

108TH CONGRESS
2D SESSION

H. R. 4821

To amend the Internal Revenue Code of 1986 to allow certain agricultural employers a credit against income tax for a portion of wages paid to nonimmigrant H-2A workers.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2004

Mr. GORDON 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 allow certain agricultural employers a credit against income tax for a portion of wages paid to nonimmigrant H-2A workers.

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. CREDIT FOR EMPLOYMENT OF H-2A WORKERS.**

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

1 **“SEC. 45G. CREDIT FOR EMPLOYMENT OF H-2A WORKERS.**

2 “(a) GENERAL RULE.—For purposes of section 38,
3 the H-2A worker credit for any taxable year shall be an
4 amount equal to 10 percent of the aggregate H-2A worker
5 amounts with respect to H-2A workers employed by the
6 taxpayer during such taxable year.

7 “(b) H-2A WORKER AMOUNT.—For purposes of this
8 section, the term ‘H-2A worker amount’ means, with re-
9 spect to any employee of the taxpayer—

10 “(1) the aggregate number of hours of agricul-
11 tural labor and services (within the meaning of sec-
12 tion 101(a)(15)(H) of the Immigration and Nation-
13 ality Act) for which such employee was compensated
14 by the taxpayer during the taxable year, multiplied
15 by

16 “(2) the excess (if any) of—

17 “(A) the hourly wage rate required to com-
18 ply with the requirement of section
19 218(a)(1)(B) of the Immigration and Nation-
20 ality Act with respect to such employee, over

21 “(B) the greater of—

22 “(i) the hourly Federal minimum
23 wage rate (applicable under section 6 of
24 the Fair Labor Standards Act of 1938),
25 and

1 “(ii) the applicable hourly minimum
2 wage rate specified under State law for the
3 State in which the H-2A worker is em-
4 ployed.

5 “(c) H-2A WORKER.—For purposes of this section,
6 the term ‘H-2A worker’ has the meaning given such term
7 in section 218(i)(2) of the Immigration and Nationality
8 Act.”.

9 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
10 of section 280C of such Code is amended by inserting
11 “45G(a),” after “45A(a),”.

12 (c) CREDIT TREATED AS BUSINESS CREDIT.—Sub-
13 section (b) of section 38 of such Code is amended by strik-
14 ing “plus” at the end of paragraph (14), by striking the
15 period at the end of paragraph (15) and inserting “, plus”,
16 and by adding at the end the following:

17 “(16) the H-2A worker credit determined
18 under section 45G(a).”.

19 (d) CLERICAL AMENDMENT.—The table of sections
20 for subpart D of part IV of subchapter A of chapter 1
21 of such Code is amended by adding at the end the fol-
22 lowing:

“45G. Credit for employment of H-2A workers.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2003.

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