

117TH CONGRESS  
1ST SESSION

# H. R. 5033

To amend the Internal Revenue Code of 1986 to establish a credit for the domestic production of rare earth magnets, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

AUGUST 13, 2021

Mr. SWALWELL (for himself and Mr. RESCHENTHALER) 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 establish a credit for the domestic production of rare earth magnets, 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 “Rare Earth Magnet  
5 Manufacturing Production Tax Credit Act of 2021”.

6 **SEC. 2. CREDIT FOR PRODUCTION OF RARE EARTH**  
7 **MAGNETS.**

8 (a) IN GENERAL.—The Internal Revenue Code of  
9 1986 is amended by inserting the following new section  
10 after section 45T:

1 **“SEC. 45U. CREDIT FOR PRODUCTION OF RARE EARTH**  
2 **MAGNETS.**

3 “(a) IN GENERAL.—For the purposes of section 38,  
4 the credit for production of rare earth magnets determined  
5 under this section for any taxable year is an amount equal  
6 to the sum of—

7 “(1) \$20 per kilogram of rare earth magnets  
8 manufactured in the United States by the taxpayer  
9 during the taxable year, or

10 “(2) \$30 per kilogram of rare earth magnets  
11 manufactured in the United States by the taxpayer  
12 during the taxable year if all of the component rare  
13 earth material of such magnets are produced within  
14 the United States.

15 “(b) PHASE-OUT.—

16 “(1) IN GENERAL.—In the case of any rare  
17 earth magnet produced after December 31, 2030,  
18 the amount determined under this section with re-  
19 spect to such rare earth magnet shall be equal to the  
20 product of—

21 “(A) the amount determined under sub-  
22 section (a) with respect to such rare earth mag-  
23 net, as determined without regard to this sub-  
24 section, multiplied by

25 “(B) the phase-out percentage described in  
26 paragraph (2).

1           “(2) PHASE-OUT PERCENTAGE.—The phase-out  
2           percentage described in this paragraph is—

3                   “(A) in the case of any rare earth magnet  
4                   produced in calendar year 2031, 70 percent,

5                   “(B) in the case of any rare earth magnet  
6                   produced in calendar year 2032, 35 percent, or

7                   “(C) in the case of any rare earth magnet  
8                   produced after December 31, 2033, 0 percent.

9           “(c) RESTRICTION ON COMPONENT SOURCING.—A  
10           taxpayer is not eligible for the credit determined under  
11           subsection (a) with respect to a rare earth magnet if any  
12           component rare earth material used to produce such mag-  
13           net was produced in a non-allied foreign nation.

14           “(d) DEFINITIONS.—For the purposes of this sec-  
15           tion—

16                   “(1) RARE EARTH MAGNET.—The term ‘rare  
17                   earth magnet’ means a permanent magnet com-  
18                   prised of—

19                           “(A) an alloy of neodymium, praseo-  
20                           dymium, iron, boron, terbium, or dysprosium,  
21                           or

22                           “(B) an alloy of samarium, gadolinium,  
23                           and cobalt.

24                   “(2) COMPONENT RARE EARTH MATERIAL.—  
25           The term ‘component rare earth material’ means ne-

1       odymium, praseodymium, dysprosium, terbium, sa-  
2       marium, gadolinium, and cobalt.

3               “(3) UNITED STATES AND POSSESSION OF THE  
4       UNITED STATES.—The terms ‘United States’ and  
5       ‘possession of the United States’ have the meaning  
6       given such terms in section 638.

7               “(4) MANUFACTURED.—The term ‘manufac-  
8       tured’ means the manufacturing of a rare earth  
9       magnet, including the alloying, reduction, strip cast-  
10      ing, and metallization of component rare earth mate-  
11      rial.

12              “(5) NON-ALLIED FOREIGN NATION.—The term  
13      ‘non-allied foreign nation’ has the meaning given to  
14      the term ‘covered nation’ in section 2533c(d) of title  
15      10, United States Code.

16              “(e) TRADE OR BUSINESS REQUIREMENT.—No cred-  
17      it shall be allowed under this section with respect to any  
18      property unless such property is manufactured in the ordi-  
19      nary course of a trade or business of the taxpayer.

20              “(f) ELECTIVE PAYMENT FOR PRODUCTION OF RARE  
21      EARTH MAGNETS.—

22              “(1) IN GENERAL.—In the case of a taxpayer  
23      making an election (at such time and in such man-  
24      ner as the Secretary may provide) under this section  
25      with respect to any portion of the credit under sub-

1       section (a), such taxpayer shall be treated as making  
2       a payment against the tax imposed by this subtitle  
3       for the taxable year equal to the amount of such  
4       portion.

5           “(2) TIMING.—The payment described in para-  
6       graph (1) shall be treated as made on the later of  
7       the due date of the return of tax for such taxable  
8       year or the date on which such return is filed.

9           “(3) EXCLUSION FROM GROSS INCOME.—Gross  
10      income of the taxpayer shall be determined without  
11      regard to this subsection.”.

12      (b) CREDIT TO BE PART OF GENERAL BUSINESS  
13      CREDIT.—Section 38(b) of such Code is amended by strik-  
14      ing “plus” at the end of paragraph (32), by striking the  
15      period at the end of paragraph (33) and inserting “, plus”,  
16      and by adding at the end the following new paragraph:

17           “(34) the credit for production of rare earth  
18      magnets determined under section 45U(a).”.

19      (c) CONFORMING AMENDMENT.—The table of sec-  
20      tions for subpart D of part IV of subchapter A of chapter  
21      1 of such Code is amended by inserting after the item  
22      relating to section 45T the following new item:

“Sec. 45U. Credit for production of rare earth magnets.”.

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this Act shall apply to taxable years beginning after De-  
3 cember 31, 2021.

○