

106TH CONGRESS  
1ST SESSION

# H. R. 803

To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax with respect to employees who participate in the military reserves and to allow a comparable credit for participating self-employed individuals.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1999

Mr. NETHERCUTT introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax with respect to employees who participate in the military reserves and to allow a comparable credit for participating self-employed individuals.

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 “Reserve Employer Tax  
5       Credit Act of 1999”.

1 **SEC. 2. TAX CREDIT FOR RESERVE FORCES PARTICIPA-**  
2 **TION.**

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

7 **“SEC. 45D. RESERVE FORCE PARTICIPATION CREDIT.**

8 “(a) GENERAL RULE.—For purposes of section 38,  
9 the reserve force participation credit determined under  
10 this section is an amount equal to the sum of—

11 “(1) the employment credit with respect to all  
12 qualified employees of the taxpayer, plus

13 “(2) the self-employment credit of a qualified  
14 self-employed taxpayer.

15 “(b) EMPLOYMENT CREDIT.—For purposes of this  
16 section—

17 “(1) IN GENERAL.—The employment credit  
18 with respect to a qualified employee of the taxpayer  
19 for any taxable year is equal to 50 percent of the  
20 amount of qualified compensation that would have  
21 been paid to the employee with respect to all periods  
22 during which the employee participates in qualified  
23 reserve duty to the exclusion of normal employment  
24 duties, including time spent in a travel status had  
25 the employee not been participating in qualified re-  
26 serve duty. The employment credit, with respect to

1 all qualified employees, is equal to the sum of the  
2 employment credits for each qualified employee  
3 under this subsection.

4 “(2) QUALIFIED COMPENSATION.—When used  
5 with respect to the compensation paid or that would  
6 have been paid to a qualified employee for any pe-  
7 riod during which the employee participates in quali-  
8 fied reserve duty, the term ‘qualified compensation’  
9 means compensation—

10 “(A) which is normally contingent on the  
11 employee’s presence for work and which would  
12 be deductible from the taxpayer’s gross income  
13 under section 162(a)(1) if the employee were  
14 present and receiving such compensation, and

15 “(B) which is not characterized by the tax-  
16 payer as vacation or holiday pay, or as sick  
17 leave or pay, or as any other form of pay for  
18 a nonspecific leave of absence, and with respect  
19 to which the number of days the employee par-  
20 ticipates in qualified reserve duty does not re-  
21 sult in any reduction in the amount of vacation  
22 time, sick leave, or other nonspecific leave pre-  
23 viously credited to or earned by the employee.

24 “(3) QUALIFIED EMPLOYEE.—The term ‘quali-  
25 fied employee’ means a person who—

1           “(A) has been an employee of the taxpayer  
2           for the 21-day period immediately preceding the  
3           period during which the employee participates  
4           in qualified reserve duty, and

5           “(B) is a member of the Ready Reserve of  
6           a reserve component of an Armed Force of the  
7           United States as defined in sections 10142 and  
8           10101 of title 10, United States Code.

9           “(c) SELF-EMPLOYMENT CREDIT.—

10           “(1) IN GENERAL.—The self-employment credit  
11           of a qualified self-employed taxpayer for any taxable  
12           year is equal to 50 percent of the excess, if any, of—

13           “(A) the self-employed taxpayer’s average  
14           daily self-employment income for the taxable  
15           year over

16           “(B) the average daily military pay and al-  
17           lowances received by the taxpayer during the  
18           taxable year, while participating in qualified re-  
19           serve duty to the exclusion of the taxpayer’s  
20           normal self-employment duties for the number  
21           of days the taxpayer participates in qualified re-  
22           serve duty during the taxable year, including  
23           time spent in a travel status.

24           “(2) AVERAGE DAILY SELF-EMPLOYMENT IN-  
25           COME AND AVERAGE DAILY MILITARY PAY AND AL-

1 ALLOWANCES.—As used with respect to a self-em-  
2 ployed taxpayer—

3 “(A) the term ‘average daily self-employ-  
4 ment income’ means the self-employment in-  
5 come (as defined in section 1402) of the tax-  
6 payer for the taxable year divided by the dif-  
7 ference between—

8 “(i) 365, and

9 “(ii) the number of days the taxpayer  
10 participates in qualified reserve duty dur-  
11 ing the taxable year, including time spent  
12 in a travel status, and

13 “(B) the term ‘average daily military pay  
14 and allowances’ means—

15 “(i) the amount paid to the taxpayer  
16 during the taxable year as military pay  
17 and allowances on account of the tax-  
18 payer’s participation in qualified reserve  
19 duty, divided by

20 “(ii) the total number of days the tax-  
21 payer participates in qualified reserve duty,  
22 including time spent in travel status.

23 “(3) QUALIFIED SELF-EMPLOYED TAXPAYER.—

24 The term ‘qualified self-employed taxpayer’ means a  
25 taxpayer who—

1           “(A) has net earnings from self-employ-  
 2           ment (as defined in section 1402) for the tax-  
 3           able year, and

4           “(B) is a member of the Ready Reserve of  
 5           a reserve component of an Armed Force of the  
 6           United States.

