

July 26, 2013

The Honorable Max Baucus, Chairman
The Honorable Orrin G. Hatch, Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Hatch:

Thank you for your continued bipartisan efforts to reform our nation's broken tax code. I appreciate the opportunity to contribute.

As you have said, America's tax code is too long, too complex, and unfair. It stifles economic growth and the government's ability to efficiently collect the revenue it needs. We badly need reform that broadens the tax base and lowers tax rates, simplifying a process that wastes too much time and money, and hurts our global competitiveness. We can achieve this kind of reform by following three broad principles: a new code must maintain or increase progressivity, raise revenue to reduce our deficits, and spur economic growth.

A fairer, progressive new tax code is one that preserves and strengthens the provisions that bolster our safety net, such as the Earned Income Tax Credit and Child Tax Credit, while ridding the code of tax benefits for those who need them the least. Doing this allows us to draw a circle of protection around the most vulnerable and prioritize middle class families and small businesses.

As we work to create a fairer tax code, it is also critical that reform raises new revenues. Over the past few years, we have made significant strides toward reducing our deficits. Since 2011, we have put the country on track to achieve \$2.4 trillion in deficit reduction over the next ten years. However, 70 percent of these savings comes from spending cuts (80 percent when sequestration is factored in). We need to continue reducing our deficits, but in a more balanced way, and tax reform presents an opportunity to do that.

Right now, we spend \$1.2 trillion every year through the tax code. By scaling that back by just eight percent, we could achieve nearly a trillion dollars in deficit reduction over the next decade—just as the FY 2014 Senate budget calls for—with room left over to lower rates as well. Raising revenues through reform would also allow us to replace half of the sequester, which continues to have terrible consequences for Delawareans.

Of course, we can only achieve each of these priorities if we have strong economic growth. However, our current tax code hinders growth, making it harder to reduce our deficit and create the jobs that will lift up the most vulnerable and revive the middle class. We need a tax code that encourages, not obstructs, economic growth.

First, that means creating a simpler code. Americans spent \$168 billion in 2010—15 percent of total income tax receipts—just to comply with the code we currently have. This complexity puts middle class families and small businesses at a significant and unfair disadvantage, and diverts money from where it's needed most: helping Americans provide for their families and enabling small businesses to grow and hire more workers.

Second, our simplified code needs to concentrate on creating jobs here at home. The tax expenditures we retain should focus on domestic job creation and critical growth areas of our economy, such as advanced manufacturing, alternative energy and energy efficiency, and research and development. Our international taxation system should be reformed to encourage bringing stranded capital home, incentivize domestic innovation, and reform the current tax incentives that ship jobs and ideas abroad.

The need for tax reform is obvious, yet the reality is that achieving meaningful reform is incredibly difficult. It requires that we make hard choices about which tax expenditures to eliminate, and which to reform. When making these choices, it is critical that we consider how they affect the most vulnerable populations, middle class families, and small businesses. Congress should:

- Preserve and strengthen the social safety net;
- Encourage savings for retirement;
- Protect access to affordable housing and home ownership for families, while making renting more affordable for low-income households;
- Incentivize state and local investment in infrastructure, public facilities, and community development;

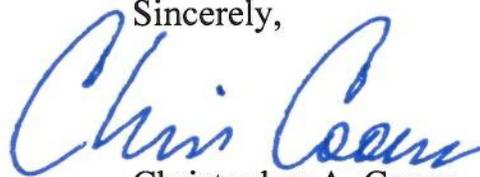
- Make college more affordable;
- Broaden access to health insurance, especially by helping small businesses offset the cost of insurance for their employees;
- Support policies that help families and caregivers pay for dependents; and
- Promote a robust network of non-profit and charitable organizations.

In addition to choosing whether to reform or eliminate existing expenditures, there are a number of new policies that can play an important role in a tax code built for growth. Please find, in the attached document, details on measures we can take through tax reform to strengthen our economy and create jobs on our shores.

Thank you again for the opportunity to voice my ideas and share my priorities. If we are to reform our broken tax code, this must be a bipartisan process, and you have led it in just that way. This is an open process that has welcomed input and I commend your continued dedication to considering the feedback of others.

