

111TH CONGRESS
1ST SESSION

H. R. 55

To amend the Internal Revenue Code of 1986 to allow employers a refundable credit against income tax for 50 percent of the employer's cost of providing tax-free transit passes to employees.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. KIRK (for himself, Mr. LIPINSKI, Mrs. BIGGERT, and Mr. ROSKAM) 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 against income tax for 50 percent of the employer's cost of providing tax-free transit passes to employees.

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 “Creating Opportunities
5 to Motivate Mass-transit Utilization To Encourage Rider-
6 ship Act of 2009” or the “Commuter Act of 2009”.

1 **SEC. 2. REFUNDABLE EMPLOYER CREDIT FOR PROVIDING**
 2 **TAX-FREE TRANSIT PASSES TO EMPLOYEES.**

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 35 the following new section:

7 **“SEC. 35A. EMPLOYERS PROVIDING TAX-FREE TRANSIT**
 8 **PASSES TO EMPLOYEES.**

9 “(a) IN GENERAL.—In the case of an employer, there
 10 shall be allowed as a credit against the tax imposed by
 11 this subtitle for the taxable year an amount equal to 50
 12 percent of the amount paid or incurred by the taxpayer
 13 during the taxable year—

14 “(1) for transit passes provided to employees of
 15 such employer, and

16 “(2) as cash reimbursements made to such em-
 17 ployees for transit passes purchased by such employ-
 18 ees.

19 “(b) LIMITATION TO TAX-FREE TRANSIT PASSES.—
 20 Subsection (a) shall apply to a transit pass (or reimburse-
 21 ment) provided to an employee only to the extent that the
 22 employer reasonably expects that the value of such pass
 23 (or the amount of such reimbursement) is excludable from
 24 such employee’s income under section 132.

25 “(c) EXCLUSION OF NONTAXPAYERS.—Subsection
 26 (a) shall not apply to any employer which is exempt from

1 the tax imposed by this chapter with respect to the activity
 2 in which the employee is performing services for the em-
 3 ployer.

4 “(d) DEFINITIONS.—Terms used in this section shall
 5 have the respective meanings given such terms by section
 6 132.”.

7 (b) DENIAL OF DOUBLE BENEFIT.—Section 280C of
 8 such Code is amended by adding at the end the following
 9 new subsection:

10 “(g) EMPLOYER CREDIT FOR PROVIDING TAX-FREE
 11 TRANSIT PASSES TO EMPLOYEES.—No deduction shall be
 12 allowed for that portion of the expenses (otherwise allow-
 13 able as a deduction) taken into account in determining the
 14 credit under section 35A for the taxable year which is
 15 equal to the amount of the credit allowable for such tax-
 16 able year under section 35A(a).”.

17 (c) CLERICAL AMENDMENT.—The table of sections
 18 for such subpart C is amended by inserting after the item
 19 relating to section 35 the following new item:

“Sec. 35A. Employers providing tax-free transit passes to employees.”.

20 (d) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to transit passes provided after the
 22 date of the enactment of this Act in taxable years ending
 23 after such date.

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