

AMENDMENT TO RULES COMMITTEE PRINT 117-

31

OFFERED BY MR. WENSTRUP OF OHIO

Page 2912, after line 4, insert the following:

1 **DIVISION M—TAX PROVISIONS**

2 **SEC. 12001. DOMESTIC MEDICAL AND DRUG MANUFAC-**
3 **TURING CREDIT.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 of the Internal Revenue Code of
6 1986 is amended by adding at the end the following new
7 section:

8 **“SEC. 45U. DOMESTIC MEDICAL AND DRUG MANUFAC-**
9 **TURING CREDIT.**

10 “(a) IN GENERAL.—For purposes of section 38, the
11 domestic medical and drug manufacturing credit deter-
12 mined under this section for any taxable year is an amount
13 equal to 10.5 percent of the lesser of—

14 “(1) the qualified medical and drug manufac-
15 turing income of the taxpayer for the taxable year,
16 or

17 “(2) taxable income of the taxpayer for the tax-
18 able year.

19 “(b) CREDIT LIMITED TO WAGES PAID.—

1 “(1) IN GENERAL.—The amount of the credit
2 allowable under subsection (a) for any taxable year
3 shall not exceed 50 percent of the W-2 wages of the
4 taxpayer for the taxable year.

5 “(2) W-2 WAGES.—For purposes of this sec-
6 tion—

7 “(A) IN GENERAL.—The term ‘W-2
8 wages’ means, with respect to any person for
9 any taxable year of such person, the sum of the
10 amounts described in paragraphs (3) and (8) of
11 section 6051(a) paid by such person with re-
12 spect to employment of employees by such per-
13 son during the calendar year ending during
14 such taxable year.

15 “(B) LIMITATION TO WAGES ATTRIB-
16 UTABLE TO DOMESTIC PRODUCTION.—Such
17 term shall not include any amount which is not
18 properly allocable to domestic medical and drug
19 manufacturing gross receipts for purposes of
20 subsection (c)(1).

21 “(C) RETURN REQUIREMENT.—Such term
22 shall not include any amount which is not prop-
23 erly included in a return filed with the Social
24 Security Administration on or before the 60th

1 day after the due date (including extensions)
2 for such return.

3 “(3) ACQUISITIONS, DISPOSITIONS, AND SHORT
4 TAXABLE YEARS.—The Secretary shall provide for
5 the application of this subsection in cases of a short
6 taxable year or where the taxpayer acquires, or dis-
7 poses of, the major portion of a trade or business or
8 the major portion of a separate unit of a trade or
9 business during the taxable year.

10 “(c) QUALIFIED MEDICAL AND DRUG MANUFAC-
11 TURING INCOME.—For purposes of this section—

12 “(1) IN GENERAL.—The term ‘qualified medical
13 and drug manufacturing income’ for any taxable
14 year means an amount equal to the excess (if any)
15 of—

16 “(A) the taxpayer’s domestic medical and
17 drug manufacturing gross receipts for the tax-
18 able year, over

19 “(B) the sum of—

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

22 “(ii) other expenses, losses, or deduc-
23 tions which are properly allocable to such
24 receipts.

1 “(2) ALLOCATION METHOD.—The Secretary
2 shall prescribe rules for the proper allocation of
3 items described in paragraph (1)(B) for purposes of
4 determining qualified medical and drug manufac-
5 turing income. Such rules shall provide for the prop-
6 er allocation of items whether or not such items are
7 directly allocable to domestic medical and drug man-
8 ufacturing gross receipts.

9 “(3) SPECIAL RULES FOR DETERMINING
10 COSTS.—

11 “(A) IN GENERAL.—For purposes of deter-
12 mining costs under clause (i) of paragraph
13 (1)(B), any item or service brought into the
14 United States shall be treated as acquired by
15 purchase, and its cost shall be treated as not
16 less than its value immediately after it entered
17 the United States.

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

1 back into the United States after the further
2 manufacture.

3 “(4) DOMESTIC MEDICAL AND DRUG MANUFAC-
4 TURING GROSS RECEIPTS.—

5 “(A) IN GENERAL.—The term ‘domestic
6 medical and drug manufacturing gross receipts’
7 means the gross receipts of the taxpayer which
8 are derived from any sale, exchange, or other
9 disposition of—

10 “(i) any active pharmaceutical ingre-
11 dient, or

12 “(ii) any covered countermeasure,
13 which was manufactured or produced by the
14 taxpayer in whole or in significant part within
15 the United States.

16 “(B) ACTIVE PHARMACEUTICAL INGRE-
17 DIENT.—The term ‘active pharmaceutical ingre-
18 dient’ means any substance or mixture of sub-
19 stances intended to be used in the manufacture
20 of a drug product and (when so used) becomes
21 an active ingredient in the drug product.

22 “(C) COVERED COUNTERMEASURE.—The
23 term ‘covered countermeasure’ has the meaning
24 given such term in section 319F–3(i)(1) of the

1 Public Health Service Act (42 U.S.C. 247d–
2 6d(i)(1)).

3 “(D) PARTNERSHIPS OWNED BY EX-
4 PANDED AFFILIATED GROUPS.—For purposes
5 of this paragraph, if all of the interests in the
6 capital and profits of a partnership are owned
7 by members of a single expanded affiliated
8 group at all times during the taxable year of
9 such partnership, the partnership and all mem-
10 bers of such group shall be treated as a single
11 taxpayer during such period.

