

[DISCUSSION DRAFT]

JULY 28, 2015

114TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to allow a deduction for innovation box profit from the use of United States innovations and to encourage domestication of intangible property.

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to allow a deduction for innovation box profit from the use of United States innovations and to encourage domestication of intangible property.

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 “Innovation Promotion  
5 Act of 2015”.

1 **SEC. 2. DEDUCTION FOR INNOVATION BOX PROFITS.**

2 (a) IN GENERAL.—Part VIII of subchapter B of  
3 chapter 1 of the Internal Revenue Code of 1986 is amend-  
4 ed by adding at the end the following new section:

5 **“SEC. 250. INNOVATION BOX PROFITS.**

6 “(a) ALLOWANCE OF DEDUCTION.—In the case of a  
7 corporation, there shall be allowed as a deduction an  
8 amount equal to 71 percent of the lesser of—

9 “(1) the innovation box profit of the taxpayer  
10 for the taxable year, or

11 “(2) taxable income (determined without regard  
12 to this section) for the taxable year.

13 “(b) INNOVATION BOX PROFIT.—For purposes of  
14 this section—

15 “(1) IN GENERAL.—The term ‘innovation box  
16 profit’ means, with respect to a taxable year, ten-  
17 tative innovation profit multiplied by the ratio—

18 “(A) the numerator of which is the tax-  
19 payer’s 5-year research and development ex-  
20 penditures with respect to the taxable year for  
21 research and development performed in the  
22 United States, and

23 “(B) the denominator of which is the 5-  
24 year total costs of the taxpayer with respect to  
25 the taxable year.

26 “(2) TENTATIVE INNOVATION PROFIT.—

1           “(A) IN GENERAL.—The term ‘tentative  
2 innovation profit’ means, with respect to a tax-  
3 able year, the excess (if any) of—

4                   “(i) qualified gross receipts, over

5                   “(ii) the sum of—

6                           “(I) the taxpayer’s cost of goods  
7 sold for the taxable year that are  
8 properly allocable to qualified gross  
9 receipts, plus

10                           “(II) other expenses, losses, or  
11 deductions (other than the deduction  
12 allowed under this section), which are  
13 properly allocable to qualified gross  
14 receipts.

15           “(B) QUALIFIED GROSS RECEIPTS.—

16                   “(i) IN GENERAL.—The term ‘quali-  
17 fied gross receipts’ means gross receipts of  
18 the taxpayer for the taxable year which are  
19 derived from the sale, lease, license, or  
20 other disposition of qualified property in  
21 the ordinary course of a United States  
22 trade or business of the taxpayer.

23                   “(ii) COMPENSATION FOR INFRINGE-  
24 MENT.—Such term includes compensation  
25 for infringement on the taxpayer’s intellec-

1 tual property rights to qualified property  
2 to the extent the compensation is included  
3 in gross income of the taxpayer.

4 “(iii) SALES TO RELATED PERSONS.—

5 “(I) IN GENERAL.—Such term  
6 shall not include any gross receipts of  
7 the taxpayer derived from the sale of  
8 qualified property to a related person.

9 “(II) EXCEPTION.—Subclause (I)  
10 shall not apply with respect to quali-  
11 fied property described in paragraph  
12 (5)(D) which is sold to a related per-  
13 son outside the United States if such  
14 property is resold to an unrelated per-  
15 son outside the United States.

16 “(iv) RELATED PERSON.—For pur-  
17 poses of clause (iii), a person shall be  
18 treated as related to another person if such  
19 persons are treated as a single employer  
20 under subsection (a) or (b) of section 52 or  
21 subsection (m) or (o) of section 414, ex-  
22 cept that determinations under subsections  
23 (a) and (b) of section 52 shall be made  
24 without regard to section 1563(b).

