

110TH CONGRESS
1ST SESSION

S. 538

To reduce income tax withholding deposits to reflect a FICA payroll tax credit for certain employers located in specified portions of the GO Zone, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2007

Ms. LANDRIEU introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To reduce income tax withholding deposits to reflect a FICA payroll tax credit for certain employers located in specified portions of the GO Zone, 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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Work, Hope, and Opportunity for the Disaster Area
6 Today Act”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. REDUCTION IN INCOME TAX WITHHOLDING DEPOS-**
 5 **ITS TO REFLECT FICA PAYROLL TAX CREDIT**
 6 **FOR CERTAIN EMPLOYERS LOCATED IN**
 7 **SPECIFIED PORTIONS OF THE GO ZONE DUR-**
 8 **ING 2007.**

9 (a) GENERAL RULE.—In the case of any applicable
 10 calendar quarter—

11 (1) the aggregate amount of required income
 12 tax deposits of an eligible employer for the calendar
 13 quarter following the applicable calendar quarter
 14 shall be reduced by the payroll tax credit equivalent
 15 amount for the applicable calendar quarter, and

16 (2) the amount of any deduction allowable to
 17 the eligible employer under chapter 1 of the Internal
 18 Revenue Code of 1986 for taxes paid under section
 19 3111 of such Code with respect to employment dur-
 20 ing the applicable calendar quarter shall be reduced
 21 by such payroll tax credit equivalent amount.

22 For purposes of the Internal Revenue Code of 1986, an
 23 eligible employer shall be treated as having paid, and an
 24 eligible employee shall be treated as having received, any

1 wages or compensation deducted and withheld but not de-
 2 posited by reason of paragraph (1).

3 (b) CARRYOVERS OF UNUSED AMOUNTS.—If the
 4 payroll tax credit equivalent amount for any applicable cal-
 5 endar quarter exceeds the required income tax deposits for
 6 the following calendar quarter—

7 (1) such excess shall be added to the payroll tax
 8 credit equivalent amount for the next applicable cal-
 9 endar quarter, and

10 (2) in the case of the last applicable calendar
 11 quarter, such excess shall be used to reduce required
 12 income tax deposits for any succeeding calendar
 13 quarter until such excess is used.

14 (c) PAYROLL TAX CREDIT EQUIVALENT AMOUNT.—
 15 For purposes of this section—

16 (1) IN GENERAL.—The term “payroll tax credit
 17 equivalent amount” means, with respect to any ap-
 18 plicable calendar quarter, an amount equal to 7.65
 19 percent of the aggregate amount of wages or com-
 20 pensation—

21 (A) paid or incurred by the eligible em-
 22 ployer with respect to employment of eligible
 23 employees during the applicable calendar quar-
 24 ter, and

1 (B) subject to the tax imposed by section
 2 3111 of the Internal Revenue Code of 1986.

3 (2) TRADE OR BUSINESS REQUIREMENT.—A
 4 rule similar to the rule of section 51(f) of such Code
 5 shall apply for purposes of this section.

6 (3) LIMITATION ON WAGES SUBJECT TO CRED-
 7 IT.—For purposes of this subsection, only wages and
 8 compensation of an eligible employee in an applica-
 9 ble calendar quarter, when added to such wages and
 10 compensation for any preceding applicable calendar
 11 quarter, not exceeding \$15,000 shall be taken into
 12 account with respect to such employee.

13 (d) ELIGIBLE EMPLOYER; ELIGIBLE EMPLOYEE.—
 14 For purposes of this section—

15 (1) ELIGIBLE EMPLOYER.—

16 (A) IN GENERAL.—The term “eligible em-
 17 ployer” means any employer which conducts an
 18 active trade or business in one or more specified
 19 portions of the GO Zone and employs not more
 20 than 100 full-time employees on the date of the
 21 enactment of this Act.

22 (B) SPECIFIED PORTIONS OF THE GO
 23 ZONE.—The term “specified portions of the GO
 24 Zone” has the meaning given such term by sec-

1 tion 1400N(d)(6)(C) of the Internal Revenue
2 Code of 1986.

