

**Roundtable 3: Farm Bill Proposed Amendments
Sustainability Tax Credits**

Sec. 1. To create new section 45u under title 26, chapter 1, subchapter A, part IV, to read:

“§ 45u. Sustainable hemp activity credit

(a) In general.--For purposes of section 38, in the case of an eligible hemp business, the sustainable hemp activity credit determined under this section for the taxable year is 30 percent of the qualified sustainable hemp activity expenditures for the taxable year.

(b) Annual limitation.--The amount of the credit determined under subsection (a) with respect to any taxpayer for any taxable year shall not exceed \$2,000,000.

(c) Qualified sustainable hemp activity.--For purposes of this section, the term “qualified sustainable hemp activity” means, with respect to any eligible hemp business for any taxable year, any amount paid or incurred by such business during such taxable year for--

- (1) Acquiring or leasing property for the production of sustainable hemp or the processing of sustainable hemp into finished products,
- (2) Purchase of supplies or equipment for the production of sustainable hemp or the processing of sustainable hemp into finished products,
- (3) Implementation of measures to comply with sustainable practices criteria, and
- (4) Such other activities for the production or processing of sustainable hemp as the Secretary may identify in regulation.

Amounts described in the preceding sentence shall be taken into account only to the extent that such amounts are paid or incurred for the purpose of producing or processing sustainable hemp.

(d) Sustainable hemp.--For purposes of this section, the term “sustainable hemp” means hemp, as defined in 7 U.S.C. § 1639o, produced by a person whose hemp production practices are

Commented [JNM1]: This draft bill uses 26 U.S.C. § 45o as a template. That law establishes the agricultural chemicals security credit, which is a business credit for costs incurred for safely storing fertilizers and pesticides sold at retail.

Commented [JNM2]: This is the section for the general business credit (26 U.S.C. § 38).

Commented [JNM3]: This amount is taken from 26 U.S.C. § 45o. It might be too high or too low for the credit we are creating.

Commented [JNM4]: This amount is taken from 26 U.S.C. § 45o. It might be too high or too low for the credit we are creating.

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certified by a certifying organization for complying with such organization’s sustainable practices criteria.

(e) Eligible hemp business.--For purposes of this section, the term “eligible hemp business” means any person in the trade or business of producing or processing sustainable hemp.

(f) Certifying organization.--For purposes of this section, the term “certifying organization” means an accredited or recognized organization whose function includes certifying hemp production practices for complying with such organization’s sustainable practices criteria.

(g) Controlled groups.--Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section.

(h) Regulations.--The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations which--

(1) provide for the proper treatment of amounts which are paid or incurred for purpose of producing or processing sustainable hemp and for other purposes,

(2) provide for the treatment of related properties as one property for purposes of subsection (c)(1), and

(3) provide for the submission of documentation to the Secretary of the U.S. Department of Agriculture for the tracking and tracing of sustainable hemp for which a credit determined under this section is claimed.

(i) Special rule.--For a qualified sustainable hemp activity related to the production of sustainable hemp under subsection (c), the credit determined under this section shall only apply to amounts which are paid or incurred for producing sustainable hemp on acreage identified in the FSA-578 Manual report submitted by the eligible hemp business for the taxable year.

Commented [JNM5]: These rules are required under 26 U.S.C. § 41, which establishes the credit for increasing researching activities, also known as the research and development credit. The rules limit aggregation of qualified expenditures by companies within the same corporate family (or “controlled group”).

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(j) Termination.--This section shall not apply to any amount paid or incurred after December 31, 2028.”