

103^D CONGRESS
1ST SESSION

H. R. 2064

To amend the Internal Revenue Code of 1986 to allow a tax credit for defense conversion.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1993

Ms. HARMAN (for herself, Mr. MATSUI, Mr. BROWN of California, Mr. McKEON, Mr. LEWIS of California, and Mr. HUNTER) 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 allow a tax credit for defense conversion.

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 “Defense Reinvestment
5 and High-Tech Job Creation Act of 1993”.

6 **SEC. 2. DEFENSE CONVERSION CREDIT.**

7 (a) GENERAL RULE.—Section 46 of the Internal
8 Revenue Code of 1986 (relating to amount of investment
9 credit) is amended—

1 (1) by striking “and” at the end of paragraph
2 (2),

3 (2) by striking the period at the end of para-
4 graph (3) and inserting “, and”, and

5 (3) by adding at the end thereof the following
6 new paragraph:

7 “(4) the defense conversion credit.”

8 (b) DEFENSE CONVERSION CREDIT.—Section 48 of
9 such Code is amended by adding at the end thereof the
10 following new subsection:

11 “(c) DEFENSE CONVERSION CREDIT.—

12 “(1) IN GENERAL.—For purposes of section 46,
13 the defense conversion credit for any taxable year is
14 the sum of—

15 “(A) the defense conversion employment
16 credit for the taxable year, and

17 “(B) the defense conversion investment
18 credit for the taxable year.

19 “(2) DEFENSE CONVERSION EMPLOYMENT
20 CREDIT.—

21 “(A) IN GENERAL.—The defense conver-
22 sion employment credit for any taxable year is
23 10 percent of the qualified wages paid or in-
24 curred by a qualified employer during such
25 year.

1 “(B) QUALIFIED WAGES.—For purposes of
2 this subsection—

3 “(i) IN GENERAL.—The term ‘quali-
4 fied wages’ means the wages (as defined in
5 clause (ii)) paid or incurred by the quali-
6 fied employer during the taxable year to,
7 and amounts paid or incurred by the quali-
8 fied employer to third parties for retrain-
9 ing expenses with respect to, qualified con-
10 version employees during the period com-
11 mencing on July 31, 1993, and ending on
12 December 31, 1995 (‘the qualified period’).

13 “(ii) WAGES DEFINED.—Except as
14 provided in subparagraph (C)(ii), the term
15 ‘wages’ has the meaning given to such
16 term by subsection (b) of section 3306 (de-
17 termined without regard to any dollar limi-
18 tation contained in such section), but the
19 amount of wages during any taxable year
20 which may be taken into account with re-
21 spect to any individual shall not exceed 25
22 percent of the wages (determined without
23 regard to this subsection) paid to such in-
24 dividual during such taxable year or por-

1 tion thereof included within the qualified
2 period.

3 “(iii) RETRAINING EXPENSES.—The
4 term ‘retraining expenses’ includes all
5 amounts paid or incurred with respect to
6 educational or training programs in which
7 a qualified conversion employee partici-
8 pates to learn or improve skills necessary
9 or useful to such employee’s employment in
10 the qualified employer’s nondefense-related
11 business.

12 “(C) QUALIFIED CONVERSION EMPLOY-
13 EES.—

14 “(i) IN GENERAL.—For purposes of
15 this subsection, the term ‘qualified conver-
16 sion employees’ means an employee of a
17 qualified employer who had been employed
18 by the qualified employer or another em-
19 ployer in a defense-related business and
20 who is employed by the qualified employer
21 in a nondefense-related business during the
22 taxable year.

23 “(ii) PRORATION IN CASE OF DUAL
24 EMPLOYMENT.—If a qualified conversion
25 employee is employed by the qualified em-

1 ployer in both a defense-related business
2 and a nondefense-related business during
3 the taxable year, only the portion of the
4 employee's wages properly allocable to em-
5 ployment in the nondefense-related busi-
6 ness shall be treated as 'wages' for pur-
7 poses of subparagraph (B)(ii).

8 “(D) QUALIFIED EMPLOYER.—For pur-
9 poses of this paragraph, a qualified employer is
10 an employer which is engaged in a qualified
11 business (as defined in paragraph (3)(D)).

12 “(3) DEFENSE CONVERSION INVESTMENT
13 CREDIT.—

14 “(A) IN GENERAL.—The defense conver-
15 sion investment credit for any taxable year is
16 the applicable percentage of the qualified con-
17 version investment by a qualified business dur-
18 ing the taxable year.

19 “(B) APPLICABLE PERCENTAGE.—For
20 purposes of this paragraph—

21 “(i) IN GENERAL.—The applicable
22 percentage shall be 7 percent for all tax-
23 able years ending after December 31,
24 1992, and on or before December 31,
25 1994, and shall be 5 percent for all taxable

1 years ending after December 31, 1994,
2 and on or before December 31, 1999.

3 “(ii) INCREMENTAL EMPLOYMENT IN-
4 CENTIVE PERCENTAGE.—The applicable
5 percentage shall be 10 percent for any tax-
6 able year ending after December 31, 1992,
7 and on or before December 31, 1994, and
8 shall be 8 percent for any taxable year
9 ending after December 31, 1994, and on
10 or before December 31, 1999, if in such
11 year the number of employees of the quali-
12 fied business increases 4 percent or more
13 over the average number of employees of
14 the qualified business during the 3 preced-
15 ing years (the ‘qualifying increase’).