3 (2) ELIGIBLE EMPLOYEE.—The term “eligible
4 employee” means with respect to an eligible em-
5 ployer an employee whose principal place of employ-
6 ment with such eligible employer is in one or more
7 specified portions of the GO Zone. Such term shall
8 not include an employee described in section
9 401(c)(1)(A).

10 (e) APPLICABLE CALENDAR QUARTER.—For pur-
11 poses of this section, the term “applicable calendar quar-
12 ter” means any of the 4 calendar quarters beginning in
13 2007.

14 (f) SPECIAL RULES.—For purposes of this section—

15 (1) REQUIRED INCOME TAX DEPOSITS.—The
16 term “required income tax deposits” means deposits
17 an eligible employer is required to make under sec-
18 tion 6302 of the Internal Revenue Code of 1986 of
19 taxes such employer is required to deduct and with-
20 hold under section 3402 of such Code.

21 (2) AGGREGATION RULES.—Rules similar to the
22 rules of subsections (a) and (b) of section 52 of the
23 Internal Revenue Code of 1986 shall apply.

24 (3) EMPLOYERS NOT ON QUARTERLY SYS-
25 TEM.—The Secretary of the Treasury shall prescribe

1 rules for the application of this section in the case
2 of an eligible employer whose required income tax
3 deposits are not made on a quarterly basis.

4 (4) ADJUSTMENTS FOR CERTAIN ACQUISITIONS,
5 ETC.—Under regulations prescribed by the Sec-
6 retary—

7 (A) ACQUISITIONS.—If, after December
8 31, 2006, an employer acquires the major por-
9 tion of a trade or business of another person
10 (hereafter in this paragraph referred to as the
11 “predecessor”) or the major portion of a sepa-
12 rate unit of a trade or business of a prede-
13 cessor, then, for purposes of applying this sec-
14 tion for any calendar quarter ending after such
15 acquisition, the amount of wages or compensa-
16 tion deemed paid by the employer during peri-
17 ods before such acquisition shall be increased by
18 so much of such wages or compensation paid by
19 the predecessor with respect to the acquired
20 trade or business as is attributable to the por-
21 tion of such trade or business acquired by the
22 employer.

23 (B) DISPOSITIONS.—If, after December
24 31, 2006—

(i) an employer disposes of the major portion of any trade or business of the employer or the major portion of a separate unit of a trade or business of the employer in a transaction to which paragraph (1) applies, and

(ii) the employer furnishes the acquiring person such information as is necessary for the application of subparagraph (A),

then, for purposes of applying this section for any calendar quarter ending after such disposition, the amount of wages or compensation deemed paid by the employer during periods before such disposition shall be decreased by so much of such wages as is attributable to such trade or business or separate unit.

(5) OTHER RULES.—

(A) GOVERNMENT EMPLOYERS.—This section shall not apply if the employer is the Government of the United States, the government of any State or political subdivision of the State, or any agency or instrumentality of any such government.

1 (B) TREATMENT OF OTHER ENTITIES.—
 2 Rules similar to the rules of subsections (d) and
 3 (e) of section 52 of such Code shall apply for
 4 purposes of this section.

5 **SEC. 3. BONUS BUSINESS TRAVEL DEDUCTION IN SPECI-**
 6 **FIED PORTIONS OF THE GO ZONE.**

7 (a) IN GENERAL.—Section 274(n)(2) (relating to ex-
 8 ceptions) is amended by striking “or” at the end of sub-
 9 paragraph (D), by striking the period at the end of sub-
 10 paragraph (E)(iv) and inserting “, or”, and by inserting
 11 after subparagraph (E)(iv) the following new subpara-
 12 graph:

13 “(F) such expense is for goods, services, or
 14 facilities made available before January 1,
 15 2010, in one or more specified portions of the
 16 GO Zone (as defined in section
 17 1400N(d)(6)(C)).”.

18 (b) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to expenses paid or incurred after
 20 the date of the enactment of this Act, in taxable years
 21 ending after such date.