We need tax reform that broadens our base, lowers rates, and makes us more competitive, because right now our code is holding our nation back. It is too complex, spends money where it isn't needed, and wastes the resources of too many Americans. If we come together, we can achieve reform that simplifies the code, makes it fairer, and raises the revenue we need. I believe Delawareans and all Americans will be better off if we follow these principles for reform.

Sincerely,



Christopher A. Coons
United States Senator

New Policies to Drive Economic Growth and Create Jobs on American Shores

Master Limited Partnerships (MLP) Parity Act

I encourage you to modernize an inefficient tax code provision that favors certain sources of energy above others. Clean energy sources should have the same ability to form pass-through publicly traded partnerships and master limited partnerships (MLPs) as other energy sources currently do.

Pass-through status is available for MLPs earning income from various activities related to the use of oil, natural gas, coal, and certain traditional energy sources. Clean energy such as wind, solar, and biofuels, as well as energy efficiency activities, are entirely excluded from this status. This handicaps promising new technologies and puts them at a competitive disadvantage, just as they are accelerating in importance as domestic sources of energy. A recent study by the National Renewable Energy Laboratory showed that applying the MLP structure to the wind and solar industries would significantly reduce their cost of capital and make them more competitive with other energy technologies.

Since the passage of the Omnibus Budget Reconciliation Act of 1987, which restricted access to MLPs, a great deal has changed in our nation's energy supply. Renewable sources have emerged as credible sources of energy, biofuels now make up an increasing portion of our fuel supply, and new technologies such as carbon capture and storage and electricity storage continue to grow. This section of the tax code, largely static since 1987, picks winners and losers based on the decisions of Congress more than a generation ago.

There is already legislation pending that seeks to create parity for clean energy. The Master Limited Partnerships Parity Act, introduced as S. 795 in the 113th Congress, accomplishes this goal by updating Section 7704 to reflect the new realities of the energy sector. This bipartisan legislation is also supported by Senators Moran, Stabenow, and Murkowski. The legislation has been endorsed by well over 200 organizations from a broad range of coalitions including state governors, businesses, trade associations, environmental groups, think tanks, research groups, financial and investment interests, labor unions, and national security organizations. Additionally, it is important to point out that I believe the extension of the MLP structure to these new alternative energy sources is complementary to the continued utilization of the Production Tax Credit and Investment Tax Credit.

Please find legislative language for the *MLP Parity Act* attached.

Startup Innovation Credit

I encourage you to incentivize private sector innovation and entrepreneurship by including S. 193, the Startup Innovation Credit (SIC), in your reform of the federal tax code. The SIC is a bipartisan jobs bill that provides innovative, high-growth, early stage companies increased access to the successful R&D credit.

According to the Government Accountability Office, corporations with more than \$1 billion in receipts have claimed over half of the R&D credit. Additionally, from 2005 to 2008, firms with less than \$1 million in receipts have amounted to less than five percent of the credit claimed. Many early stage, high-growth companies are shut out of the R&D credit because they do not have sufficient income tax liability against which to claim the credit.

The Startup Innovation Credit would allow a startup company with less than \$5 million in receipts to offset up to \$250,000 of its R&D credit against its payroll tax liability, rather than its income tax liability. This simple tweak has the potential to help thousands of startup firms produce innovations that can transform products, industries, and our entire economy. This bipartisan legislation is also supported by Senators Enzi, Schumer, Rubio, Stabenow, Blunt, Moran, and Kaine.

In addition, the legislation is supported by numerous organizations and individuals, including the American Small Manufacturers Coalition, the Association for Manufacturing Technology, the Arizona Tech Council, the Austin Chamber of Commerce, the Biotechnology Industry Association, CompTia, the Delaware Chamber of Commerce, the Information Technology and Innovation Foundation, the New Castle County Chamber of Commerce, Steve Case, the Sacramento Metro Chamber of Commerce, Silicon Valley Bank, Silicon Valley Leadership Group, the Telecommunications Industry Association, and Third Way.

Please find legislative language for the *Startup Innovation Credit* attached.

Additional ideas to spur innovation and create American jobs

- Allow small businesses to claim the R&D credit against the Alternative Minimum Tax. This would enable 8 out of 10 small businesses to claim the credit that they would not otherwise be able to access.
- Allow filers to claim the Alternative Simplified Credit on their amended returns.
- Create a 25 percent tax credit for U.S. companies that conduct a significant percentage of their manufacturing in the United States.
- Create a targeted R&D credit for energy efficiency research, helping the nation prioritize lower levels of fuel consumption and emissions. Companies would get a 25 percent credit for research, and an additional 10 percent for research that results in domestic manufacturing.

113TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. COONS (for himself, Mr. MORAN, Ms. STABENOW, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, 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 “Master Limited Part-
5 nerships Parity Act”.

1 **SEC. 2. EXTENSION OF PUBLICLY TRADED PARTNERSHIP**
2 **OWNERSHIP STRUCTURE TO ENERGY POWER**
3 **GENERATION PROJECTS, TRANSPORTATION**
4 **FUELS, AND RELATED ENERGY ACTIVITIES.**

5 (a) IN GENERAL.—Subparagraph (E) of section
6 7704(d)(1) of the Internal Revenue Code of 1986 is
7 amended—

8 (1) by striking “income and gains derived from
9 the exploration” and inserting “income and gains
10 derived from the following:

11 “(i) MINERALS, NATURAL RE-
12 SOURCES, ETC.—The exploration”,

13 (2) by inserting “or” before “industrial
14 source”,

15 (3) by inserting a period after “carbon diox-
16 ide”, and

17 (4) by striking “, or the transportation or stor-
18 age” and all that follows and inserting the following:

19 “(ii) RENEWABLE ENERGY.—The gen-
20 eration of electric power exclusively uti-
21 lizing any resource described in section
22 45(c)(1) or energy property described in
23 section 48 (determined without regard to
24 any termination date), or in the case of a
25 facility described in paragraph (3) or (7)
26 of section 45(d) (determined without re-

1 gard to any placed in service date or date
2 by which construction of the facility is re-
3 quired to begin), the accepting or proc-
4 essing of such resource.

5 “(iii) ELECTRICITY STORAGE DE-
6 VICES.—The receipt and sale of electric
7 power that has been stored in a device di-
8 rectly connected to the grid.

9 “(iv) COMBINED HEAT AND POWER.—
10 The generation, storage, or distribution of
11 thermal energy exclusively utilizing prop-
12 erty described in section 48(c)(3) (deter-
13 mined without regard to subparagraphs
14 (B) and (D) thereof and without regard to
15 any placed in service date).

16 “(v) RENEWABLE THERMAL EN-
17 ERGY.—The generation, storage, or dis-
18 tribution of thermal energy exclusively
19 using any resource described in section
20 45(c)(1) or energy property described in
21 clause (i) or (iii) of section 48(a)(3)(A).

22 “(vi) WASTE HEAT TO POWER.—The
23 use of recoverable waste energy, as defined
24 in section 371(5) of the Energy Policy and
25 Conservation Act (42 U.S.C. 6341(5)) (as

1 in effect on the date of the enactment of
2 the Master Limited Partnerships Parity
3 Act).

4 “(vii) RENEWABLE FUEL INFRA-
5 STRUCTURE.—The storage or transpor-
6 tation of any fuel described in subsection
7 (b), (c), (d), or (e) of section 6426.

8 “(viii) RENEWABLE FUELS.—The pro-
9 duction, storage, or transportation of any
10 renewable fuel described in section
11 211(o)(1)(J) of the Clean Air Act (42
12 U.S.C. 7545(o)(1)(J)) (as in effect on the
13 date of the enactment of the Master Lim-
14 ited Partnerships Parity Act) or section
15 40A(d)(1).

16 “(ix) RENEWABLE CHEMICALS.—The
17 production , storage, or transportation of
18 any renewable chemical (as defined in
19 paragraph (6)).

20 “(x) ENERGY EFFICIENT BUILD-
21 INGS.—The audit and installation through
22 contract or other agreement of any energy
23 efficient building property described in sec-
24 tion 179D(c)(1).

1 “(xi) GASIFICATION WITH SEQUES-
2 TRATION.—The production of any product
3 from a project that meets the requirements
4 of subparagraphs (A) and (B) of section
5 48B(c)(1) and that separates and seques-
6 ters in secure geological storage (as deter-
7 mined under section 45Q(d)(2)) at least 75
8 percent of such project’s total qualified
9 carbon dioxide (as defined in section
10 45Q(b)).

11 “(xii) CARBON CAPTURE AND SEQUES-
12 TRATION.—The generation or storage of
13 electric power produced from any facility
14 which is a qualified facility described in
15 section 45Q(e) and which disposes of any
16 captured qualified carbon dioxide (as de-
17 fined in section 45Q(b)) in secure geologi-
18 cal storage (as determined under section
19 45Q(d)(2)).”.

