

117TH CONGRESS
1ST SESSION

S. 477

To amend the Internal Revenue Code of 1986 to create a refundable tax credit for travel expenditures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2021

Ms. CORTEZ MASTO (for herself and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to create a refundable tax credit for travel expenditures, 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 “Hospitality and Com-
5 merce Job Recovery Act of 2021”.

6 **SEC. 2. ESTABLISHMENT OF TAX CREDIT TO SUPPORT THE**
7 **CONVENTION AND TRADE SHOW INDUSTRY.**

8 (a) IN GENERAL.—For purposes of section 38 of the
9 Internal Revenue Code of 1986, the convention and trade
10 show restart credit shall be treated as a credit listed at

1 the end of subsection (b) of such section. For purposes
2 of this section, the convention and trade show restart cred-
3 it for any taxable year is an amount equal to the sum
4 of—

5 (1) 50 percent of the qualified participation
6 costs paid or incurred by a taxpayer during such
7 taxable year, and

8 (2) in the case of an eligible provider, 100 per-
9 cent of the qualified restart costs paid or incurred
10 by such provider during such taxable year.

11 (b) QUALIFIED PARTICIPATION COSTS.—For pur-
12 poses of this section, the term “qualified participation
13 costs” means any costs or expenses paid or incurred by
14 the taxpayer after December 31, 2020, for any employee
15 or officer of the taxpayer to attend or participate in a
16 qualified event, including registration fees, lodging, and
17 costs with respect to carrying out an exhibition relating
18 to the taxpayer. Such term shall not include any costs
19 which are not necessary for the attendance or participa-
20 tion of such employee or officer at such event.

21 (c) ELIGIBLE PROVIDER; QUALIFIED RESTART
22 COSTS.—In this section—

23 (1) ELIGIBLE PROVIDER.—The term “eligible
24 provider” means any person which—

1 (A) provides facilities at which a qualified
2 event may be held, or

3 (B) sponsors, operates, or is otherwise re-
4 sponsible for the administration of a qualified
5 event.

6 (2) QUALIFIED RESTART COSTS.—The term
7 “qualified restart costs” means any costs paid or in-
8 curred by an eligible provider after December 31,
9 2020, in reopening after such date a facility de-
10 scribed in paragraph (1)(A) which was closed or
11 forced to reduce services due to the virus SARS-
12 CoV-2 or coronavirus disease 2019 (referred to in
13 this section as “COVID-19”), including—

14 (A) any renovation, remediation, personal
15 protective equipment, cleaning, or additional
16 labor and rental costs related to preventing in-
17 dividuals present in such facility from con-
18 tracting COVID-19, and

19 (B) any testing of employees of the tax-
20 payer or guests of such facility for symptoms of
21 COVID-19.

22 (d) QUALIFIED EVENT.—

23 (1) IN GENERAL.—In this section, the term
24 “qualified event” means—

1 (A) a convention, seminar, or similar meet-
2 ing (as such terms are used in section 274 of
3 the Internal Revenue Code of 1986),

4 (B) a business meeting (as such term is
5 used in such section), or

6 (C) a trade show,

7 which takes place after December 31, 2021.

8 (2) TRADE SHOW.—For purposes of this sub-
9 section, the term “trade show” means any exhibition
10 at which different businesses within a particular in-
11 dustry promote their products and services.

12 (e) DENIAL OF DOUBLE BENEFIT.—No deduction
13 shall be allowed under any provision of chapter 1 of the
14 Internal Revenue Code of 1986 with respect to any
15 amount taken in account in determining the credit allowed
16 to a taxpayer under this section.

17 (f) LOCATION REQUIREMENT.—No credit shall be al-
18 lowed under this section with respect to any qualified
19 event unless such event is held within the United States
20 (including any territory or possession of the United
21 States).

22 (g) PAYROLL CREDIT FOR NONPROFIT EMPLOY-
23 ERS.—

24 (1) IN GENERAL.—In the case of an organiza-
25 tion which is described in section 501(c) of the In-

1 ternal Revenue Code of 1986 and exempt from tax
2 under section 501(a) of such Code, the credit deter-
3 mined under this section shall be allowed as a credit
4 against applicable employment taxes paid by such
5 organization for calendar quarters in the taxable
6 year, and not treated as a credit listed at the end
7 of section 38(b) of such Code.

