

111TH CONGRESS
1ST SESSION

H. R. 4179

To amend the Internal Revenue Code of 1986 to keep Americans working by creating a refundable work-sharing tax credit that stimulates demand in the private sector labor market and provides employers with an alternative to layoffs.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 2, 2009

Mr. CONYERS (for himself, Mr. JOHNSON of Georgia, Ms. LEE of California, and Mr. MASSA) 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 keep Americans working by creating a refundable work-sharing tax credit that stimulates demand in the private sector labor market and provides employers with an alternative to layoffs.

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 “Shortening Hours and
5 Retaining Employees Credit Act of 2009” or the “SHARE
6 Credit Act of 2009”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to keep Americans working
3 by encouraging employers to hold wages constant while de-
4 creasing employee work hours as a means of providing an
5 alternative to layoffs and promoting labor demand in the
6 private sector.

7 **SEC. 3. WORK SHARE CREDIT.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of
10 1986 (relating to refundable credits) is amended by add-
11 ing at the end the following new section:

12 **“SEC. 36B. WORK SHARE CREDIT.**

13 “(a) IN GENERAL.—There shall be allowed as a cred-
14 it against the tax imposed by this subtitle an amount equal
15 the wages paid or incurred by the taxpayer during the tax-
16 able year to each qualified work share employee.

17 “(b) MAXIMUM CREDIT PER EMPLOYEE.—The credit
18 allowed by this section with respect to each qualified work
19 share employee shall not exceed the lesser of—

20 “(1) \$3,000, or

21 “(2) 10 percent of the wages paid or incurred
22 to the employee for periods (during the taxable year)
23 during which the employee did not perform services
24 for the employer by reason of a reduction described
25 in subsection (d)(1)(A)(ii)(II).

1 “(c) QUALIFIED WORK SHARE EMPLOYEE.—For
2 purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified work
4 share employee’ means any employee of the taxpayer
5 for any period if—

6 “(A) substantially all of the services per-
7 formed during such period by such employee for
8 such employer are performed in the United
9 States in a trade or business of the employer,
10 and

11 “(B) such employee is participating in a
12 qualified work share program of the employer.

13 “(2) EXCEPTIONS.—Such term shall not in-
14 clude any individual who is described in any sub-
15 paragraph of section 1396(d)(2).

16 “(d) QUALIFIED WORK SHARE PROGRAM.—For pur-
17 poses of this section—

18 “(1) IN GENERAL.—The term ‘qualified work
19 share program’ means any written program of the
20 employer—

21 “(A) under which employees who partici-
22 pate in the program—

23 “(i) perform the same functions they
24 would have performed were they not par-
25 ticipants in the program, and

1 “(ii) receive the same wages and bene-
2 fits that they would have received—

3 “(I) were they not participants in
4 the program, and

5 “(II) without regard to any re-
6 duction in the hours of the employee’s
7 service (including any reduction in the
8 form of increased required paid leave
9 or paid vacation) required by the em-
10 ployer as a condition of participating
11 in the program,

12 “(B) which is determined by the Secretary
13 to have adequate recordkeeping and reporting
14 procedures to comply with the requirements
15 under this section,

16 “(C) which meets the disclosure require-
17 ments of paragraph (2), and

18 “(D) which meets rules similar to the rules
19 of paragraphs (2), (3), and (6) of section
20 127(d).

21 The application of this paragraph to individuals em-
22 ployed on an hourly basis shall be determined under
23 regulations prescribed by the Secretary.

1 “(2) EMPLOYER COMPLIANCE DISCLOSURE.—A
2 program meets the disclosure requirements of the
3 paragraph if—

4 “(A) in the case of an employer with a
5 publicly accessible Internet website, the em-
6 ployer posts the hour reductions made for the
7 purpose of qualifying for a credit under this
8 section within 24 hours of such reductions
9 being authorized by the employer, and

10 “(B) in the case of any other employer, the
11 employer transfers information, including the
12 amount of hour reductions made for the pur-
13 pose of qualifying for a credit under this sec-
14 tion, to the Secretary within 24 hours of such
15 reductions being authorized by the employer.

16 “(e) WAGES.—For purposes of this section, the term
17 ‘wages’ has the meaning given to such term by section
18 51(c).

19 “(f) CONTROLLED GROUPS.—Rules similar to the
20 rules of subsections (b) and (c) of section 1397 shall apply
21 for purposes of this section.”.

22 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
23 of section 280C of such Code is amended by inserting
24 “36B(a),” after “45P(a),”.

25 (c) CONFORMING AMENDMENTS.—

1 (1) Section 1324(b)(2) of title 31, United
2 States Code, is amended by inserting “36B,” after
3 “36A,”.

4 (2) The table of sections for subpart C of part
5 IV of subchapter A of chapter 1 of such Code is
6 amended by inserting after the item relating to sec-
7 tion 36A the following new item:

“Sec. 36B. Work share credit.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to qualified work shares initiated
10 after the date of the enactment of this Act in taxable years
11 ending after such date.

12 (e) PAYMENTS TO GOVERNMENTS AND OTHER TAX-
13 EXEMPT ENTITIES.—

14 (1) IN GENERAL.—In the case of any entity to
15 which this subsection applies, the Secretary of the
16 Treasury shall pay (without interest) to such entity
17 an amount equal to the credit which would be al-
18 lowed under section 36B of the Internal Revenue
19 Code of 1986 (as added by this section) were such
20 entity subject to the taxes imposed by chapter 1 of
21 such Code.

22 (2) ENTITIES ENTITLED TO PAYMENTS.—This
23 subsection shall apply to—

1 (A) any State, political subdivision of a
2 State, or agency or instrumentality of one or
3 more States or political subdivisions, and

4 (B) any organization exempt from tax
5 under section 501(a) of such Code (other than
6 an organization required to make a return of
7 the tax imposed under subtitle A of such Code
8 for the taxable year).

9 (3) TIME FOR FILING CLAIMS; PERIOD COV-
10 ERED.—Not more than one claim may be filed under
11 paragraph (1) by any entity with respect to wages
12 paid or incurred during any calendar year, and no
13 claim shall be allowed under this paragraph with re-
14 spect to any calendar year unless filed by such entity
15 not later than 3 years after the close of such cal-
16 endar year.

17 (f) USE OF PAYROLL TAX DATA FOR EMPLOYER
18 COMPLIANCE PURPOSES.—No later than 60 days after the
19 enactment of this Act, the Secretary of the Treasury shall
20 establish a system—

21 (1) to verify employer compliance with section
22 36B of the Internal Revenue Code of 1986 (as
23 added by this section) using payroll tax data, and

1 (2) to allow employers to comply with the re-
2 requirements in section 36B(d)(2) of such Code (as so
3 added).

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