

112TH CONGRESS
1ST SESSION

H. R. 2632

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

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2011

Mr. NUNES (for himself, Ms. SCHWARTZ, Mr. MEEHAN, Mr. PASCARELL, Mr. GERLACH, Mr. ALTMIRE, Mr. DENT, and Mr. FATTAH) 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 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).

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