1           “(C) ALLOCATION METHOD.—The Sec-  
2           retary shall prescribe rules for the proper allo-  
3           cation of items under subparagraph (A) for  
4           purposes of determining innovation box profit.  
5           Such rules shall provide for the proper alloca-  
6           tion of items whether or not such items are di-  
7           rectly allocable to qualified gross receipts.

8           “(3) 5-YEAR RESEARCH AND DEVELOPMENT  
9           EXPENDITURES.—The term ‘5-year research and de-  
10          velopment expenditures’ means with respect to a tax-  
11          able year the research and development expenditures  
12          paid or incurred by the taxpayer for the performance  
13          of research and development for which a deduction  
14          is allowed under subsection (a) or (b) of section 174  
15          (determined without regard to sections 41 and  
16          280C(c)) for the 5-taxable-year period ending with  
17          the taxable year.

18          “(4) 5-YEAR TOTAL COSTS.—

19                 “(A) IN GENERAL.—The term ‘5-year total  
20                 costs’ means with respect to a taxable year the  
21                 excess of—

22                         “(i) all costs paid or incurred by the  
23                         taxpayer for the 5-taxable year period end-  
24                         ing with such taxable year, over

25                         “(ii) the sum of—

1                   “(I) the taxpayer’s cost of goods  
2                   sold for such 5-taxable year period,

3                   “(II) interest paid or accrued for  
4                   such 5-taxable year period, and

5                   “(III) taxes paid or accrued for  
6                   such 5-taxable year period.

7                   “(B) EXCEPTION FOR CERTAIN FOREIGN  
8                   TESTING.—Such term shall not include any re-  
9                   search and development expenditures for any  
10                  testing conducted outside the United States if  
11                  such testing is so conducted because there is an  
12                  insufficient testing population in the United  
13                  States or is required by law to be so conducted.

14                  “(5) QUALIFIED PROPERTY.—The term ‘quali-  
15                  fied property’ means property which is—

16                         “(A) intangible property described in sec-  
17                         tion 936(h)(3)(B)(i),

18                         “(B) property described in section  
19                         168(f)(3),

20                         “(C) computer software (as defined in sec-  
21                         tion 197(e)(3)(B)), or

22                         “(D) a product which is produced using  
23                         property described in subparagraph (A).

24                  “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
25                  poses of this section—

1 “(1) DETERMINATION OF COSTS.—

2 “(A) IN GENERAL.—Cost of goods sold  
3 shall be determined under the methods of ac-  
4 counting that the taxpayer uses to compute tax-  
5 able income in accordance with the principles of  
6 sections 263A, 471, and 472. In the case of  
7 non-inventory property, cost of goods for pur-  
8 poses of this section includes the adjusted basis  
9 of the property.

10 “(B) ITEMS BROUGHT INTO UNITED  
11 STATES.—For purposes of determining cost of  
12 goods sold, any item or service brought into the  
13 United States shall be treated as acquired by  
14 purchase, and its cost shall be treated as not  
15 less than its value immediately after it entered  
16 the United States. A similar rule shall apply in  
17 determining the adjusted basis of leased or  
18 rented property where the lease or rental gives  
19 rise to qualified gross receipts.

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

1           tween the value of the property when exported  
2           and the value of the property when brought  
3           back into the United States after the further  
4           manufacture.

5           “(2) SPECIAL RULE FOR AFFILIATED  
6           GROUPS.—

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

10                   “(B) EXPANDED AFFILIATED GROUP.—  
11                   For purposes of this section, the term ‘ex-  
12                   panded affiliated group’ means an affiliated  
13                   group as defined in section 1504(a), determined  
14                   by substituting ‘more than 50 percent’ for ‘at  
15                   least 80 percent’ each place it appears.

16                   “(C) ALLOCATION OF DEDUCTION.—Ex-  
17                   cept as provided in regulations, the deduction  
18                   under subsection (a) shall be allocated among  
19                   the members of the expanded affiliated group in  
20                   proportion to each member’s respective amount  
21                   (if any) of innovation box profit.