16 “(iii) RECAPTURE IN CASE OF DE-
17 CREASED EMPLOYMENT.—If a qualified
18 business claims the benefit of the incre-
19 mental employment incentive percentage
20 under clause (ii), and its average employ-
21 ment during any of the 3 years following
22 the year in which the benefit of the in-
23 creased percentage was claimed falls below
24 the qualifying increase level (a ‘disqualify-
25 ing decrease’), the qualified business shall

1 increase its tax liability for the year during
2 which the disqualifying decrease occurred
3 by the difference between the credit to
4 which it would have been entitled under
5 clause (i) and the credit claimed under
6 clause (ii).

7 “(C) QUALIFIED CONVERSION INVEST-
8 MENT.—For purposes of this paragraph—

9 “(i) IN GENERAL.—The term ‘quali-
10 fied conversion investment’ means the
11 costs paid or incurred by a qualified busi-
12 ness during the taxable year for the pur-
13 pose of acquiring, constructing, creating,
14 or developing any tangible or intangible as-
15 sets, in connection with the conduct of the
16 qualified business’ nondefense-related busi-
17 ness, except that such term shall not in-
18 clude direct production costs of any prop-
19 erty held by the qualified business for sale
20 to customers in the ordinary course of its
21 trade or business.

22 “(ii) INTANGIBLE ASSETS.—The term
23 ‘intangible assets’ includes all ‘intangible
24 property’ as defined in section
25 936(h)(3)(B) (other than literary, musical

1 or artistic compositions) and specifically
2 includes processes and products, models,
3 and prototypes.

4 “(D) QUALIFIED BUSINESS.—For pur-
5 poses of this subsection and pursuant to regula-
6 tions to be prescribed by the Secretary—

7 “(i) IN GENERAL.—The term ‘quali-
8 fied business’ means any corporation, part-
9 nership, or sole proprietorship or separate
10 unit thereof in existence on January 1,
11 1993, which derived a substantial portion
12 of its gross receipts or incurred a substan-
13 tial portion of its gross costs during the 5
14 years preceding January 1, 1993, from 1
15 or more defense-related businesses, and
16 which derives a significant portion of its
17 gross receipts from (or incurs a significant
18 amount of costs in acquiring or developing)
19 1 or more nondefense-related businesses
20 during the taxable year.

21 “(ii) DEFENSE-RELATED BUSINESS.—
22 A ‘defense-related business’ is an activity
23 in connection with the development or pro-
24 duction (pursuant to a contract or sub-
25 contract) of any property designed, modi-

1 fied, or equipped for military purposes (in-
2 cluding NASA).

3 “(iii) NONDEFENSE-RELATED BUSI-
4 NESS.—A ‘nondefense-related business’ is
5 any activity in connection with the develop-
6 ment or production of any property not de-
7 signed, modified, or equipped for military
8 purposes which uses a significant portion
9 of assets and employees which had been
10 employed in a defense-related business.”

11 (c) ACCELERATED DEPRECIATION OF EXCESS DE-
12 FENSE CONVERSION PROPERTY.—

13 (1) Subsection (b)(3) of section 168 of such
14 Code is amended by adding at the end thereof the
15 following new subparagraph:

16 “(F) Property described in subsection
17 (e)(3)(B)(vii).”

18 (2) Subsection (e)(3)(B) of section 168 of such
19 Code is amended by striking “and” at the end of
20 clause (v), by striking the period at the end of clause
21 (vi) and inserting “, and”, and by adding at the end
22 thereof the following new clause:

23 “(vii) any qualifying excess defense
24 conversion property.”

1 (3) Subsection (i) of section 168 of such Code
2 is amended by adding at the end thereof the follow-
3 ing new paragraph:

4 “(14) QUALIFYING EXCESS DEFENSE CONVER-
5 SION PROPERTY.—

6 “(A) The term ‘qualifying excess defense
7 conversion property’ means, with respect to
8 property owned or leased by the taxpayer and
9 otherwise subject to depreciation under this sec-
10 tion and which is ‘excess defense conversion
11 property’ (as defined in subparagraph (B)), the
12 basis of property (or the portion thereof) con-
13 stituting excess defense conversion property
14 owned by the taxpayer or the total discounted
15 cost of lease obligations during the remaining
16 term of the lease applicable to excess conversion
17 property leased by the taxpayer.

18 “(B) The term ‘excess defense conversion
19 property’ means property that—

20 “(i) has been used by the taxpayer in
21 a defense-related business (as defined in
22 section 48(c)(3)(D)); and

23 “(ii) is not being used in the taxable
24 year, and is not reasonably expected to be

1 used in the foreseeable future, in a de-
2 fense-related business.

3 “(C) Any deductions claimed by a taxpayer
4 with respect to property reported on its return
5 as qualifying excess defense conversion property
6 and which is later determined as not constitut-
7 ing excess defense conversion property shall be
8 recaptured at the rate of 150 percent of the de-
9 ductions so claimed.

10 “(D) For purposes of this section, the
11 amount of the property’s basis constituting
12 qualifying excess defense conversion property
13 shall be considered to be placed in service on
14 the first day of the taxable year in which the
15 property is determined to constitute qualifying
16 excess defense conversion property.”

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on July 31, 1993.

○