1 **SEC. 4. EXTENSION OF INCREASED EXPENSING FOR QUALI-**
 2 **FIED SECTION 179 GULF OPPORTUNITY ZONE**
 3 **PROPERTY LOCATED IN SPECIFIED POR-**
 4 **TIONS OF THE GO ZONE.**

5 Paragraph (2) of section 1400N(e) (relating to quali-
 6 fied section 179 Gulf Opportunity Zone property) is
 7 amended—

8 (1) by striking “this subsection, the term” and
 9 inserting “this subsection—

10 “(A) IN GENERAL.—The term”, and

11 (2) by adding at the end the following new sub-
 12 paragraph:

13 “(B) EXTENSION FOR CERTAIN PROP-
 14 ERTY.—In the case of property substantially all
 15 of the use of which is in one or more specified
 16 portions of the GO Zone (as defined in sub-
 17 section (d)(6)(C)), such term shall include sec-
 18 tion 179 property (as so defined) which is de-
 19 scribed in subsection (d)(2), determined—

20 “(i) without regard to subsection
 21 (d)(6), and

22 “(ii) by substituting, in subparagraph
 23 (A)(v) thereof—

24 “(I) ‘2009’ for ‘2007’, and

25 “(II) ‘2009’ for ‘2008’.”.

1 **SEC. 5. EXTENSION OF WORK OPPORTUNITY TAX CREDIT**
 2 **FOR HURRICANE KATRINA EMPLOYEES**
 3 **HIRED BY SMALL BUSINESSES LOCATED IN**
 4 **SPECIFIED PORTIONS OF THE GO ZONE.**

5 (a) IN GENERAL.—Section 201(b)(1) of the Katrina
 6 Emergency Tax Relief Act of 2005 (Public Law 109–73)
 7 is amended by striking “who is hired during the 2-year
 8 period” and all that follows and inserting “who—

9 “(A) is hired during the 2-year period be-
 10 ginning on such date for a position the prin-
 11 cipal place of employment which is located in
 12 the core disaster area, or

13 “(B) is hired—

14 “(i) during the period beginning on
 15 the date of the enactment of the Work,
 16 Hope, Opportunity, and Disaster Area Tax
 17 Act of 2007 and ending before January 1,
 18 2010, for a position the principal place of
 19 employment which is located in one or
 20 more specified portions of the GO Zone (as
 21 defined in subsection 1400N(d)(6)(C) of
 22 the Internal Revenue Code of 1986), and

23 “(ii) by an employer who has no more
 24 than 100 employees on the date such indi-
 25 vidual is hired, and”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section take effect as if included in section 201 of
 3 the Katrina Emergency Tax Relief Act of 2005.

4 **SEC. 6. EXTENSION AND MODIFICATION OF 15-YEAR**
 5 **STRAIGHT-LINE COST RECOVERY FOR QUALI-**
 6 **FIED LEASEHOLD IMPROVEMENTS AND**
 7 **QUALIFIED RESTAURANT IMPROVEMENTS**
 8 **LOCATED IN SPECIFIED PORTIONS OF THE**
 9 **GO ZONE; 15-YEAR STRAIGHT-LINE COST RE-**
 10 **COVERY FOR CERTAIN IMPROVEMENTS TO**
 11 **RETAIL SPACE LOCATED IN SPECIFIED POR-**
 12 **TIONS OF THE GO ZONE.**

13 (a) EXTENSION OF LEASEHOLD AND RESTAURANT
 14 IMPROVEMENTS.—

15 (1) IN GENERAL.—Clauses (iv) and (v) of sec-
 16 tion 168(e)(3)(E) (relating to 15-year property) are
 17 each amended by striking “January 1, 2008” and
 18 inserting “January 1, 2008 (January 1, 2009, in the
 19 case of property placed in service in one or more
 20 specified portions of the GO Zone (as defined in sub-
 21 section 1400Nd)(6)(C))”.

22 (2) EFFECTIVE DATE.—The amendment made
 23 by this subsection shall apply to property placed in
 24 service after December 31, 2007.

