
15 graph (11), by striking the period at the end of paragraph
16 (12) and inserting “, or”, and by adding at the end the
17 following:

18 “(13) space launch and launch support
19 facilities.

20 Paragraph (13) shall not apply to any bond issued after
21 December 31, 2010.”

22 (b) SPACE LAUNCH AND LAUNCH SUPPORT FACILI-
23 TIES.—Section 142 of such Code is amended by adding
24 at the end the following new subsection:

1 “(k) SPACE LAUNCH AND LAUNCH SUPPORT FACILI-
2 TIES.—

3 “(1) IN GENERAL.—For purposes of subsection
4 (a)(13), the term ‘space launch and launch support
5 facilities’ means—

6 “(A) all facilities, equipment, and real
7 property used to prepare space transportation
8 vehicles and their payloads for transportation
9 to, from, or within outer space, or in suborbital
10 trajectory or to launch such vehicles, and

11 “(B) all facilities, equipment, and real
12 property used to conduct research and develop-
13 ment, manufacture, process, and service space
14 transportation vehicles and their payloads.

15 “(2) PAYLOAD.—For purposes of this sub-
16 section, the term ‘payload’ means anything that a
17 person undertakes to transport to, from, or within
18 outer space, or in suborbital trajectory, by means of
19 a space transportation vehicle, but does not include
20 the space transportation vehicle itself except for its
21 components which are specifically designed or adapt-
22 ed for that payload.

23 “(3) SPACE TRANSPORTATION VEHICLE.—For
24 purposes of this subsection, the term ‘space trans-
25 portation vehicle’ means any vehicle constructed for

1 the purpose of operating in, or transporting a pay-
2 load to, from, or within, outer space, or in suborbital
3 trajectory, and includes any component of such vehi-
4 cle not specifically designed or adapted for a pay-
5 load.”

6 (c) EXCEPTION FROM VOLUME CAP.—Paragraph (3)
7 of section 146(g) of such Code is amended—

8 (1) by striking “or (12)” and inserting “, (12),
9 or (13)”, and

10 (2) by striking “and environmental enhance-
11 ments of hydroelectric generating facilities” and in-
12 serting “, environmental enhancements of hydro-
13 electric generating facilities, and space launch and
14 launch support facilities”.

15 (d) CERTAIN ADDITIONAL REQUIREMENTS NOT TO
16 APPLY TO SPACE LAUNCH AND LAUNCH SUPPORT FA-
17 CILITIES BONDS.—

18 (1) Subsection (h) of section 147 of such Code
19 is amended by adding at the end the following new
20 paragraph:

21 “(3) SPACE LAUNCH AND LAUNCH SUPPORT
22 FACILITIES BONDS.—Subsections (a), (b), (c), and
23 (d) shall not apply to any exempt facility bond de-
24 scribed in section 142(a)(13).”

1 (2) The heading for subsection (h) of section
2 147 of such Code is amended by striking “AND
3 QUALIFIED 501(c)(3) BONDS” and inserting
4 “QUALIFIED 501(c)(3) BONDS, AND SPACE LAUNCH
5 AND LAUNCH SUPPORT FACILITIES BONDS”.

6 (e) FEDERAL GUARANTEED SPACE LAUNCH AND
7 LAUNCH SUPPORT FACILITIES BONDS PERMITTED.—
8 Paragraph (3) of section 149(b) of such Code is amended
9 by adding at the end the following new subparagraph:

10 “(E) EXCEPTION FOR SPACE LAUNCH AND
11 LAUNCH SUPPORT FACILITIES BONDS.—Para-
12 graph (1) shall not apply to any exempt facility
13 bond described in section 142(a)(13) in situa-
14 tions where the guarantee of the United States
15 (or any agency or instrumentality thereof) is
16 the result of payment of rent, user fees, or
17 other charges by the United States (or any
18 agency or instrumentality thereof) for the use
19 of a facility financed with such a bond.”

20 (f) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to obligations issued after the date
22 of the enactment of this Act.

23 **SEC. 5. SPACE MANUFACTURING INCENTIVE.**

24 (a) IN GENERAL.—Part III of subchapter B of chap-
25 ter 1 of the Internal Revenue Code of 1986 (relating to

1 items specifically excluded from gross income) is amended
2 by redesignating section 137 as section 138 and inserting
3 after section 136 the following new section:

4 **“SEC. 137. SPACE MANUFACTURING INCOME.**

5 “(a) GENERAL RULE.—Gross income shall not in-
6 clude space manufacturing income.

7 “(b) SPACE MANUFACTURING INCOME.—For pur-
8 poses of this section, the term ‘space manufacturing in-
9 come’ means—

10 “(1) income derived from the sale by the tax-
11 payer to an unrelated person of any product which
12 is manufactured by the taxpayer in outer space and
13 returned to Earth, and

14 “(2) income of an individual attributable to
15 services performed in outer space by such individual
16 in a trade or business.

17 “(c) EXCLUSION FROM TARIFFS, ETC.—Any prod-
18 uct—

19 “(1) which is manufactured in outer space, and

20 “(2) which was—

21 “(A) launched from, and returned to Earth
22 at, within the United States, or

23 “(B) manufactured at a facility in outer
24 space which is owned by 1 or more United
25 States persons,

1 shall be exempt from all Federal excises, imposts, and du-
 2 ties and any other Federal tariffs.

3 “(d) PHASEOUT OF BENEFITS.—In the case of a tax-
 4 able year beginning after December 31, 2025, the amount
 5 excluded under subsection (a) shall be reduced (but not
 6 below zero) by $x/20$ th’s of the amount excludable without
 7 regard to this subsection, where ‘x’ is the number of years
 8 such taxable year is after the last taxable year beginning
 9 before January 1, 2026. A similar rule shall apply to the
 10 benefits under subsection (c).”

11 (b) CLERICAL AMENDMENT.—The table of sections
 12 for such part III is amended by striking the last item and
 13 inserting the following new items:

“Sec. 137. Space manufacturing income.
 “Sec. 138. Cross references to other Acts.”

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 1995.

17 **SEC. 6. STATE TAX BENEFITS FOR COMMERCIAL SPACE AC-**
 18 **TIVITIES TO BE ENCOURAGED.**

19 The President shall encourage State and local govern-
 20 ments to offer tax and other incentives to encourage com-
 21 mercial space activities.

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