111TH CONGRESS
2D SESSION

H. R. 4633

To amend the Internal Revenue Code of 1986 to provide an exemption from employer social security taxes with respect to previously unemployed individuals, and to provide a credit for the retention of such individuals for at least 1 year.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 22, 2010

Mr. BRALEY of Iowa introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to provide an exemption from employer social security taxes with respect to previously unemployed individuals, and to provide a credit for the retention of such individuals for at least 1 year.

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 "Back to Work Act of

5   2010".

SEC. 2. PAYROLL TAX FORGIVENESS FOR HIRING UNEM-PLOYED WORKERS.

(a) IN GENERAL.—Section 3111 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(d) SPECIAL EXEMPTION FOR CERTAIN INDIVIDUALS HIRED IN 2010.—

"(1) IN GENERAL.—Subsection (a) shall not apply to wages paid by a qualified employer with respect to employment during the period beginning on the day after the date of the enactment of this subsection and ending on December 31, 2010, of any qualified individual for services performed—

"(A) in a trade or business of such qualified employer, or

"(B) in the case of a qualified employer exempt from tax under section 501(a), in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501.

"(2) QUALIFIED EMPLOYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified employer' means any employer other than the United States, any State, or any political sub-

1 division thereof, or any instrumentality of the

2 foregoing.

3 "(B) TREATMENT OF EMPLOYEES OF

4 POST-SECONDARY EDUCATIONAL INSTITU-

5 TIONS.—Notwithstanding subparagraph (A),

6 the term 'qualified employer' includes any em-

7 ployer which is a public institution of higher

8 education (as defined in section 101(b) of the

9 Higher Education Act of 1965).

10 "(3) QUALIFIED INDIVIDUAL.—For purposes of

11 this subsection, the term 'qualified individual' means

12 any individual who—

13 "(A) begins employment with a qualified

14 employer after February 3, 2010, and before

15 January 1, 2011,

16 "(B) certifies by signed affidavit, under

17 penalties of perjury, that such individual has

18 not been employed for more than 40 hours dur-

19 ing the 60-day period ending on the date such

20 individual begins such employment,

21 "(C) is not employed by the qualified em-

22 ployer to replace another employee of such em-

23 ployer unless such other employee separated

24 from employment voluntarily or for cause, and

1 ''(D) is not an individual described in sec-

2 tion 51(i)(1) (applied by substituting 'qualified

3 employer' for 'taxpayer' each place it appears).

4 ''(4) ELECTION.—A qualified employer may

5 elect to have this subsection not apply. Such election

6 shall be made in such manner as the Secretary may

7 require.''.

8 (b) COORDINATION WITH WORK OPPORTUNITY

9 CREDIT.—Section 51(c) of such Code is amended by add-

10 ing at the end the following new paragraph:

11 ''(5) COORDINATION WITH PAYROLL TAX FOR-

12 GIVENESS.—The term 'wages' shall not include any

13 amount paid or incurred to a qualified individual (as

14 defined in section 3111(d)(3)) during the 1-year pe-

15 riod beginning on the hiring date of such individual

16 by a qualified employer (as defined in section

17 3111(d)) unless such qualified employer makes an

18 election not to have section 3111(d) apply.''.

19 (c) TRANSFERS TO FEDERAL OLD-AGE AND SUR-

20 VIVORS INSURANCE TRUST FUND.—There are hereby ap-

21 propriated to the Federal Old-Age and Survivors Trust

22 Fund and the Federal Disability Insurance Trust Fund

23 established under section 201 of the Social Security Act

24 (42 U.S.C. 401) amounts equal to the reduction in reve-

25 nues to the Treasury by reason of the amendments made

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1 by subsection (a). Amounts appropriated by the preceding
2 sentence shall be transferred from the general fund at
3 such times and in such manner as to replicate to the ex-
4 tent possible the transfers which would have occurred to
5 such Trust Fund had such amendments not been enacted.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to wages paid after the date of
8 the enactment of this Act.

SEC. 3. BUSINESS CREDIT FOR RETENTION OF CERTAIN
NEWLY HIRED INDIVIDUALS IN 2010.

11 (a) IN GENERAL.—In the case of any taxable year
12 ending after the date of the enactment of this Act, the
13 current year business credit determined under section
14 38(b) of the Internal Revenue Code of 1986 for such tax-
15 able year shall be increased by an amount equal to the
16 product of—

17   (1) $1,000, and

18   (2) the number of retained workers with respect
19   to which subsection (b)(2) is first satisfied during
20   such taxable year.

21 (b) RETAINED WORKER.—For purposes of this sec-
22 tion, the term "retained worker" means any qualified indi-
23 vidual (as defined in section 3111(d)(3) of the Internal
24 Revenue Code of 1986)—

1   (1) who was employed by the taxpayer on any

2 date during the taxable year,

3   (2) who was so employed by the taxpayer for a

4 period of not less than 52 consecutive weeks, and

5   (3) whose wages for such employment during

6 the last 26 weeks of such period equaled at least 80

7 percent of such wages for the first 26 weeks of such

8 period.

9 (c) LIMITATION ON CARRYBACKS.—No portion of the

10 unused business credit under section 38 of the Internal

11 Revenue Code of 1986 for any taxable year which is attrib-

12 utable to the increase in the current year business credit

13 under this section may be carried to a taxable year begin-

14 ning before the date of the enactment of this section.

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