8 (2) LIMITATIONS AND REFUNDABILITY.—

9 (A) CREDIT LIMITED TO EMPLOYMENT
10 TAXES.—The credit allowed by paragraph (1)
11 with respect to calendar quarters in any taxable
12 year shall not exceed the applicable employment
13 taxes (reduced by any credits allowed under
14 subsections (e) and (f) of section 3111 of the
15 Internal Revenue Code of 1986 and sections
16 7001 and 7003 of the Families First
17 Coronavirus Response Act) on the wages paid
18 with respect to the employment of all the em-
19 ployees of the organization for such taxable
20 year.

21 (B) REFUNDABILITY OF EXCESS CRED-
22 IT.—

23 (i) IN GENERAL.—If the amount of
24 the credit under paragraph (1) exceeds the
25 limitation of subparagraph (A) for any cal-

1 endar quarter, such excess shall be treated
2 as an overpayment that shall be refunded
3 under sections 6402(a) and 6413(b) of the
4 Internal Revenue Code of 1986.

5 (ii) TREATMENT OF PAYMENTS.—For
6 purposes of section 1324 of title 31,
7 United States Code, any amounts due to
8 the employer under this paragraph shall be
9 treated in the same manner as a refund
10 due from a credit provision referred to in
11 subsection (b)(2) of such section.

12 (3) APPLICABLE EMPLOYMENT TAXES.—For
13 purposes of this subsection, the term “applicable em-
14 ployment taxes” means the following:

15 (A) The taxes imposed under section
16 3111(a) of the Internal Revenue Code of 1986.

17 (B) So much of the taxes imposed under
18 section 3221(a) of such Code as are attrib-
19 utable to the rate in effect under section
20 3111(a) of such Code.

21 (h) REGULATIONS AND GUIDANCE.—The Secretary
22 of the Treasury (or the Secretary’s delegate) may pre-
23 scribe such regulations and other guidance as may be ap-
24 propriate or necessary to carry out the purposes of this
25 section.

1 (i) **TERMINATION.**—This section shall not apply to
2 any costs paid or incurred in taxable years beginning after
3 December 31, 2024.

4 **SEC. 3. EXTENSION OF EMPLOYEE RETENTION TAX CRED-**
5 **IT.**

6 (a) **IN GENERAL.**—Section 2301(m) of the CARES
7 Act (Public Law 116–136) is amended by striking “July
8 1, 2021” and inserting “January 1, 2022”.

9 (b) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to calendar quarters beginning
11 after June 30, 2021.

12 **SEC. 4. SUSPENSION OF LIMITATION ON ENTERTAINMENT,**
13 **ETC. EXPENSES RELATED TO TRADE OR BUSI-**
14 **NESS.**

15 (a) **IN GENERAL.**—Section 274 of the Internal Rev-
16 enue Code of 1986 is amended by adding at the end the
17 following new subsection:

18 “(q) **SPECIAL RULES FOR TAXABLE YEARS 2021**
19 **THROUGH 2022.**—In the case of a taxable year beginning
20 after December 31, 2020, and before January 1, 2023—

21 “(1) subsection (a)(1)(A) shall not apply to any
22 expense if the taxpayer establishes that the item was
23 directly related to, or, in the case of an item directly
24 preceding or following a substantial and bona fide
25 business discussion (including business meetings at

1 a convention or otherwise), that such item was asso-
2 ciated with, the active conduct of the taxpayer's
3 trade or business, except that the deduction under
4 this section with respect to any such expense shall
5 in no event exceed the portion of such expense with
6 respect to which the taxpayer so establishes,

7 “(2) in the case of a club, subsection (a)(1)(B)
8 shall not apply if the taxpayer establishes that the
9 facility was used primarily for the furtherance of the
10 taxpayer's trade or business and that the item was
11 directly related to the active conduct of such trade
12 or business,

13 “(3) no deduction or credit shall be allowed for
14 any item (not including any qualified nonpersonal
15 use vehicle (as defined in subsection (i)) with respect
16 to an activity which is of a type generally considered
17 to constitute entertainment, amusement, or recre-
18 ation, or with respect to a facility used in connection
19 with such an activity, unless the taxpayer substan-
20 tiates by adequate records or by sufficient evidence
21 corroborating the taxpayer's own statement—

22 “(A) the amount of such expense or other
23 item,

1 “(B) the time and place of the entertain-
2 ment, amusement, recreation, or use of the fa-
3 cility or property,

