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(Original Signature of Member)

112TH CONGRESS
2D SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to extend the research and development tax credit and to limit treaty benefits with respect to certain deductible related-party payments.

IN THE HOUSE OF REPRESENTATIVES

Mr. LEVIN introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Internal Revenue Code of 1986 to extend the research and development tax credit and to limit treaty benefits with respect to certain deductible related-party payments.

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 “Investing in American
5 Innovation Act of 2012”.

1 **SEC. 2. EXTENSION OF RESEARCH AND DEVELOPMENT TAX**
2 **CREDIT.**

3 (a) IN GENERAL.—Subparagraph (B) of section
4 41(h)(1) of the Internal Revenue Code of 1986 is amended
5 by striking “December 31, 2011” and inserting “Decem-
6 ber 31, 2012”.

7 (b) CONFORMING AMENDMENT.—Subparagraph (D)
8 of section 45C(b)(1) of such Code is amended by striking
9 “December 31, 2011” and inserting “December 31,
10 2012”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to amounts paid or incurred after
13 December 31, 2011.

14 **SEC. 3. LIMITATION ON TREATY BENEFITS FOR CERTAIN**
15 **DEDUCTIBLE PAYMENTS.**

16 (a) IN GENERAL.—Section 894 of the Internal Rev-
17 enue Code of 1986 is amended by adding at the end the
18 following new subsection:

19 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
20 TAIN DEDUCTIBLE PAYMENTS.—

21 “(1) IN GENERAL.—In the case of any deduct-
22 ible related-party payment, any withholding tax im-
23 posed under chapter 3 (and any tax imposed under
24 subpart A or B of this part) with respect to such
25 payment may not be reduced under any treaty of the
26 United States unless any such withholding tax would

1 be reduced under a treaty of the United States if
2 such payment were made directly to the foreign par-
3 ent corporation.

4 “(2) DEDUCTIBLE RELATED-PARTY PAY-
5 MENT.—For purposes of this subsection, the term
6 ‘deductible related-party payment’ means any pay-
7 ment made, directly or indirectly, by any person to
8 any other person if the payment is allowable as a de-
9 duction under this chapter and both persons are
10 members of the same foreign controlled group of en-
11 tities.

12 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
13 TIES.—For purposes of this subsection—

14 “(A) IN GENERAL.—The term ‘foreign
15 controlled group of entities’ means a controlled
16 group of entities the common parent of which
17 is a foreign corporation.

18 “(B) CONTROLLED GROUP OF ENTITIES.—
19 The term ‘controlled group of entities’ means a
20 controlled group of corporations as defined in
21 section 1563(a)(1), except that—

22 “(i) ‘more than 50 percent’ shall be
23 substituted for ‘at least 80 percent’ each
24 place it appears therein, and

1 “(ii) the determination shall be made
2 without regard to subsections (a)(4) and
3 (b)(2) of section 1563.

4 A partnership or any other entity (other than a
5 corporation) shall be treated as a member of a
6 controlled group of entities if such entity is con-
7 trolled (within the meaning of section
8 954(d)(3)) by members of such group (includ-
9 ing any entity treated as a member of such
10 group by reason of this sentence).

11 “(4) FOREIGN PARENT CORPORATION.—For
12 purposes of this subsection, the term ‘foreign parent
13 corporation’ means, with respect to any deductible
14 related-party payment, the common parent of the
15 foreign controlled group of entities referred to in
16 paragraph (3)(A).

17 “(5) REGULATIONS.—The Secretary may pre-
18 scribe such regulations or other guidance as are nec-
19 essary or appropriate to carry out the purposes of
20 this subsection, including regulations or other guid-
21 ance which provide for—

22 “(A) the treatment of two or more persons
23 as members of a foreign controlled group of en-
24 tities if such persons would be the common par-

1 ent of such group if treated as one corporation,
2 and

3 “(B) the treatment of any member of a
4 foreign controlled group of entities as the com-
5 mon parent of such group if such treatment is
6 appropriate taking into account the economic
7 relationships among such entities.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 this section shall apply to payments made after the date
10 of the enactment of this Act.