

111TH CONGRESS
1ST SESSION

H. R. 3490

To amend the Internal Revenue Code of 1986 to provide tax incentives
for employer-provided wellness programs.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. JOHNSON of Illinois (for himself and Mr. ABERCROMBIE) 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 provide
tax incentives for employer-provided wellness programs.

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. WELLNESS PROGRAM EMPLOYER CREDIT.**

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 inserting after section 45Q the following new section:

8 **“SEC. 45R. WELLNESS PROGRAM EMPLOYER CREDIT.**

9 “(a) GENERAL RULE.—For purposes of section 38,
10 the wellness program employer credit determined under

1 this section for any taxable year is an amount equal to
2 30 percent of the expenses paid or incurred by the eligible
3 employer during the taxable year to develop and imple-
4 ment a qualified wellness program.

5 “(b) DOLLAR LIMITATION.—The amount of the cred-
6 it determined under this section for any taxable year shall
7 not exceed \$400 per qualified employee employed by the
8 eligible employer during the taxable year.

9 “(c) DEFINITIONS.—For purposes of this section—
10 “(1) ELIGIBLE EMPLOYER.—With respect to a
11 taxable year, the term ‘eligible employer’ means an
12 employer who—

13 “(A) develops and implements a qualified
14 wellness program, and

15 “(B) keeps accurate records of the preven-
16 tive services and other programs in which the
17 eligible employer’s employees have participated
18 during the taxable year.

19 “(2) QUALIFIED WELLNESS PROGRAM.—With
20 respect to an eligible employer, the term ‘qualified
21 wellness program’ means a program—

22 “(A) that is developed and implemented by
23 the eligible employer, in consultation with an in-
24 dividual who has implemented a wellness pro-
25 gram for a different employer and who will en-

1 sure compliance with appropriate measures to
2 protect the privacy of program participants,

3 “(B) that conducts health risk assessments
4 for each of the program’s participants,

5 “(C) that offers at least 2 of the preventive
6 services strongly recommended by the U.S. Pre-
7 ventive Services Task Force on an annual basis,

8 “(D) that offers annual counseling sessions
9 and seminars related to at least 4 of the fol-
10 lowing:

11 “(i) smoking,

12 “(ii) obesity,

13 “(iii) stress management,

14 “(iv) physical fitness,

15 “(v) nutrition,

16 “(vi) substance abuse,

17 “(vii) depression,

18 “(viii) mental health,

19 “(ix) heart disease, and

20 “(x) maternal and infant health, and

21 “(E) whose qualified participants include
22 not less than 60 percent of the eligible employ-
23 er’s full-time employees.

1 “(3) QUALIFIED EMPLOYEE.—With respect to
 2 an eligible employer, the term ‘qualified employee’
 3 means an individual who is—

4 “(A) a full-time employee of the eligible
 5 employer, and

6 “(B) a qualified participant in the eligible
 7 employer’s qualified wellness program.

8 “(4) QUALIFIED PARTICIPANT.—With respect
 9 to a taxable year, the term ‘qualified participant’
 10 means an individual—

11 “(A) who participates in at least 4 of the
 12 annual preventive services or other programs
 13 offered through a qualified wellness program
 14 during the taxable year, and

15 “(B) with respect to whom a health risk
 16 assessment has been conducted during the tax-
 17 able year,

18 as determined by the eligible employer who has de-
 19 veloped and implemented such qualified wellness
 20 program.

21 “(d) TERMINATION.—This section shall not apply in
 22 taxable years beginning after December 31, 2014.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 38(b) of such Code is amended by
 25 striking “plus” at the end of paragraph (34), by

1 striking the period at the end of paragraph (35) and
 2 inserting “, plus”, and by adding at the end the fol-
 3 lowing new paragraph:

4 “(36) the wellness program employer credit de-
 5 termined under section 45R(a).”.

6 (2) The table of sections for subpart D of part
 7 IV of subchapter A of chapter 1 of such Code is
 8 amended by inserting after the item relating to sec-
 9 tion 45Q the following new item:

“Sec. 45R. Wellness program employer credit.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 the date of the enactment of this Act.

13 **SEC. 2. WELLNESS PROGRAM PARTICIPANT CREDIT.**

14 (a) IN GENERAL.—Subpart A of part IV of sub-
 15 chapter A of chapter 1 of the Internal Revenue Code of
 16 1986 (relating to nonrefundable personal credits) is
 17 amended by inserting after section 25D the following new
 18 section:

19 **“SEC. 25E. WELLNESS PROGRAM PARTICIPANT CREDIT.**

20 “(a) ALLOWANCE OF CREDIT.—In the case of a
 21 qualified employee, there shall be allowed as a credit
 22 against the tax imposed by this chapter for the taxable
 23 year an amount equal to \$400.

24 “(b) DEFINITIONS.—For purposes of this section—

1 “(1) QUALIFIED EMPLOYEE.—With respect to
2 an eligible employer, the term ‘qualified employee’
3 means an individual who is—

4 “(A) a full-time employee of the eligible
5 employer, and

6 “(B) a qualified participant in the eligible
7 employer’s qualified wellness program.

8 “(2) QUALIFIED PARTICIPANT.—With respect
9 to a taxable year, the term ‘qualified participant’
10 means an individual—

11 “(A) who participates in at least 4 of the
12 annual preventive services or other programs
13 offered through a qualified wellness program
14 during the taxable year, and

15 “(B) with respect to whom a health risk
16 assessment has been conducted during the tax-
17 able year,

18 as determined by the eligible employer who has de-
19 veloped and implemented such qualified wellness
20 program.

21 “(3) QUALIFIED WELLNESS PROGRAM.—With
22 respect to an eligible employer, the term ‘qualified
23 wellness program’ means a program—

24 “(A) that is developed and implemented by
25 the eligible employer, in consultation with an in-

dividual who has implemented a wellness program for a different employer and who will ensure compliance with appropriate measures to protect the privacy of program participants,

“(B) that conducts health risk assessments for each of the program’s participants,

“(C) that offers at least 2 of the preventive services strongly recommended by the U.S. Preventive Services Task Force on an annual basis,

“(D) that offers annual counseling sessions and seminars related to at least 4 of the following:

“(i) smoking,

“(ii) obesity,

“(iii) stress management,

“(iv) physical fitness,

“(v) nutrition,

“(vi) substance abuse,

“(vii) depression,

“(viii) mental health,

“(ix) heart disease, and

“(x) maternal and infant health, and

“(E) whose qualified participants include not less than 60 percent of the eligible employer’s full-time employees.

1 “(4) ELIGIBLE EMPLOYER.—With respect to a
2 taxable year, the term ‘eligible employer’ means an
3 employer who—

4 “(A) develops and implements a qualified
5 wellness program, and

6 “(B) keeps accurate records of the preven-
7 tive services and other programs in which the
8 eligible employer’s employees have participated
9 during the taxable year.

10 “(c) TERMINATION.—This section shall not apply in
11 taxable years beginning after December 31, 2014.”.

12 (b) CONFORMING AMENDMENT.—The table of sec-
13 tions for subpart A of part IV of subchapter A of chapter
14 1 of such Code is amended by inserting after the item
15 relating to section 25D the following new item:

 “Sec. 25E. Wellness program participant credit.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

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