

110TH CONGRESS
1ST SESSION

S. 1849

To amend the Internal Revenue Code of 1986 to clarify that wages paid to unauthorized aliens may not be deducted from gross income, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2007

Mr. SMITH 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 clarify that wages paid to unauthorized aliens may not be deducted from gross income, 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 “Lawful Worker Tax
5 Deduction Act”.

1 **SEC. 2. CLARIFICATION THAT WAGES PAID TO UNAUTHOR-**
2 **IZED ALIENS MAY NOT BE DEDUCTED FROM**
3 **GROSS INCOME.**

4 (a) IN GENERAL.—Subsection (c) of section 162 of
5 the Internal Revenue Code of 1986 (relating to illegal
6 bribes, kickbacks, and other payments) is amended by
7 adding at the end the following new paragraph:

8 “(4) WAGES PAID TO OR ON BEHALF OF UNAU-
9 THORIZED ALIENS.—

10 “(A) IN GENERAL.—No deduction shall be
11 allowed under subsection (a) for any wage paid
12 to or on behalf of an unauthorized alien, as de-
13 fined under section 274A(h)(3) of the Immigra-
14 tion and Nationality Act (8 U.S.C.
15 1324a(h)(3)).

16 “(B) WAGES.—For the purposes of this
17 paragraph, the term ‘wages’ means all remu-
18 neration for employment, including the cash
19 value of all remuneration (including benefits)
20 paid in any medium other than cash.

21 “(C) SAFE HARBOR.—If a person or other
22 entity is participating in the basic pilot program
23 described in section 403 of the Illegal Immigra-
24 tion Reform and Immigrant Responsibility Act
25 of 1996 (8 U.S.C. 1324a note) and obtains con-
26 firmation of identity and employment eligibility

1 in compliance with the terms and conditions of
2 the program with respect to the hiring (or re-
3 cruitment or referral) of an employee, subpara-
4 graph (A) shall not apply with respect to wages
5 paid to such employee.”.

6 (b) 6-YEAR LIMITATION ON ASSESSMENT AND COL-
7 LECTION.—Subsection (c) of section 6501 of such Code
8 (relating to exceptions) is amended by adding at the end
9 the following new paragraph:

10 “(11) DEDUCTION CLAIMED FOR WAGES PAID
11 TO UNAUTHORIZED ALIENS.—In the case of a return
12 of tax on which a deduction is shown in violation of
13 section 162(c)(4), any tax under chapter 1 may be
14 assessed, or a proceeding in court for the collection
15 of such tax may be begun without assessment, at
16 any time within 6 years after the return was filed.”.

17 (c) USE OF DOCUMENTATION FOR ENFORCEMENT
18 PURPOSES.—Section 274A of the Illegal Immigration Re-
19 form and Immigrant Responsibility Act of 1996 is amend-
20 ed—

21 (1) in subparagraph (b)(5), by inserting “, sec-
22 tion 162(c)(4) of the Internal Revenue Code of
23 1986,” after “enforcement of this chapter”;

1 (2) in subparagraph (d)(2)(F), by inserting “,
2 section 162(c)(4) of the Internal Revenue Code of
3 1986,” after “enforcement of this chapter”; and

4 (3) in subparagraph (d)(2)(G), by inserting
5 “section 162(c)(4) of the Internal Revenue Code of
6 1986 or” after “or enforcement of”.

7 (d) AVAILABILITY OF INFORMATION.—The Commis-
8 sioner of Social Security shall make available to the Com-
9 missioner of Internal Revenue any information related to
10 the investigation and enforcement of section 162(c)(4) of
11 the Internal Revenue Code of 1986, including any no-
12 match letter and any information in the suspense earnings
13 file.

14 (e) EFFECTIVE DATE.—

15 (1) Except as provided in paragraph (2), this
16 Act and the amendments made by this Act shall
17 take effect on the date of the enactment of this Act.

18 (2) The amendments made by subsections (a)
19 and (b) shall apply to taxable years beginning after
20 December 31, 2007.

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