

111TH CONGRESS
2D SESSION

H. R. 4437

To amend the Internal Revenue Code of 1986 to allow employers a refundable credit for increasing employment.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2010

Mr. ETHERIDGE (for himself, Mr. KAGEN, Mr. ISRAEL, Mr. JACKSON of Illinois, Mr. HINCHEY, Mr. COURTNEY, Mr. SKELTON, Mr. BUTTERFIELD, and Mr. PRICE of North Carolina) 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 employers a refundable credit for increasing employment.

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 “Hiring Incentives to
5 Reinvest and Incentivize New Growth Act of 2010” or the
6 “HIRING Act of 2010”.

1 **SEC. 2. REFUNDABLE CREDIT FOR INCREASING EMPLOY-**
 2 **MENT.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to refundable credits) is amended by insert-
 6 ing after section 36A the following new section:

7 **“SEC. 36B. CREDIT FOR INCREASING EMPLOYMENT.**

8 “(a) IN GENERAL.—There shall be allowed as a cred-
 9 it against the tax imposed by this subtitle—

10 “(1) for any taxable year beginning in 2010, an
 11 amount equal to 15 percent of the excess (if any)
 12 of—

13 “(A) the aggregate wages paid during
 14 2010, over

15 “(B) the inflation-adjusted wages paid dur-
 16 ing 2009, and

17 “(2) for any taxable year beginning in 2011, an
 18 amount equal to 10 percent of the excess (if any)
 19 of—

20 “(A) the aggregate wages paid during
 21 2011, over

22 “(B) the inflation-adjusted wages paid dur-
 23 ing 2010.

24 “(b) QUARTERLY ADVANCE PAYMENTS OF CRED-
 25 IT.—

1 “(1) IN GENERAL.—The Secretary shall pay
2 (without interest) to each employer for each calendar
3 quarter an amount equal to the credit percentage of
4 the excess (if any) of—

5 “(A) the aggregate wages paid by the em-
6 ployer during such quarter, over

7 “(B) the inflation-adjusted wages paid by
8 the employer during the comparable quarter of
9 the preceding calendar year.

10 “(2) CREDIT PERCENTAGE.—For purposes of
11 paragraph (1), the credit percentage is—

12 “(A) 15 percent in the case of the calendar
13 quarters of 2010, and

14 “(B) 10 percent in the case of the calendar
15 quarters of 2011.

16 “(3) RECONCILIATION.—

17 “(A) IN GENERAL.—If there is a payment
18 under paragraph (1) for 1 or more calendar
19 quarters ending with or within a taxable year,
20 then the tax imposed by this chapter for such
21 taxable year shall be increased by the aggregate
22 amount of such payments.

23 “(B) RECONCILIATION.—Any increase in
24 tax under subparagraph (A) shall not be treat-
25 ed as tax imposed by this chapter for purposes

1 of determining the amount of any credit (other
2 than the credit under subsection (a)) allowable
3 under this part.

4 “(4) TIME FOR FILING CLAIM.—No claim shall
5 be allowed under this subsection with respect to any
6 calendar quarter unless filed on or before the earlier
7 of—

8 “(A) the last day of the succeeding quar-
9 ter, or

10 “(B) the time prescribed by law for filing
11 the return of tax imposed by this chapter for
12 the taxable year in which or with which such
13 quarter ends.

14 “(5) INTEREST.—Notwithstanding paragraph
15 (1), if the Secretary has not paid pursuant to a
16 claim filed under this subsection within 45 days of
17 the date of the filing of such claim (20 days in the
18 case of an electronic claim), the claim shall be paid
19 with interest from such date determined by using
20 the overpayment rate and method under section
21 6621.

22 “(c) TOTAL WAGES MUST INCREASE.—The amount
23 of credit allowed under this section for any taxable year
24 shall not exceed the amount which would be so allowed
25 for such year if—

1 “(1) the aggregate amounts taken into account
2 as wages were determined without any dollar limita-
3 tion, and

4 “(2) 103 percent of the amount of wages other-
5 wise required to be taken into account under sub-
6 section (a)(1)(B) or subsection (a)(2)(B), as the
7 case may be, were taken into account.

8 “(d) INFLATION-ADJUSTED WAGES; WAGES.—For
9 purposes of this section—

10 “(1) INFLATION-ADJUSTED WAGES.—

11 “(A) IN GENERAL.—The term ‘inflation-
12 adjusted wages’ means, for any period—

13 “(i) the aggregate wages paid by the
14 employer during such period, increased by

15 “(ii) an amount equal to the inflation
16 percentage of such wages.