1 (b) MODIFICATION OF TREATMENT OF QUALIFIED
 2 RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR
 3 PURPOSES OF DEPRECIATION DEDUCTION.—

4 (1) TREATMENT TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) (relating to
 5 classification of property) is amended to read as follows:
 6
 7

8 “(7) QUALIFIED RESTAURANT PROPERTY.—

9 “(A) IN GENERAL.—Except as provided in
 10 subparagraph (B), the term ‘qualified restaurant property’ means any section 1250 prop-
 11 erty which is an improvement to a building if—
 12

13 “(i) such improvement is placed in
 14 service more than 3 years after the date
 15 such building was first placed in service,
 16 and

17 “(ii) more than 50 percent of the
 18 building’s square footage is devoted to
 19 preparation of, and seating for on-premises
 20 consumption of, prepared meals.

21 “(B) PROPERTY LOCATED IN CERTAIN
 22 AREAS OF GO ZONE.—In the case of property
 23 placed in service in one or more specified por-
 24 tions of the GO Zone (as defined in subsection
 25 1400Nd)(6)(C)), such term means any section

1 1250 property which is a building (or its struc-
 2 tural components) or an improvement to such
 3 building if more than 50 percent of such build-
 4 ing's square footage is devoted to preparation
 5 of, and seating for on-premises consumption of,
 6 prepared meals.”.

7 (2) EFFECTIVE DATE.—The amendment made
 8 by this subsection shall apply to any property placed
 9 in service after the date of the enactment of this
 10 Act.

11 (c) RECOVERY PERIOD FOR DEPRECIATION OF CER-
 12 TAIN IMPROVEMENTS TO RETAIL SPACE.—

13 (1) 15-YEAR RECOVERY PERIOD.—Section
 14 168(e)(3)(E) (relating to 15-year property) is
 15 amended by striking “and” at the end of clause
 16 (vii), by striking the period at the end of clause (viii)
 17 and inserting “, and”, and by adding at the end the
 18 following new clause:

19 “(ix) any qualified retail improvement
 20 property placed in service before January
 21 1, 2009, in one or more specified portions
 22 of the GO Zone (as defined in subsection
 23 1400Nd)(6)(C).”.

1 (2) QUALIFIED RETAIL IMPROVEMENT PROP-
 2 ERTY.—Section 168(e) is amended by adding at the
 3 end the following new paragraph:

4 “(8) QUALIFIED RETAIL IMPROVEMENT PROP-
 5 ERTY.—

6 “(A) IN GENERAL.—The term ‘qualified
 7 retail improvement property’ means any im-
 8 provement to an interior portion of a building
 9 which is nonresidential real property if—

10 “(i) such portion is open to the gen-
 11 eral public and is used in the retail trade
 12 or business of selling tangible personal
 13 property to the general public, and

14 “(ii) such improvement is placed in
 15 service more than 3 years after the date
 16 the building was first placed in service.

17 “(B) IMPROVEMENTS MADE BY OWNER.—

18 In the case of an improvement made by the
 19 owner of such improvement, such improvement
 20 shall be qualified retail improvement property
 21 (if at all) only so long as such improvement is
 22 held by such owner. Rules similar to the rules
 23 under paragraph (6)(B) shall apply for pur-
 24 poses of the preceding sentence.

1 “(C) CERTAIN IMPROVEMENTS NOT IN-
 2 CLUDED.—Such term shall not include any im-
 3 provement for which the expenditure is attrib-
 4 utable to—

5 “(i) the enlargement of the building,

6 “(ii) any elevator or escalator,

7 “(iii) any structural component bene-
 8 fitting a common area, or

9 “(iv) the internal structural frame-
 10 work of the building.”.

11 (3) REQUIREMENT TO USE STRAIGHT LINE
 12 METHOD.—Section 168(b)(3) is amended by adding
 13 at the end the following new subparagraph:

14 “(I) Qualified retail improvement property
 15 described in subsection (e)(8).”.

16 (4) ALTERNATIVE SYSTEM.—The table con-
 17 tained in section 168(g)(3)(B) is amended by insert-
 18 ing after the item relating to subparagraph (E)(viii)
 19 the following new item:

 “(E)(ix) 39”.

20 (5) EFFECTIVE DATE.—The amendments made
 21 by this section shall apply to property placed in serv-
 22 ice after the date of the enactment of this Act.

○