20 (b) RENEWABLE CHEMICAL.—Section 7704(d) of
21 such Code is amended by adding at the end the following
22 new paragraph:

23 “(6) RENEWABLE CHEMICAL.—The term ‘re-
24 newable chemical’ means a monomer, polymer, plas-
25 tic, formulated product, or chemical substance pro-

1 duced from renewable biomass (as defined in section
2 9001(12) of the Farm Security and Rural Invest-
3 ment Act of 2002 (7 U.S.C. 8101(12), as in effect
4 on the date of the enactment of the Master Limited
5 Partnerships Parity Act).”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act, in taxable years ending after such date.

113TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide for startup businesses to use a portion of the research and development credit to offset payroll taxes.

IN THE SENATE OF THE UNITED STATES

Mr. COONS (for himself, Mr. ENZI, Mr. SCHUMER, Mr. RUBIO, Mr. BLUNT, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for startup businesses to use a portion of the research and development credit to offset payroll taxes.

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 “Startup Innovation
5 Credit Act of 2013”.

6 **SEC. 2. TREATMENT OF RESEARCH CREDIT FOR CERTAIN**
7 **STARTUP COMPANIES.**

8 (a) IN GENERAL.—

1 (1) IN GENERAL.—Section 41 of the Internal
2 Revenue Code of 1986 is amended by adding at the
3 end the following new subsection:

4 “(i) TREATMENT OF CREDIT TO QUALIFIED SMALL
5 BUSINESSES.—

6 “(1) IN GENERAL.—At the election of a quali-
7 fied small business, the payroll tax credit portion of
8 the credit determined under subsection (a) shall be
9 treated as a credit allowed under section 3111(f)
10 (and not under this section).

11 “(2) PAYROLL TAX CREDIT PORTION.—For
12 purposes of this subsection, the payroll tax credit
13 portion of the credit determined under subsection
14 (a) for any taxable year is so much of such credit
15 as does not exceed \$250,000.

16 “(3) QUALIFIED SMALL BUSINESS.—For pur-
17 poses of this subsection—

18 “(A) IN GENERAL.—The term ‘qualified
19 small business’ means, with respect to any tax-
20 able year—

21 “(i) a corporation, partnership, or S
22 corporation if—

23 “(I) the gross receipts (as deter-
24 mined under subsection (c)(7)) of

1 such entity for the taxable year is less
2 than \$5,000,000, and

3 “(II) such entity did not have
4 gross receipts (as so determined) for
5 any period preceding the 5-taxable-
6 year period ending with such taxable
7 year, and

8 “(ii) any person not described in sub-
9 paragraph (A) if clauses (i) and (ii) of sub-
10 paragraph (A) applied to such person, de-
11 termined—

12 “(I) by substituting ‘person’ for
13 ‘entity’ each place it appears), and

14 “(II) in the case of an individual,
15 by only taking into account the aggre-
16 gate gross receipts received by such
17 individual in carrying on trades or
18 businesses of such individual.

19 “(B) LIMITATION.—Such term shall not
20 include an organization which is exempt from
21 taxation under section 501.

22 “(4) ELECTION.—

23 “(A) IN GENERAL.—In the case of a part-
24 nership or S corporation, an election under this
25 subsection shall be made at the entity level.

1 “(B) REVOCATION.—An election under
2 this subsection may not be revoked without the
3 consent of the Secretary.

4 “(C) LIMITATION.—A taxpayer may not
5 make an election under this subsection if such
6 taxpayer has made an election under this sub-
7 section for 5 or more preceding taxable years.

8 “(5) AGGREGATION RULES.—For purposes of
9 determining the \$250,000 limitation under para-
10 graph (2) and determining gross receipts under
11 paragraph (3), all members of the same controlled
12 group of corporations (within the meaning of section
13 267(f)) and all persons under common control (with-
14 in the meaning of section 52(b) but determined by
15 treating an interest of more than 50 percent as a
16 controlling interest) shall be treated as 1 person.

