Amendment to Rules Committee Print 117-31

Offered by Mr. Swalwell of California

Add at the end the following:

Division M—Miscellaneous

Sec. 120001. Tax Credit for Production of Rare Earth Magnets.

(a) In General.—The Internal Revenue Code of 1986 is amended by inserting the following new section after section 45T:

“Sec. 45U. Credit for Production of Rare Earth Magnets.

“(a) In General.—For the purposes of section 38, the credit for production of rare earth magnets determined under this section for any taxable year is an amount equal to the sum of—

“(1) $20 per kilogram of rare earth magnets manufactured in the United States by the taxpayer during the taxable year, or

“(2) $30 per kilogram of rare earth magnets manufactured in the United States by the taxpayer during the taxable year if all of the component rare
earth material of such magnets are produced within
the United States.

“(b) Phase-Out.—

“(1) IN GENERAL.—In the case of any rare
earth magnet produced after December 31, 2030,
the amount determined under this section with re-
spect to such rare earth magnet shall be equal to the
product of—

“(A) the amount determined under sub-
section (a) with respect to such rare earth mag-
net, as determined without regard to this sub-
section, multiplied by

“(B) the phase-out percentage described in
paragraph (2).

“(2) PHASE-OUT PERCENTAGE.—The phase-out
percentage described in this paragraph is—

“(A) in the case of any rare earth magnet
produced in calendar year 2031, 70 percent,

“(B) in the case of any rare earth magnet
produced in calendar year 2032, 35 percent, or

“(C) in the case of any rare earth magnet
produced after December 31, 2033, 0 percent.

“(c) RESTRICTION ON COMPONENT SOURCING.—A
taxpayer is not eligible for the credit determined under
subsection (a) with respect to a rare earth magnet if any
component rare earth material used to produce such magnet was produced in a non-allied foreign nation.

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

“(1) RARE EARTH MAGNET.—The term ‘rare earth magnet’ means a permanent magnet comprised of—

“(A) an alloy of neodymium, praseodymium, iron, boron, terbium, or dysprosium, or

“(B) an alloy of samarium, gadolinium, and cobalt.

“(2) COMPONENT RARE EARTH MATERIAL.—

The term ‘component rare earth material’ means neodymium, praseodymium, dysprosium, terbium, samarium, gadolinium, and cobalt.

“(3) UNITED STATES AND POSSESSION OF THE UNITED STATES.—The terms ‘United States’ and ‘possession of the United States’ have the meaning given such terms in section 638.

“(4) MANUFACTURED.—The term ‘manufactured’ means the manufacturing of a rare earth magnet, including the alloying, reduction, strip casting, and metallization of component rare earth material.
“(5) NON-ALLIED FOREIGN NATION.—The term ‘non-allied foreign nation’ has the meaning given to the term ‘covered nation’ in section 2533c(d) of title 10, United States Code.

“(e) TRADE OR BUSINESS REQUIREMENT.—No credit shall be allowed under this section with respect to any property unless such property is manufactured in the ordinary course of a trade or business of the taxpayer.

“(f) ELECTIVE PAYMENT FOR PRODUCTION OF RARE EARTH MAGNETS.—

“(1) IN GENERAL.—In the case of a taxpayer making an election (at such time and in such manner as the Secretary may provide) under this section with respect to any portion of the credit under subsection (a), such taxpayer shall be treated as making a payment against the tax imposed by this subtitle for the taxable year equal to the amount of such portion.

“(2) TIMING.—The payment described in paragraph (1) shall be treated as made on the later of the due date of the return of tax for such taxable year or the date on which such return is filed.

“(3) EXCLUSION FROM GROSS INCOME.—Gross income of the taxpayer shall be determined without regard to this subsection.”.
(b) CREDIT TO BE PART OF GENERAL BUSINESS

CREDIT.—Section 38(b) of such Code is amended by striking “plus” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, plus”, and by adding at the end the following new paragraph:

“(34) the credit for production of rare earth magnets determined under section 45U(a).”.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 45T the following new item:

“Sec. 45U. Credit for production of rare earth magnets.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2021.