

## Calendar No. 442

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 3364**

To provide an incentive for businesses to bring jobs back to America.

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## IN THE SENATE OF THE UNITED STATES

JULY 9, 2012

Ms. STABENOW (for herself, Mr. COONS, Mr. SCHUMER, Mr. BROWN of Ohio,  
Mr. DURBIN, Mr. MERKLEY, Mr. WHITEHOUSE, and Mrs. GILLIBRAND)  
introduced the following bill; which was read the first time

JULY 10, 2012

Read the second time and placed on the calendar

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**A BILL**

To provide an incentive for businesses to bring jobs back  
to America.

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 “Bring Jobs Home  
5 Act”.

1 **SEC. 2. CREDIT FOR INSOURCING EXPENSES.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-  
 3 chapter A of chapter 1 of the Internal Revenue Code of  
 4 1986 is amended by adding at the end the following new  
 5 section:

6 **“SEC. 45S. CREDIT FOR INSOURCING EXPENSES.**

7 “(a) IN GENERAL.—For purposes of section 38, the  
 8 insourcing expenses credit for any taxable year is an  
 9 amount equal to 20 percent of the eligible insourcing ex-  
 10 penses of the taxpayer which are taken into account in  
 11 such taxable year under subsection (d).

12 “(b) ELIGIBLE INSOURCING EXPENSES.—For pur-  
 13 poses of this section—

14 “(1) IN GENERAL.—The term ‘eligible  
 15 insourcing expenses’ means—

16 “(A) eligible expenses paid or incurred by  
 17 the taxpayer in connection with the elimination  
 18 of any business unit of the taxpayer (or of any  
 19 member of any expanded affiliated group in  
 20 which the taxpayer is also a member) located  
 21 outside the United States, and

22 “(B) eligible expenses paid or incurred by  
 23 the taxpayer in connection with the establish-  
 24 ment of any business unit of the taxpayer (or  
 25 of any member of any expanded affiliated group

1           in which the taxpayer is also a member) located  
2           within the United States,  
3           if such establishment constitutes the relocation of  
4           the business unit so eliminated. For purposes of the  
5           preceding sentence, a relocation shall not be treated  
6           as failing to occur merely because such elimination  
7           occurs in a different taxable year than such estab-  
8           lishment.

9           “(2) ELIGIBLE EXPENSES.—The term ‘eligible  
10          expenses’ means—

11               “(A) any amount for which a deduction is  
12               allowed to the taxpayer under section 162, and

13               “(B) permit and license fees, lease broker-  
14               age fees, equipment installation costs, and, to  
15               the extent provided by the Secretary, other  
16               similar expenses.

17          Such term does not include any compensation which  
18          is paid or incurred in connection with severance  
19          from employment and, to the extent provided by the  
20          Secretary, any similar amount.

21           “(3) BUSINESS UNIT.—The term ‘business unit’  
22          means—

23               “(A) any trade or business, and

24               “(B) any line of business, or functional  
25               unit, which is part of any trade or business.

1           “(4) EXPANDED AFFILIATED GROUP.—The  
 2           term ‘expanded affiliated group’ means an affiliated  
 3           group as defined in section 1504(a), determined  
 4           without regard to section 1504(b)(3) and by sub-  
 5           stituting ‘more than 50 percent’ for ‘at least 80 per-  
 6           cent’ each place it appears in section 1504(a). A  
 7           partnership or any other entity (other than a cor-  
 8           poration) shall be treated as a member of an ex-  
 9           panded affiliated group if such entity is controlled  
 10          (within the meaning of section 954(d)(3)) by mem-  
 11          bers of such group (including any entity treated as  
 12          a member of such group by reason of this para-  
 13          graph).

14          “(5) EXPENSES MUST BE PURSUANT TO  
 15          INSOURCING PLAN.—Amounts shall be taken into ac-  
 16          count under paragraph (1) only to the extent that  
 17          such amounts are paid or incurred pursuant to a  
 18          written plan to carry out the relocation described in  
 19          paragraph (1).

20          “(6) OPERATING EXPENSES NOT TAKEN INTO  
 21          ACCOUNT.—Any amount paid or incurred in connec-  
 22          tion with the on-going operation of a business unit  
 23          shall not be treated as an amount paid or incurred  
 24          in connection with the establishment or elimination  
 25          of such business unit.