4 “(C) the business purpose of the expense
5 or other item, and

6 “(D) the business relationship to the tax-
7 payer of the persons entertained or using the
8 facility or property,

9 except as the Secretary may by regulations provide
10 in the case of an expense which does not exceed an
11 amount prescribed pursuant to such regulations,

12 “(4) in determining the amount allowable as a
13 deduction under this chapter for any ticket for any
14 activity or facility described in paragraph (3), the
15 amount taken into account shall not exceed the face
16 value of such ticket, except that—

17 “(A) this paragraph shall not apply to any
18 ticket for any sports event—

19 “(i) which is organized for the pri-
20 mary purpose of benefiting an organization
21 which is described in section 501(c)(3) and
22 exempt from tax under section 501(a),

23 “(ii) all of the net proceeds of which
24 are contributed to such organization, and

1 “(iii) which utilizes volunteers for sub-
2 stantially all of the work performed in car-
3 rying out such event, and

4 “(B) in the case of a skybox or other pri-
5 vate luxury box leased for more than 1 event,
6 the amount allowable as a deduction under this
7 chapter with respect to such events shall not ex-
8 ceed the sum of the face value of non-luxury
9 box seat tickets for the seats in such box cov-
10 ered by the lease (determined by treating 2 or
11 more related leases as 1 lease),

12 “(5) the amount allowable as a deduction under
13 this chapter for any item with respect to an activity
14 which is of a type generally considered to constitute
15 entertainment, amusement, or recreation, or with re-
16 spect to a facility used in connection with such activ-
17 ity, shall not exceed 50 percent of the amount of
18 such expense or item which would (but for this para-
19 graph) be allowable as a deduction under this chap-
20 ter, and

21 “(6) paragraph (5) shall not apply to any ex-
22 pense if—

23 “(A) such expense is described in para-
24 graph (2), (3), (4), (7), (8), or (9) of subsection
25 (e),

1 business which sells items other than prepared food
2 and beverages), or

3 (2) which owns property on which such a trade
4 or business operates, if more than 50 percent of the
5 square footage of such property is devoted to prepa-
6 ration of, and seating for on-premises consumption
7 of, prepared meals.

8 (c) QUALIFIED RESTART COSTS.—For purposes of
9 this section, the term “qualified restart costs” means any
10 costs paid or incurred by an eligible taxpayer on or after
11 the date of the enactment of this Act in reopening a trade
12 or business or property described in subsection (b), or in-
13 creasing meal and beverage services provided by such
14 trade or business or at such property, which was closed
15 or forced to reduce services due to the virus SARS-CoV-
16 2 or coronavirus disease 2019 (referred to in this section
17 as “COVID-19”), including—

18 (1) any renovation, remediation, or additional
19 labor and rental costs related to preventing individ-
20 uals present at such trade or business or on such
21 property from contracting COVID-19, and

22 (2) any testing of employees of the eligible tax-
23 payer or guests of such trade or business or such
24 property for symptoms of COVID-19.

1 For purposes of the preceding sentence, a trade or busi-
2 ness shall be treated as having reduced services if such
3 trade or business reduced hours of operation, number of
4 employees or employee hours, or capacity of seating areas,
5 closed seating areas, or took any other measures which
6 reduced services provided or operations of the trade or
7 business as determined by the Secretary of the Treasury.

8 (d) DENIAL OF DOUBLE BENEFIT.—No deduction
9 shall be allowed under any provision of chapter 1 of the
10 Internal Revenue Code of 1986 with respect to any
11 amount taken in account in determining the credit allowed
12 to a taxpayer under this section.

13 (e) REGULATIONS AND GUIDANCE.—The Secretary
14 of the Treasury (or the Secretary’s delegate) may pre-
15 scribe such regulations and other guidance as may be ap-
16 propriate or necessary to carry out the purposes of this
17 section.

18 (f) TERMINATION.—This section shall not apply to
19 any costs paid or incurred in taxable years beginning after
20 December 31, 2022.

21 **SEC. 6. CREDIT FOR TRAVEL EXPENDITURES.**

22 (a) IN GENERAL.—Subpart C of part IV of sub-
23 chapter A of chapter 1 of the Internal Revenue Code of
24 1986 is amended by inserting after section 36 the fol-
25 lowing new section:

1 **“SEC. 36A. CREDIT FOR TRAVEL EXPENDITURES.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual who pays or incurs any qualified travel expenses
4 during a taxable year, there shall be allowed as a credit
5 against the tax imposed by this subtitle for such taxable
6 year an amount equal to 50 percent of such expenses.

