

117TH CONGRESS
2D SESSION

H. R. 7902

To amend the Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2022

Mr. SCHNEIDER (for himself, Mr. LAHOOD, Mr. BACON, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BOST, Mr. CRAWFORD, Mr. RODNEY DAVIS of Illinois, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. GOHMERT, Mr. TONY GONZALES of Texas, Ms. GRANGER, Ms. HERRERA BEUTLER, Mr. HUDSON, Mr. HUFFMAN, Mr. KILDEE, Mr. MCCAUL, Mr. MCKINLEY, Mr. MELJER, Mr. NEHLS, Mr. PANETTA, Mr. PAYNE, Mr. ROGERS of Alabama, Ms. SÁNCHEZ, Ms. SEWELL, Mrs. WALORSKI, Mr. WEBER of Texas, and Mr. WILLIAMS of Texas) 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the Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.

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 “Freight Rail Assist-
5 ance and Investment to Launch Coronavirus-Era Activity

1 and Recovery Act of 2022” or the “Freight RAILCAR
2 Act of 2022”.

3 **SEC. 2. FREIGHT RAILCAR MODERNIZATION 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. FREIGHT RAILCAR MODERNIZATION CREDIT.**

9 “(a) IN GENERAL.—For purposes of section 38, the
10 freight railcar modernization credit determined under this
11 section for the taxable year is an amount equal to 10 per-
12 cent of the taxpayer’s freight railcar fleet modernization
13 expenses.

14 “(b) LIMITATION.—No more than 2,000 qualified
15 freight railcars per taxpayer may be taken into account
16 for purposes of determining the credit under subsection
17 (a) with respect to a taxable year.

18 “(c) DEFINITIONS.—For purposes of this section—

19 “(1) FREIGHT RAILCAR FLEET MODERNIZATION
20 EXPENSES.—The term ‘freight railcar fleet mod-
21 ernization expenses’ means the sum of the qualifying
22 railcar replacement and modernization amount.

23 “(2) QUALIFYING RAILCAR REPLACEMENT AND
24 MODERNIZATION AMOUNT.—The term ‘qualifying

1 railcar replacement and modernization amount’
2 means—

3 “(A) the basis of any qualified newly built
4 replacement railcar placed in service by the tax-
5 payer during the taxable year, plus

6 “(B) the qualified railcar modernization
7 expenditures of the taxpayer for the taxable
8 year.

9 “(3) QUALIFIED NEWLY BUILT REPLACEMENT
10 RAILCAR.—The term ‘qualified newly built replace-
11 ment railcar’ means a qualified freight railcar
12 which—

13 “(A) is built after the date of the enact-
14 ment of this section,

15 “(B) is ordered or originally placed in serv-
16 ice before January 1, 2024, and

17 “(C) replaces two freight railcars owned by
18 the taxpayer that—

19 “(i) were in service within the 48
20 months preceding the beginning of the tax-
21 able year, and

22 “(ii) which were both scrapped and
23 permanently removed from the AAR Umler
24 System master file during such taxable
25 year.

1 “(4) QUALIFIED FREIGHT RAILCAR.—

2 “(A) IN GENERAL.—The term ‘qualified
3 freight railcar’ means a freight railcar that—

4 “(i) is either acquired or modernized
5 by the taxpayer after the date of the enact-
6 ment of this section,

7 “(ii) meets the significant improve-
8 ment requirements for capacity, fuel effi-
9 ciency, or performance of subparagraph
10 (B),

11 “(iii) was built in a qualified facility,
12 and

13 “(iv) with respect to which no credit
14 under this section was previously claimed
15 by any taxpayer.

16 “(B) SIGNIFICANT IMPROVEMENT.—For
17 purposes of this paragraph, an improvement in
18 capacity or fuel efficiency and performance with
19 respect to a modernized freight railcar is a sig-
20 nificant improvement if—

21 “(i) such capacity or fuel efficiency, as
22 the case may be, is increased by at least 8
23 percent, or

24 “(ii) in the case of performance, the
25 qualified freight railcar meets the require-

1 ments of the Association of American Rail-
2 roads Standard S-286 or is modernized to
3 meet the design standards set forth in final
4 rule HM-251 of the Pipeline and Haz-
5 ardous Materials Safety Administration (as
6 amended by HM-251C).

7 “(C) MODERNIZED.—The term ‘modern-
8 ized’ means modified, retrofitted, converted or
9 rebuilt for the purpose of meeting the signifi-
10 cant improvement criteria of subparagraph (B).

11 “(5) QUALIFIED RAILCAR MODERNIZATION EX-
12 PENDITURE.—The term ‘qualified railcar moderniza-
13 tion expenditure’ means any amount paid or in-
14 curred—

15 “(A) in connection with the modernization
16 of a freight railcar resulting in such railcar
17 being designated a qualified freight railcar, and

18 “(B) which is properly chargeable to a cap-
19 ital account with respect to such freight railcar.