22                   “(3) RULES FOR TAXPAYERS NOT IN EXIST-  
23                   ENCE FOR ENTIRE APPLICABLE TAXABLE YEAR PE-  
24                   RIOD.—

1           “(A) IN GENERAL.—If the taxpayer was  
2 not in existence for the entire taxable-year pe-  
3 riod applicable under paragraphs (3) and (4) of  
4 subsection (b), such paragraphs shall be applied  
5 on the basis of the period during which such  
6 taxpayer was in existence.

7           “(B) TREATMENT OF PREDECESSORS.—  
8 Any reference in this paragraph to a taxpayer  
9 shall include a reference to any predecessor of  
10 such taxpayer.

11           “(4) COORDINATION WITH MINIMUM TAX.—For  
12 purposes of determining alternative minimum tax-  
13 able income under section 55—

14           “(A) innovation box profit shall be deter-  
15 mined without regard to any adjustments under  
16 sections 56 through 59, and

17           “(B) subsection (a)(2) shall be applied by  
18 substituting ‘alternative minimum taxable in-  
19 come’ for ‘taxable income’.

20           “(5) ACQUISITIONS AND DISPOSITIONS.—The  
21 Secretary shall provide for the application of this  
22 subsection in cases where the taxpayer acquires, or  
23 disposes of, the major portion of a trade or business  
24 or the major portion of a separate unit of a trade  
25 or business during the taxable year.

1           “(6) UNITED STATES.—The term ‘United  
2 States’ includes the District of Columbia, Puerto  
3 Rico, the Virgin Islands, Guam, American Samoa,  
4 and the Commonwealth of the Northern Mariana Is-  
5 lands.

6           “(d) REGULATIONS.—The Secretary shall prescribe  
7 such regulations as may be appropriate to carry out this  
8 section, including regulations which prevent the abuse of  
9 the purposes of this section.”.

10          (b) CONFORMING AMENDMENTS.—

11           (1) Section 56(d)(1)(A) of such Code is amend-  
12 ed by striking “deduction under section 199” both  
13 places it appears and inserting “deductions under  
14 sections 199 and 250”.

15           (2) Section 56(g)(4)(C) of such Code is amend-  
16 ed by adding at the end the following new clause:

17                   “(vii) DEDUCTION FOR DOMESTIC  
18 BUSINESS INCOME.—Clause (i) shall not  
19 apply to any amount allowable as a deduc-  
20 tion under section 250.”.

21           (3) The following provisions of such Code are  
22 each amended by inserting “250,” after “222,”.

23                   (A) Section 86(b)(2)(A).

24                   (B) Section 135(c)(4)(A).

25                   (C) Section 137(b)(3)(A).

1 (D) Section 219(g)(3)(A)(ii).

2 (E) Section 221(b)(2)(C)(i).

3 (4) Section 222(b)(2)(C)(i) of such Code is  
4 amended by inserting “250,” after “221,”.

5 (5) Section 246(b)(1) of such Code is amended  
6 by striking “and subsection (a) or (b) of section  
7 245,” and inserting “subsection (a) or (b) of section  
8 245, and section 250”.

9 (6) Section 469(i)(3)(F)(iii) of such Code is  
10 amended by striking “and 222” and inserting “222,  
11 and 250”.

12 (7) Section 163(j)(6)(A)(i) of such Code is  
13 amended by striking “and” at the end of subclause  
14 (III) and by inserting after subclause (IV) the fol-  
15 lowing new subclause:

16 “(V) any deduction allowable  
17 under section 250, and”.

18 (8) Section 170(b)(2)(C) of such Code is  
19 amended by redesignating clause (v) as clause (vi)  
20 and by inserting after clause (iv) the following new  
21 clause:

22 “(v) section 250.”.