1       “(c) INCREASED DOMESTIC EMPLOYMENT REQUIRE-  
2     MENT.—No credit shall be allowed under this section un-  
3     less the number of full-time equivalent employees of the  
4     taxpayer for the taxable year for which the credit is  
5     claimed exceeds the number of full-time equivalent em-  
6     ployees of the taxpayer for the last taxable year ending  
7     before the first taxable year in which such eligible  
8     insourcing expenses were paid or incurred. For purposes  
9     of this subsection, full-time equivalent employees has the  
10    meaning given such term under section 45R(d) (and the  
11    applicable rules of section 45R(e)). All employers treated  
12    as a single employer under subsection (b), (c), (m), or (o)  
13    of section 414 shall be treated as a single employer for  
14    purposes of this subsection.

15       “(d) CREDIT ALLOWED UPON COMPLETION OF  
16     INSOURCING PLAN.—

17           “(1) IN GENERAL.—Except as provided in para-  
18     graph (2), eligible insourcing expenses shall be taken  
19     into account under subsection (a) in the taxable year  
20     during which the plan described in subsection (b)(5)  
21     has been completed and all eligible insourcing ex-  
22     penses pursuant to such plan have been paid or in-  
23     curred.

24           “(2) ELECTION TO APPLY EMPLOYMENT TEST  
25     AND CLAIM CREDIT IN FIRST FULL TAXABLE YEAR

1 AFTER COMPLETION OF PLAN.—If the taxpayer  
 2 elects the application of this paragraph, eligible  
 3 insourcing expenses shall be taken into account  
 4 under subsection (a) in the first taxable year after  
 5 the taxable year described in paragraph (1).

6 “(e) POSSESSIONS TREATED AS PART OF THE  
 7 UNITED STATES.—For purposes of this section, the term  
 8 ‘United States’ shall be treated as including each posses-  
 9 sion of the United States (including the Commonwealth  
 10 of Puerto Rico and the Commonwealth of the Northern  
 11 Mariana Islands).

12 “(f) REGULATIONS.—The Secretary shall prescribe  
 13 such regulations or other guidance as may be necessary  
 14 or appropriate to carry out the purposes of this section.”.

15 (b) CREDIT TO BE PART OF GENERAL BUSINESS  
 16 CREDIT.—Subsection (b) of section 38 of such Code is  
 17 amended by striking “plus” at the end of paragraph (35),  
 18 by striking the period at the end of paragraph (36) and  
 19 inserting “, plus”, and by adding at the end the following  
 20 new paragraph:

21 “(37) the insourcing expenses credit determined  
 22 under section 45S(a).”.

23 (c) CLERICAL AMENDMENT.—The table of sections  
 24 for subpart D of part IV of subchapter A of chapter 1

1 of such Code is amended by adding at the end the fol-  
 2 lowing new item:

“Sec. 45S. Credit for insourcing expenses.”.

3 (d) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to amounts paid or incurred after  
 5 the date of the enactment of this Act.

6 (e) APPLICATION TO UNITED STATES POSSES-  
 7 SIONS.—

8 (1) PAYMENTS TO POSSESSIONS.—

9 (A) MIRROR CODE POSSESSIONS.—The  
 10 Secretary of the Treasury shall make periodic  
 11 payments to each possession of the United  
 12 States with a mirror code tax system in an  
 13 amount equal to the loss to that possession by  
 14 reason of section 45S of the Internal Revenue  
 15 Code of 1986. Such amount shall be determined  
 16 by the Secretary of the Treasury based on in-  
 17 formation provided by the government of the re-  
 18 spective possession.

19 (B) OTHER POSSESSIONS.—The Secretary  
 20 of the Treasury shall make annual payments to  
 21 each possession of the United States which does  
 22 not have a mirror code tax system in an  
 23 amount estimated by the Secretary of the  
 24 Treasury as being equal to the aggregate bene-  
 25 fits that would have been provided to residents

of such possession by reason of section 45S of such Code if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payment to the residents of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes under section 45S of such Code to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of such section, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B).

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSIONS OF THE UNITED STATES.—For purposes of this section, the term “possession of the United States” includes the Commonwealth of Puerto Rico and the



1 Commonwealth of the Northern Mariana Is-  
2 lands.

3 (B) MIRROR CODE TAX SYSTEM.—For pur-  
4 poses of this section, the term “mirror code tax  
5 system” means, with respect to any possession  
6 of the United States, the income tax system of  
7 such possession if the income tax liability of the  
8 residents of such possession under such system  
9 is determined by reference to the income tax  
10 laws of the United States as if such possession  
11 were the United States.