17 “(6) REGULATIONS.—The Secretary shall pre-
18 scribe such regulations as may be necessary to carry
19 out the purposes of this subsection, including—

20 “(A) regulations to prevent the avoidance
21 of the purposes of paragraph (3) through the
22 use of successor companies or other means,

23 “(B) regulations to minimize compliance
24 and record-keeping burdens under this sub-
25 section for start-up companies, and

1 “(C) regulations for recapturing the ben-
2 efit of credits determined under section 3111(f)
3 in cases where there is a subsequent adjustment
4 to the payroll tax credit portion of the credit
5 determined under subsection (a), including re-
6 quiring amended returns in the cases where
7 there is such an adjustment.”.

8 (2) CONFORMING AMENDMENT.—Section
9 280C(e) of the Internal Revenue Code of 1986 is
10 amended by adding at the end the following new
11 paragraph:

12 “(5) TREATMENT OF QUALIFIED SMALL BUSI-
13 NESS CREDIT.—For purposes of determining the
14 amount of any credit under section 41(a) under this
15 subsection, any election under section 41(i) shall be
16 disregarded.”.

17 (b) CREDIT ALLOWED AGAINST FICA TAXES.—

18 (1) IN GENERAL.—Section 3111 of the Internal
19 Revenue Code of 1986 is amended by adding at the
20 end the following new subsection:

21 “(f) CREDIT FOR RESEARCH EXPENDITURES OF
22 QUALIFIED SMALL BUSINESSES.—

23 “(1) IN GENERAL.—In the case of a qualified
24 small business which has made an election under
25 section 41(i), there shall be allowed as a credit

1 against the tax imposed by subsection (a) on wages
2 paid with respect to the employment of all employees
3 of the qualified small business for days in an appli-
4 cable calendar quarter an amount equal to the pay-
5 roll tax credit portion of the research credit deter-
6 mined under section 41(a).

7 “(2) CARRYOVER OF UNUSED CREDIT.—In any
8 case in which the payroll tax credit portion of the re-
9 search credit determined under section 41(a) exceeds
10 the tax imposed under subsection (a) for an applica-
11 ble calendar quarter—

12 “(A) the succeeding calendar quarter shall
13 be treated as an applicable calendar quarter,
14 and

15 “(B) the amount of credit allowed under
16 paragraph (1) shall be reduced by the amount
17 of credit allowed under such paragraph for all
18 preceding applicable calendar quarters.

19 “(3) ALLOCATION OF CREDIT FOR CON-
20 TROLLED GROUPS, ETC.—In determining the
21 amount of the credit under this subsection—

22 “(A) all persons treated as a single tax-
23 payer under section 41 shall be treated as a
24 single taxpayer under this section, and

1 “(B) the credit (if any) allowable by this
2 section to each such member shall be its pro-
3 portionate share of the qualified research ex-
4 penses, basic research payments, and amounts
5 paid or incurred to energy research Consor-
6 tiums, giving rise to the credit allowable under
7 section 41.

8 “(4) DEFINITIONS.—For purposes of this sub-
9 section—

10 “(A) APPLICABLE CALENDAR QUARTER.—

11 The term ‘applicable calendar quarter’ means—

12 “(i) the first calendar quarter fol-
13 lowing the date on which the qualified
14 small business files a return under section
15 6012 for the taxable year for which the
16 payroll tax credit portion of the research
17 credit under section 41(a) is determined,
18 and

19 “(ii) any succeeding calendar quarter
20 treated as an applicable calendar quarter
21 under paragraph (2)(A).

22 “For purposes of determining the date on
23 which a return is filed, rules similar to the rules
24 of section 6513 shall apply.

1 “(B) OTHER TERMS.—Any term used in
2 this subsection which is also used in section 41
3 shall have the meaning given such term under
4 section 41.”.

5 (2) TRANSFERS TO FEDERAL OLD-AGE AND
6 SURVIVORS INSURANCE TRUST FUND.—There are
7 hereby appropriated to the Federal Old-Age and
8 Survivors Trust Fund and the Federal Disability In-
9 surance Trust Fund established under section 201
10 of the Social Security Act (42 U.S.C. 401) amounts
11 equal to the reduction in revenues to the Treasury
12 by reason of the amendments made by paragraph
13 (1). Amounts appropriated by the preceding sen-
14 tence shall be transferred from the general fund at
15 such times and in such manner as to replicate to the
16 extent possible the transfers which would have oc-
17 curred to such Trust Fund had such amendments
18 not been enacted.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2012.