7           “(d) CREDIT IN ADDITION TO DEDUCTION.—The  
 8           employment credit provided in this section is in addition  
 9           to any deduction otherwise allowable with respect to com-  
 10          pensation actually paid to a qualified employee during any  
 11          period the employee participates in qualified reserve duty  
 12          to the exclusion of normal employment duties.

13          “(e) LIMITATIONS.—

14           “(1) MAXIMUM CREDIT.—

15           “(A) IN GENERAL.—The credit allowed by  
 16           subsection (a) for the taxable year—

17                   “(i) shall not exceed \$7,500 in the ag-  
 18                   gregate, and

19                   “(ii) shall not exceed \$2,000 with re-  
 20                   spect to each qualified employee.

21           “(B) CONTROLLED GROUPS.—For pur-  
 22           poses of applying the limitations in subpara-  
 23           graph (A)—

24                   “(i) all members of a controlled group  
 25                   shall be treated as one taxpayer, and

1                   “(ii) such limitations shall be allo-  
2                   cated among the members of such group in  
3                   such manner as the Secretary may pre-  
4                   scribe.

5                   For purposes of this subparagraph, all persons  
6                   treated as a single employer under subsection  
7                   (a) or (b) of section 52 or subsection (m) or (o)  
8                   of section 414 shall be treated as members of  
9                   a controlled group.

10                  “(2) DISALLOWANCE FOR FAILURE TO COMPLY  
11                  WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF  
12                  MEMBERS OF THE RESERVE COMPONENTS OF THE  
13                  ARMED FORCES OF THE UNITED STATES.—No credit  
14                  shall be allowed under subsection (a) to a taxpayer  
15                  for—

16                         “(A) any taxable year in which the tax-  
17                         payer is under a final order, judgment, or other  
18                         process issued or required by a district court of  
19                         the United States under section 4323 of title 38  
20                         of the United States Code with respect to a vio-  
21                         lation of chapter 43 of such title, and

22                         “(B) the two succeeding taxable years.

23                  “(3) DISALLOWANCE WITH RESPECT TO PER-  
24                  SONS ORDERED TO ACTIVE DUTY FOR TRAINING.—  
25                  No credit shall be allowed under subsection (a) to a

1 taxpayer with respect to any period for which the  
2 person on whose behalf the credit would otherwise be  
3 allowable is called or ordered to active duty for any  
4 of the following types of duty:

5 “(A) active duty for training under any  
6 provision of title 10, United States Code,

7 “(B) training at encampments, maneuvers,  
8 outdoor target practice, or other exercises under  
9 chapter 5 of title 32, United States Code, or

10 “(C) full-time National Guard duty, as de-  
11 fined in section 101(d)(5) of title 10, United  
12 States Code.

13 “(f) GENERAL DEFINITIONS AND SPECIAL RULES.—

14 “(1) MILITARY PAY AND ALLOWANCES.—The  
15 term ‘military pay’ means pay as that term is de-  
16 fined in section 101(21) of title 37, United States  
17 Code, and the term ‘allowances’ means the allow-  
18 ances payable to a member of the Armed Forces of  
19 the United States under chapter 7 of that title.

20 “(2) QUALIFIED RESERVE DUTY.—The term  
21 ‘qualified reserve duty’ includes only active duty per-  
22 formed, as designated in the reservist’s military or-  
23 ders, in support of a contingency operation as de-  
24 fined in section 101(a)(13) of title 10, United States  
25 Code.



1           “(3) NORMAL EMPLOYMENT AND SELF-EM-  
2           PLOYMENT DUTIES.—A person shall be deemed to  
3           be participating in qualified reserve duty to the ex-  
4           clusion of normal employment or self-employment  
5           duties if the person does not engage in or undertake  
6           any substantial activity related to the person’s nor-  
7           mal employment or self-employment duties while  
8           participating in qualified reserve duty unless in an  
9           authorized leave status or other authorized absence  
10          from military duties. If a person engages in or un-  
11          dertakes any substantial activity related to the per-  
12          son’s normal employment or self-employment duties  
13          at any time while participating in a period of quali-  
14          fied reserve duty, unless during a period of author-  
15          ized leave or other authorized absence from military  
16          duties, the person shall be deemed to have engaged  
17          in or undertaken such activity for the entire period  
18          of qualified reserve duty.

19           “(4) CERTAIN RULES TO APPLY.—Rules similar  
20          to the rules of subsections (c), (d), and (e) of section  
21          52 shall apply for purposes of this section.”

22          (b) CONFORMING AMENDMENT.—Section 38(b) of  
23          the Internal Revenue Code of 1986 (relating to general  
24          business credit) is amended—

1           (1) by striking “plus” at the end of paragraph  
2       (11),

3           (2) by striking the period at the end of para-  
4       graph (12) and inserting “, plus”, and

5           (3) by adding at the end the following new  
6       paragraph:

7           “(13) the reserve force participation credit de-  
8       termined under section 45D(a).”.

9       (c) CLERICAL AMENDMENT.—The table of sections  
10     for subpart D of part IV of subchapter A of chapter 1  
11     of the Internal Revenue Code of 1986 is amended by in-  
12     serting after the item relating to section 45C the following  
13     new item:

          “Sec. 45D. Reserve force participation credit.”.

14       (d) EFFECTIVE DATE.—The amendments made by  
15     this section shall apply to taxable years beginning after  
16     the calendar year which includes the date of the enactment  
17     of this Act.

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