17 “(B) INFLATION PERCENTAGE.—The infla-
18 tion percentage is—

19 “(i) 3 percent for purposes of deter-
20 mining inflation-adjusted wages for periods
21 during 2009, and

22 “(ii) 5 percent for purposes of deter-
23 mining inflation-adjusted wages for periods
24 during 2010.

25 “(2) WAGES.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term ‘wages’ means,
3 with respect to any calendar year, so much of
4 wages (as defined in section 3121(a)) as does
5 not exceed the median household income in the
6 United States for the preceding calendar year.

7 “(B) RAILWAY LABOR.—In the case of re-
8 muneration subject to the tax imposed by
9 3201(a), the term ‘wages’ means, with respect
10 to any calendar year, so much of compensation
11 (as defined in section 3231(e)) as does not ex-
12 ceed the median household income in the
13 United States for the preceding calendar year.

14 “(e) SPECIAL RULES.—

15 “(1) ADJUSTMENTS FOR CERTAIN ACQUISI-
16 TIONS, ETC.—

17 “(A) ACQUISITIONS.—If, after December
18 31, 2008, an employer acquires the major por-
19 tion of a trade or business of another person
20 (hereinafter in this subparagraph referred to as
21 the ‘predecessor’) or the major portion of a sep-
22 arate unit of a trade or business of a prede-
23 cessor, then, for purposes of applying this sec-
24 tion for any calendar year ending after such ac-
25 quisition, the amount of wages deemed paid by

1 the employer during periods before such acqui-
2 sition shall be increased by so much of such
3 wages paid by the predecessor with respect to
4 the acquired trade or business as is attributable
5 to the portion of such trade or business ac-
6 quired by the employer.

7 “(B) DISPOSITIONS.—If, after December
8 31, 2008—

9 “(i) an employer disposes of the major
10 portion of any trade or business of the em-
11 ployer or the major portion of a separate
12 unit of a trade or business of the employer
13 in a transaction to which subparagraph
14 (A) applies, and

15 “(ii) the employer furnishes the ac-
16 quiring person such information as is nec-
17 essary for the application of subparagraph
18 (A),

19 then, for purposes of applying this section for
20 any calendar year ending after such disposition,
21 the amount of wages deemed paid by the em-
22 ployer during periods before such disposition
23 shall be decreased by so much of such wages as
24 is attributable to such trade or business or sep-
25 arate unit.

1 “(2) CHANGE IN STATUS FROM SELF-EM-
2 PLOYED TO EMPLOYEE.—If—

3 “(A) during 2009 or 2010 an individual
4 has net earnings from self-employment (as de-
5 fined in section 1402(a)) which are attributable
6 a trade or business, and

7 “(B) for any portion of the succeeding cal-
8 endar year such individual is an employee of
9 such trade or business,

10 then, for purposes of determining the credit allow-
11 able for a taxable year beginning in such succeeding
12 calendar year, the employer’s aggregate wages for
13 2009 or 2010, as the case may be, shall be increased
14 by an amount equal to so much of the net earnings
15 referred to in subparagraph (A) as does not exceed
16 the median household income in the United States
17 for 2009 or 2010, as the case may be.

18 “(3) CERTAIN OTHER RULES TO APPLY.—Rules
19 similar to the following rules shall apply for pur-
20 poses of this section:

21 “(A) Section 51(f) (relating to remunera-
22 tion must be for trade or business employment).

23 “(B) Section 51(k) (relating to treatment
24 of successor employers; treatment of employees
25 performing services for other persons).

1 “(C) Section 52 (relating to special rules).

2 “(4) SHORT TAXABLE YEARS.—If the employer
3 has more than 1 taxable year beginning in 2010 or
4 2011, the credit under this section shall be deter-
5 mined for the employer’s last taxable year beginning
6 in 2010 or 2011, as the case may be.

7 “(f) TAX-EXEMPT EMPLOYERS TREATED AS TAX-
8 PAYERS.—Solely for purposes of this section and section
9 6402, employers exempt from tax under section 501(a)
10 shall be treated as taxpayers.”.

11 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
12 of section 280C of such Code is amended by inserting
13 “36B(a),” before “45A(a)”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 1324(b)(2) of title 31, United
16 States Code, is amended by inserting “36B,” after
17 “36A,”.

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

“Sec. 36B. Credit for increasing employment.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2009.

1 (e) NOTICE OF AVAILABILITY OF CREDIT.—The Sec-
2 retary of the Treasury shall work with the State Employ-
3 ment Security Agencies to inform businesses of the avail-
4 ability of section 36B of the Internal Revenue Code of
5 1986 (as added by this Act).

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