23 (9) Section 172(d) of such Code is amended by  
24 adding at the end the following new paragraph:

1           “(8) INNOVATION BOX PROFITS DEDUCTION.—  
2           The deduction under section 250 shall not be al-  
3           lowed.”.

4           (10) Section 199(d)(2)(B) of such Code is  
5           amended by striking “this section” and inserting  
6           “this section and section 250”.

7           (11) Section 613(a) of such Code is amended  
8           by striking “deduction under section 199” and in-  
9           serting “deductions under sections 199 and 250”.

10           (12) Section 613A(d)(1) of such Code is  
11           amended by redesignating subparagraphs (C), (D),  
12           and (E) as subparagraphs (D), (E), and (F), respec-  
13           tively, and by inserting after subparagraph (B) the  
14           following new subparagraph:

15                   “(C) any deduction allowable under section  
16                   250,”.

17           (c) CLERICAL AMENDMENT.—The table of sections  
18           for part VIII of subchapter B of chapter 1 of such Code  
19           is amended by adding at the end the following new item:  
                  “Sec. 250. Innovation box profits.”.

20           (d) EFFECTIVE DATE.—The amendments made by  
21           this section shall apply to taxable years beginning after  
22           the date of the enactment of this Act.

1 **SEC. 3. SPECIAL RULES FOR TRANSFERS OF INTANGIBLE**  
2 **PROPERTY FROM CONTROLLED FOREIGN**  
3 **CORPORATIONS TO UNITED STATES SHARE-**  
4 **HOLDERS.**

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

9 **“SEC. 966. TRANSFERS OF INTANGIBLE PROPERTY TO**  
10 **UNITED STATES SHAREHOLDERS.**

11 “(a) IN GENERAL.—In the case of any distribution  
12 of intangible property received from a controlled foreign  
13 corporation pursuant to a qualified plan—

14 “(1) for purposes of part I of subchapter C, the  
15 fair market value of such property at the time of  
16 such distribution shall be treated as not exceeding  
17 the adjusted basis of such property immediately be-  
18 fore such distribution,

19 “(2) if the distribution is to a domestic corpora-  
20 tion which is a United States shareholder and—

21 “(A) such distribution is a dividend, there  
22 shall be allowed as a deduction an amount  
23 equal to the excess of—

24 “(i) the amount of such dividend, over

1           “(ii) the deductions allowable to such  
2           domestic corporation under section 245  
3           with respect to such distribution, or

4           “(B) such distribution is not a dividend—

5           “(i) the United States shareholder’s  
6           adjusted basis in the stock of the con-  
7           trolled foreign corporation with respect to  
8           which such distribution is made shall be  
9           increased by the amount (if any) of such  
10          distribution which would (but for this sub-  
11          paragraph) be includible in gross income,  
12          and

13          “(ii) the adjusted basis of such prop-  
14          erty in the hands of such United States  
15          shareholder immediately after such dis-  
16          tribution shall be reduced by the amount  
17          of such increase.

18          “(b) QUALIFIED PLAN.—For purposes of this sec-  
19          tion—

20                 “(1) IN GENERAL.—The term ‘qualified plan’  
21                 means a contemporaneous written plan which de-  
22                 scribes the distribution (either directly or through a  
23                 series of distributions between controlled foreign cor-  
24                 porations which is completed during a period of not  
25                 more than 2 years) of intangible property from a

1 controlled foreign corporation to a domestic corpora-  
2 tion which is a United States shareholder with re-  
3 spect to such controlled foreign corporation. A dis-  
4 tribution shall be treated as made pursuant to a  
5 qualified plan only if such distribution (and the in-  
6 tangible property of which such distribution con-  
7 sists) is described in such plan and such plan is in  
8 effect before such distribution is made.