7 “(b) LIMITATIONS.—

8 “(1) DOLLAR LIMITATION.—The credit allowed
9 under subsection (a) for any taxable year shall not
10 exceed the sum of—

11 “(A) \$1,500 (\$750 in the case of a mar-
12 ried individual filing a separate return), plus

13 “(B) \$500 for each qualifying child (as de-
14 fined in section 152(c)) of the individual, but
15 not to exceed \$1,500.

16 “(2) LIMITATION BASED ON ADJUSTED GROSS
17 INCOME.—

18 “(A) IN GENERAL.—The amount allowable
19 as a credit under subsection (a) (after the ap-
20 plication of paragraph (1) and determined with-
21 out regard to this paragraph) for the taxable
22 year shall be reduced (but not below zero) by
23 \$2 for every \$50 by which the taxpayer’s modi-
24 fied adjusted gross income for such taxable year
25 exceeds \$75,000 (\$150,000 in the case of a
26 joint return).

1 “(B) MODIFIED ADJUSTED GROSS IN-
2 COME.—The term ‘modified adjusted gross in-
3 come’ means the adjusted gross income of the
4 taxpayer for the taxable year increased by any
5 amount excluded from gross income under sec-
6 tion 911, 931, or 933.

7 “(c) QUALIFIED TRAVEL EXPENSE.—For purposes
8 of this section—

9 “(1) IN GENERAL.—The term ‘qualified travel
10 expense’ means any amount paid or incurred for
11 travel within the United States which is at least 50
12 miles from the individual’s home and includes an
13 overnight stay, including amounts paid or incurred
14 for food and beverages, lodging, recreation, trans-
15 portation, amusement or entertainment, including
16 live entertainment and sporting events, and gasoline.

17 “(2) MINIMUM AMOUNT.—Any expense (deter-
18 mined by treating all items on a single receipt as 1
19 expense) which is less than \$25 shall not be taken
20 into account under paragraph (1).

21 “(3) UNITED STATES.—The term ‘United
22 States’ includes the territories and possessions of the
23 United States.

24 “(4) EXCEPTION.—For purposes of paragraph
25 (1), amounts paid with respect to a residence or

1 other lodging owned by the individual shall not be
2 treated as qualified travel expenses.

3 “(d) ELECTION TO CARRY CREDIT TO PRECEDING
4 YEAR.—At the election of the taxpayer, any credit allow-
5 able under this section for a taxable year may be carried
6 back (in its entirety) to the preceding taxable year and
7 treated as a credit allowed under this subpart for such
8 year.

9 “(e) RESTRICTIONS.—No credit shall be allowed to
10 an individual under subsection (a) with respect to a quali-
11 fied travel expense if—

12 “(1) the individual receives a refund or reim-
13 bursement from any person for the expense,

14 “(2) a deduction is allowed under section 162
15 with respect to the expense,

16 “(3) a deduction under section 151 with respect
17 to individual is allowable to another taxpayer for
18 such taxable year, or

19 “(4) the individual does not attach sufficient
20 evidence of the expense, as prescribed by the Sec-
21 retary, to the return of tax for such taxable year.

22 “(f) TERMINATION.—This section shall not apply to
23 any qualified travel expenses paid or incurred after De-
24 cember 31, 2023.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subpart C of part IV of subchapter A of chapter 1
3 of the Internal Revenue Code of 1986 is amended by in-
4 serting after the item relating to section 36 the following
5 new item:

6 (c) CONFORMING AMENDMENT.—Section
7 6211(b)(4)(A) of the Internal Revenue Code of 1986 is
8 amended by inserting “, 36A” after “36”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to amounts paid or incurred after
11 December 31, 2020.

12 **SEC. 7. ESTABLISHMENT OF TEMPORARY TAX CREDIT FOR**
13 **UNMERCHANTABLE INVENTORY.**

14 (a) IN GENERAL.—For purposes of section 38 of the
15 Internal Revenue Code of 1986, in the case of an eligible
16 taxpayer, the unmerchantable inventory credit shall be
17 treated as a credit listed at the end of subsection (b) of
18 such section. For purposes of this subsection, the
19 unmerchantable inventory credit for any taxable year be-
20 ginning after December 31, 2019, and ending before April
21 1, 2021, shall be equal to 90 percent of the qualified
22 unmerchantable inventory costs incurred by the eligible
23 taxpayer during such taxable year.