20 “(6) QUALIFIED FACILITY.—The term ‘quali-
21 fied facility’ means a facility that is not owned or
22 leased by an entity that would be ineligible for an
23 award of a contract or subcontract under 49 U.S.C.
24 5323(u).

25 “(d) SPECIAL RULES.—

1 “(1) DENIAL OF DOUBLE BENEFIT.—No credit
2 shall be allowed under subsection (a) for any ex-
3 pense for which a deduction or credit is allowed
4 under any other provision of this chapter.

5 “(2) BASIS ADJUSTMENT.—For purposes of
6 this subtitle, if a credit is allowed under subsection
7 (a) with respect to any qualified freight railcar, the
8 basis of such railcar shall be reduced by the amount
9 of the credit so allowed.

10 “(3) SALE-LEASEBACK.—For purposes of sub-
11 section (a), if any qualified freight railcar is—

12 “(A) originally placed in service by a per-
13 son after the date of the enactment of this sec-
14 tion, and

15 “(B) sold and leased back by such person
16 within 3 months after such railcar is originally
17 placed in service (or, in the case of more than
18 one railcar subject to the same lease, within 3
19 months after the date the final railcar is placed
20 in service, so long as the period between the
21 time the first railcar is placed in service and the
22 time the last railcar is placed in service does
23 not exceed 24 months), such railcar shall be
24 treated as originally placed in service not earlier
25 than the date on which such railcar is used

1 under the leaseback referred to in this para-
2 graph.

3 “(4) SYNDICATION.—For purposes of sub-
4 section (a), if—

5 “(A) any qualified freight railcar is origi-
6 nally placed in service after the date of enact-
7 ment of this section by the lessor of such rail-
8 car,

9 “(B) such railcar is sold by such lessor or
10 any subsequent purchaser within 3 months
11 after the date such railcar was originally placed
12 in service (or, in the case of more than one rail-
13 car subject to the same lease, within 3 months
14 after the date the final railcar is placed in serv-
15 ice and the time the last railcar is placed in
16 service does not exceed 12 months), and

17 “(C) the user of such railcar after the last
18 sale during such 3-month period remains the
19 same as when such railcar was originally placed
20 in service, such railcars shall be treated as
21 originally placed in service not earlier than the
22 date of such last sale.

23 “(5) ENTITIES OWNED OR CONTROLLED BY
24 STATE-OWNED ENTERPRISES INELIGIBLE.—No cred-
25 it under subsection (a) shall be allowed to any tax-

1 payer that would be ineligible for an award of a con-
2 tract or subcontract under 49 U.S.C. 5323(u).

3 “(e) TERMINATION.—This section shall not apply to
4 any qualifying railcar replacement and modernization
5 amount after December 31, 2024.”.

6 (b) CREDIT ALLOWED AS BUSINESS CREDIT.—Sec-
7 tion 38(b) of the Internal Revenue Code of 1986 (relating
8 to current year business credit) is amended by striking
9 “plus” at the end of paragraph (32), by striking the period
10 at the end of paragraph (33) and inserting “, plus” and
11 by inserting at the end thereof the following new para-
12 graph:

13 “(34) the freight railcar modernization credit
14 determined under section 45U.”.

15 (c) COORDINATION WITH SECTION 55.—Section
16 38(c)(4)(B) of the Internal Revenue Code of 1986 is
17 amended by redesignating clauses (x), (xi), and (xii) as
18 clauses (xi), (xii), and (xiii) respectively, and by inserting
19 after clause (ix) the following new clause:

20 “(x) the freight railcar modernization
21 credit determined under section 45U,”.

22 (d) CLERICAL AMENDMENT.—The table of sections
23 for subpart D of part IV of subchapter A of chapter 1
24 of the Internal Revenue Code of 1986 is amended by in-

1 serting after the item relating to section 45T the following
2 new item:

“Sec. 45U. Freight railcar modernization credit.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to property placed in service, and
5 amounts paid or incurred, after December 31, 2021.

6 **SEC. 3. REPORT ON THE FREIGHT RAILCAR MODERNIZA-**
7 **TION CREDIT.**

8 (a) IN GENERAL.—Not later than 3 years after the
9 date of the enactment of this Act, the Secretary of the
10 Treasury (or the Secretary’s delegate), shall submit to the
11 Committee on Ways and Means of the House of Rep-
12 resentatives and the Committee on Finance of the Senate
13 a report on activity with respect to the qualified freight
14 railcar credit under section 45U of the Internal Revenue
15 Code of 1986.

16 (b) REPORT CONTENTS.—The report submitted
17 under subsection (a) shall contain information with re-
18 spect to the following:

19 (1) The number of times the credit was
20 claimed.

21 (2) The number of railcars scrapped as a result
22 of the credit.

23 (3) The number of new railcars entered into
24 contract as a result of the credit.

- 1 (4) The number of new railcars built as a result
- 2 of the credit.

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