9 “(2) FILING REQUIREMENT.—

10 “(A) IN GENERAL.—Such term shall not  
11 include any plan unless such plan is filed with  
12 the Secretary (in such manner as the Secretary  
13 may provide) not later than the due date for  
14 the return of tax for the taxable year of the  
15 United States shareholder which includes—

16 “(i) the date of the distribution to the  
17 United States shareholder, or

18 “(ii) in the case of a plan which de-  
19 scribes a series of distributions, the earlier  
20 of the date described in clause (i) or the  
21 close of the first taxable year of a con-  
22 trolled foreign corporation which receives  
23 such a distribution.

1           “(B) REASONABLE CAUSE EXCEPTION.—

2           The Secretary may treat a plan as satisfying  
3           the requirement of subparagraph (A) if—

4                   “(i) the Secretary determines that  
5                   there was reasonable cause for the failure  
6                   to file the plan as required under subpara-  
7                   graph (A),

8                   “(ii) such plan is filed not later than  
9                   3 years after the date that such plan was  
10                  otherwise required to be filed under sub-  
11                  paragraph (A), and

12                  “(iii) the taxpayer has not taken a po-  
13                  sition on any return filed under this title  
14                  which is inconsistent with this section ap-  
15                  plying to the distributions described in  
16                  such plan.

17           “(c) INTANGIBLE PROPERTY.—For purposes of this  
18           section, the term ‘intangible property’ means any property  
19           which is intangible property described in section  
20           936(h)(3)(B)(i), property described in section 168(f)(3),  
21           or computer software (as defined in section 197(e)(3)(B)).

22           “(d) DISALLOWANCE OF FOREIGN TAX CREDIT.—No  
23           credit shall be allowed under section 901 for any taxes  
24           paid or accrued (or treated as paid or accrued) with re-

1 spect to any distribution of intangible property to which  
2 subsection (a) applies.”.

3 (b) APPLICATION OF HOLDING PERIOD REQUIRE-  
4 MENT.—Section 246(c) of such Code is amended by strik-  
5 ing “or 245” in paragraph (1) and inserting “, 245, or  
6 966”.

7 (c) APPLICATION OF RULES GENERALLY APPLICA-  
8 BLE TO DEDUCTIONS FOR DIVIDENDS RECEIVED.—

9 (1) ALLOWING DEDUCTION FOR PURPOSES OF  
10 DETERMINING ADJUSTED CURRENT EARNINGS.—  
11 Section 56(g)(4)(C)(ii) of such Code is amended by  
12 striking “or 245” each place it appears and insert-  
13 ing “, 245, or 250”.

14 (2) TREATMENT OF DIVIDENDS FROM CERTAIN  
15 CORPORATIONS.—Section 246(a)(1) of such Code is  
16 amended by striking “and 245” and inserting “,  
17 245, and 966”.

18 (3) ASSETS GENERATING TAX-EXEMPT PORTION  
19 OF DIVIDEND NOT TAKEN INTO ACCOUNT IN ALLO-  
20 CATING AN APPORTIONING DEDUCTIBLE EX-  
21 PENSES.—Section 864(e)(3) of such Code is amend-  
22 ed by striking “or 245(a)” and inserting “, 245(a),  
23 or 966”.

1           (4) COORDINATION WITH SECTION 1059.—Sec-  
2           tion 1059(b)(2)(B) of such Code is amended by  
3           striking “or 245” and inserting “, 245, or 966”.

4           (d) CONFORMING AMENDMENTS.—

5           (1) Section 197(f)(2)(B)(i) of such Code is  
6           amended by inserting “966(a),” after “731,”.

7           (2) The table of sections for subpart F of part  
8           III of subchapter N of chapter 1 of such Code is  
9           amended by adding at the end the following new  
10          item:

“Sec. 966. Transfers of intangible property to United States shareholders.”.

11          (e) EFFECTIVE DATE.—The amendments made by  
12          this section shall apply to distributions made in taxable  
13          years of foreign corporations beginning after December  
14          31, 2015, and to taxable years of United States share-  
15          holders in which or with which such taxable years of for-  
16          eign corporations end.