12 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
13 poses of this section—

14 “(1) APPLICATION OF SECTION TO PASS-THRU
15 ENTITIES.—

16 “(A) PARTNERSHIPS AND S CORPORA-
17 TIONS.—In the case of a partnership or S cor-
18 poration—

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

21 “(ii) each partner or shareholder shall
22 take into account such person’s allocable
23 share of each item described in subpara-
24 graph (A) or (B) of subsection (c)(1) (de-
25 termined without regard to whether the

1 items described in such subparagraph (A)
2 exceed the items described in such sub-
3 paragraph (B)), and

4 “(iii) each partner or shareholder
5 shall be treated for purposes of subsection
6 (b) as having W-2 wages for the taxable
7 year in an amount equal to such person’s
8 allocable share of the W-2 wages of the
9 partnership or S corporation for the tax-
10 able year (as determined under regulations
11 prescribed by the Secretary).

12 “(B) TRUSTS AND ESTATES.—In the case
13 of a trust or estate—

14 “(i) the items referred to in subpara-
15 graph (A)(ii) (as determined therein) and
16 the W-2 wages of the trust or estate for
17 the taxable year, shall be apportioned be-
18 tween the beneficiaries and the fiduciary
19 (and among the beneficiaries) under regu-
20 lations prescribed by the Secretary, and

21 “(ii) for purposes of paragraph (2),
22 adjusted gross income of the trust or es-
23 tate shall be determined as provided in sec-
24 tion 67(e) with the adjustments described
25 in such paragraph.

1 “(C) REGULATIONS.—The Secretary may
2 prescribe rules requiring or restricting the allo-
3 cation of items and wages under this paragraph
4 and may prescribe such reporting requirements
5 as the Secretary determines appropriate.

6 “(2) APPLICATION TO INDIVIDUALS.—In the
7 case of an individual, subsection (a)(2) shall be ap-
8 plied by substituting ‘adjusted gross income’ for
9 ‘taxable income’. For purposes of the preceding sen-
10 tence, adjusted gross income shall be determined
11 after application of sections 86, 135, 137, 219, 221,
12 222, and 469.

13 “(3) SPECIAL RULE FOR AFFILIATED
14 GROUPS.—

15 “(A) IN GENERAL.—All members of an ex-
16 panded affiliated group shall be treated as a
17 single corporation for purposes of this section.

18 “(B) EXPANDED AFFILIATED GROUP.—
19 For purposes of this section, the term ‘ex-
20 panded affiliated group’ means an affiliated
21 group as defined in section 1504(a), deter-
22 mined—

23 “(i) by substituting ‘more than 50
24 percent’ for ‘at least 80 percent’ each place
25 it appears, and

1 “(ii) without regard to paragraphs (2)
2 and (4) of section 1504(b).

3 “(C) ALLOCATION OF CREDIT.—Except as
4 provided in regulations, the credit under sub-
5 section (a) shall be allocated among the mem-
6 bers of the expanded affiliated group in propor-
7 tion to each member’s respective amount (if
8 any) of qualified medical and drug manufac-
9 turing income.

10 “(4) TRADE OR BUSINESS REQUIREMENT.—
11 This section shall be applied by only taking into ac-
12 count items which are attributable to the actual con-
13 duct of a trade or business.

14 “(5) COORDINATION WITH MINIMUM TAX.—For
15 purposes of determining alternative minimum tax-
16 able income under section 55, qualified medical and
17 drug manufacturing income shall be determined
18 without regard to any adjustments under sections 56
19 through 59.

20 “(6) UNRELATED BUSINESS TAXABLE IN-
21 COME.—For purposes of determining the tax im-
22 posed by section 511, subsection (a)(1)(B) shall be
23 applied by substituting ‘unrelated business taxable
24 income’ for ‘taxable income’.

1 “(7) REGULATIONS.—The Secretary shall pre-
2 scribe such regulations as are necessary to carry out
3 the purposes of this section, including regulations
4 which prevent more than 1 taxpayer from being al-
5 lowed a credit under this section with respect to any
6 activity described in subsection (c)(4)(A).”.

7 (b) TREATMENT UNDER BASE EROSION TAX.—Sec-
8 tion 59A(b)(1)(B)(ii) of such Code is amended by striking
9 “plus” at the end of subclause (I), by redesignating sub-
10 clause (II) as subclause (III), and by inserting after sub-
11 clause (I) the following new subclause:

12 “(II) the credit allowed under
13 section 38 for the taxable year which
14 is properly allocable to the domestic
15 medical and drug manufacturing cred-
16 it determined under section 45U(a),
17 plus”.

18 (c) PART OF GENERAL BUSINESS CREDIT.—Section
19 38(b) of such Code is amended by striking “plus” at the
20 end of paragraph (32), by striking the period at the end
21 of paragraph (33) and inserting “, plus”, and by adding
22 at the end the following new paragraph:

23 “(34) the domestic medical and drug manufac-
24 turing credit determined under section 45U(a).”.

1 (d) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
2 IMUM TAX.—Section 38(c)(4)(B) of such Code is amended
3 by redesignating clauses (x) through (xii) as clauses (xi)
4 through (xiii), respectively, and by inserting after clause
5 (ix) the following new clause:

6 “(x) the credit determined under sec-
7 tion 45U.”.

8 (e) CLERICAL AMENDMENT.—The table of sections
9 for subpart D of part IV of subchapter A of chapter 1
10 of such Code is amended by adding at the end the fol-
11 lowing new item:

“Sec. 45U. Domestic medical and drug manufacturing credit.”.

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