12 (C) TREATMENT OF PAYMENTS.—For pur-  
13 poses of section 1324(b)(2) of title 31, United  
14 States Code, the payments under this section  
15 shall be treated in the same manner as a refund  
16 due from sections referred to in such section  
17 1324(b)(2).

18 **SEC. 3. DENIAL OF DEDUCTION FOR OUTSOURCING EX-**  
19 **PENSES.**

20 (a) IN GENERAL.—Part IX of subchapter B of chap-  
21 ter 1 of the Internal Revenue Code of 1986 is amended  
22 by adding at the end the following new section:

1 **“SEC. 280I. OUTSOURCING EXPENSES.**

2       “(a) IN GENERAL.—No deduction otherwise allow-  
3 able under this chapter shall be allowed for any specified  
4 outsourcing expense.

5       “(b) SPECIFIED OUTSOURCING EXPENSE.—For pur-  
6 poses of this section—

7           “(1) IN GENERAL.—The term ‘specified out-  
8 sourcing expense’ means—

9               “(A) any eligible expense paid or incurred  
10 by the taxpayer in connection with the elimi-  
11 nation of any business unit of the taxpayer (or  
12 of any member of any expanded affiliated group  
13 in which the taxpayer is also a member) located  
14 within the United States, and

15               “(B) any eligible expense paid or incurred  
16 by the taxpayer in connection with the estab-  
17 lishment of any business unit of the taxpayer  
18 (or of any member of any expanded affiliated  
19 group in which the taxpayer is also a member)  
20 located outside the United States,

21 if such establishment constitutes the relocation of  
22 the business unit so eliminated. For purposes of the  
23 preceding sentence, a relocation shall not be treated  
24 as failing to occur merely because such elimination  
25 occurs in a different taxable year than such estab-  
26 lishment.

1           “(2) APPLICATION OF CERTAIN DEFINITIONS  
2       AND RULES.—

3           “(A) DEFINITIONS.—For purposes of this  
4       section, the terms ‘eligible expenses’, ‘business  
5       unit’, and ‘expanded affiliated group’ shall have  
6       the respective meanings given such terms by  
7       section 45S(b).

8           “(B) OPERATING EXPENSES NOT TAKEN  
9       INTO ACCOUNT.—A rule similar to the rule of  
10      section 45S(b)(6) shall apply for purposes of  
11      this section.

12      “(c) SPECIAL RULES.—

13           “(1) APPLICATION TO DEDUCTIONS FOR DE-  
14      PRECIATION AND AMORTIZATION.—In the case of  
15      any portion of a specified outsourcing expense which  
16      is not deductible in the taxable year in which paid  
17      or incurred, such portion shall neither be chargeable  
18      to capital account nor amortizable.

19           “(2) POSSESSIONS TREATED AS PART OF THE  
20      UNITED STATES.—For purposes of this section, the  
21      term ‘United States’ shall be treated as including  
22      each possession of the United States (including the  
23      Commonwealth of Puerto Rico and the Common-  
24      wealth of the Northern Mariana Islands).

1       “(d) REGULATIONS.—The Secretary shall prescribe  
 2 such regulations or other guidance as may be necessary  
 3 or appropriate to carry out the purposes of this section,  
 4 including regulations which provide (or create a rebuttable  
 5 presumption) that certain establishments of business units  
 6 outside the United States will be treated as relocations  
 7 (based on timing or such other factors as the Secretary  
 8 may provide) of business units eliminated within the  
 9 United States.”.

10       (b) LIMITATION ON SUBPART F INCOME OF CON-  
 11 TROLLED FOREIGN CORPORATIONS DETERMINED WITH-  
 12 OUT REGARD TO SPECIFIED OUTSOURCING EXPENSES.—  
 13 Subsection (c) of section 952 of such Code is amended  
 14 by adding at the end the following new paragraph:

15               “(4) EARNINGS AND PROFITS DETERMINED  
 16 WITHOUT REGARD TO SPECIFIED OUTSOURCING EX-  
 17 PENSES.—For purposes of this subsection, earnings  
 18 and profits of any controlled foreign corporation  
 19 shall be determined without regard to any specified  
 20 outsourcing expense (as defined in section  
 21 280I(b)).”.

22       (c) CLERICAL AMENDMENT.—The table of sections  
 23 for part IX of subchapter B of chapter 1 of such Code  
 24 is amended by adding at the end the following new item:

“Sec. 280I. Outsourcing expenses.”.

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to amounts paid or incurred after  
3 the date of the enactment of this Act.

Calendar No. 442

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 3364**

**A BILL**

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back to America.

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