1 (b) ELIGIBLE TAXPAYER.—For purposes of this sec-
 2 tion, the term “eligible taxpayer” means any taxpayer
 3 which—

4 (1) on March 13, 2020, was engaged in an ac-
 5 tive trade or business of selling food or beverage in-
 6 ventory as a manufacturer, importer, wholesale dis-
 7 tributor, or retailer, and

8 (2) with respect to such trade or business—

9 (A) on or after March 13, 2020, held
 10 qualified unmerchantable inventory, or

11 (B) incurred costs described in subsection
 12 (c)(1)(A)(i).

13 (c) QUALIFIED UNMERCHANTABLE INVENTORY
 14 COSTS.—

15 (1) IN GENERAL.—For purposes of this section,
 16 the qualified unmerchantable inventory costs in-
 17 curred by an eligible taxpayer during any taxable
 18 year shall be equal to—

19 (A) an amount equal to the sum of—

20 (i) any costs described in section
 21 263A(a)(2) of the Internal Revenue Code
 22 of 1986 with respect to the purchase or ac-
 23 quisition of any qualified unmerchantable
 24 inventory during such taxable year,

1 (ii) any costs relating to disposal or
2 destruction of any qualified unmerchant-
3 able inventory during such taxable year,
4 and

5 (iii) any amount paid or credited by
6 such eligible taxpayer during such taxable
7 year to any other person for purposes of
8 apportioning or sharing costs relating to
9 products which, in the hands of such eligi-
10 ble taxpayer, would be deemed to be quali-
11 fied unmerchantable inventory, minus

12 (B) an amount equal to the sum of—

13 (i) any amount received by such eligi-
14 ble taxpayer during such taxable year from
15 any other person for purposes of appor-
16 tioning or sharing costs with respect to
17 qualified unmerchantable inventory,

18 (ii) any amounts compensated by in-
19 surance for any loss sustained by such eli-
20 gible taxpayer during such taxable year
21 with respect to qualified unmerchantable
22 inventory, and

23 (iii) any amounts received under the
24 Coronavirus Food Assistance Program

1 under part 9 of title 7, Code of Federal
2 Regulations (or successor regulations).

3 (2) DIRECT COSTS FOR MANUFACTURERS.—In
4 the case of a manufacturer, the costs described in
5 paragraph (1)(A)(i) shall include any transportation
6 costs which would not otherwise have been capital-
7 ized pursuant to section 263A of the Internal Rev-
8 enue Code of 1986.

9 (d) QUALIFIED UNMERCHANTABLE INVENTORY.—

10 (1) IN GENERAL.—For purposes of this section,
11 the term “qualified unmerchantable inventory”
12 means any food or beverage inventory which—

13 (A) was manufactured or acquired by the
14 eligible taxpayer, and

15 (B) became unmerchantable during the pe-
16 riod beginning on March 13, 2020, and ending
17 on September 30, 2020.

18 (2) UNMERCHANTABLE.—For purposes of this
19 subsection, the term “unmerchantable” shall include
20 any food or beverage products which cannot be sold
21 due to—

22 (A) spoilage,

23 (B) expiration pursuant to the manufac-
24 turer code date or applicable industry freshness
25 standards, or

1 (C) a change or limitation in market condi-
2 tions resulting in the lack of a customary and
3 reasonable market for such products.

4 (e) ELECTION TO HAVE CREDIT NOT APPLY.—

5 (1) IN GENERAL.—A taxpayer may elect to
6 have this section not apply for any taxable year.

7 (2) TIME FOR MAKING ELECTION.—An election
8 under paragraph (1) for any taxable year may be
9 made (or revoked) at any time before the expiration
10 of the 3-year period beginning on the last date pre-
11 scribed by law for filing the return for such taxable
12 year (determined without regard to extensions).

13 (3) MANNER OF MAKING ELECTION.—An elec-
14 tion under paragraph (1) (or revocation thereof)
15 shall be made in such manner as the Secretary of
16 the Treasury, or the Secretary's delegate, may by
17 regulations prescribe.

18 (f) DENIAL OF DOUBLE BENEFIT.—No deduction
19 shall be allowed under any provision of chapter 1 of the
20 Internal Revenue Code of 1986 with respect to any
21 amount taken in account in determining the credit allowed
22 to a taxpayer under this section.

○