

112TH CONGRESS  
2D SESSION

# S. 2107

To amend the extension of the temporary employee payroll tax holiday to give individuals the choice of whether to participate.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2012

Mr. LEE (for himself and Mr. DEMINT) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the extension of the temporary employee payroll tax holiday to give individuals the choice of whether to participate.

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 “Social Security Preser-  
5       vation through Individual Choice Enhancement Act”.

6       **SEC. 2. ELECTION TO TAKE EMPLOYEE PAYROLL TAX CUT.**

7       (a) IN GENERAL.—Section 601 of the Tax Relief,  
8       Unemployment Insurance Reauthorization, and Job Cre-  
9       ation Act of 2010 is amended by redesignating subsections  
10      (b) through (g) as subsections (c) through (i), respectively,

1 and by inserting after subsection (a) the following new  
 2 subsection:

3 “(b) ELECTION TO TAKE EMPLOYEE PAYROLL TAX  
 4 CUT.—

5 “(1) IN GENERAL.—Subsection (a) shall apply  
 6 with respect to remuneration received by any indi-  
 7 vidual for services rendered in a calendar year (or  
 8 taxable year beginning in the calendar year) in the  
 9 payroll tax holiday period only if a tax holiday elec-  
 10 tion under paragraph (2) is in effect with respect to  
 11 such calendar year.

12 “(2) TAX HOLIDAY ELECTION.—For purposes  
 13 of this subsection—

14 “(A) IN GENERAL.—The term ‘tax holiday  
 15 election’ means, with respect to the individual,  
 16 an election to have subsection (a) apply to a  
 17 calendar year (or taxable year beginning in  
 18 such calendar year) in the payroll tax holiday  
 19 period beginning in or after 2012. Any such  
 20 election shall remain in effect until such elec-  
 21 tion is revoked.

22 “(B) WHEN MADE.—An election with re-  
 23 spect to a calendar year (and a taxable year be-  
 24 ginning in the taxable year) may be made be-

1 fore July 1 of the calendar year for which such  
2 remuneration is received.

3 “(C) REVOCATION OF ELECTION.—Subject  
4 to such conditions as the Secretary deems nec-  
5 essary, an individual may revoke an election to  
6 have subsection (a) apply with respect to a cal-  
7 endar year (and taxable year beginning in the  
8 calendar year) if such revocation is made before  
9 July 1 of the calendar year.

10 “(D) TIME AND MANNER OF ELECTION  
11 AND REVOCATION.—Any election and revocation  
12 under this subsection shall be made at such  
13 time and in such manner as the Secretary may  
14 prescribe.

15 “(3) SPECIAL RULES.—

16 “(A) 1ST EMPLOYMENT OR SELF-EMPLOY-  
17 MENT AFTER BEGINNING OF YEAR.—In the  
18 case of an individual whose employment or self-  
19 employment first commences after the begin-  
20 ning of the calendar year or taxable year (as  
21 the case may be), the election under paragraph  
22 (2)(A) shall be made before or with the begin-  
23 ning of such employment.

24 “(B) MULTIPLE EMPLOYERS.—In the case  
25 that an individual is employed by more than 1

1 employer (including self-employment) for a pe-  
 2 riod, an election or revocation made under this  
 3 subsection made with respect to remuneration  
 4 from 1 employer shall apply to all employers.  
 5 For purposes of the preceding sentence, the  
 6 most recent valid election or revocation for a  
 7 period shall be the only election or revocation  
 8 (as the case may be) in effect for that period.

9 “(4) OVERPAYMENT AND UNDERPAYMENT OF  
 10 TAX.—

11 “(A) CREDIT FOR OVERPAYMENT.—See  
 12 sections 6402 and 6413 of such Code for provi-  
 13 sions relating to overpayments of employment  
 14 taxes.

15 “(B) UNDERPAYMENT OF TAXES.—If, by  
 16 reason of an election or revocation under this  
 17 subsection for a calendar year or taxable year,  
 18 an individual has a liability for tax under sec-  
 19 tion 1401(a), 3101(a), 3201(a), or 3211(a)(1)  
 20 of such Code for the taxable year beginning  
 21 with or in the calendar year, for purposes of  
 22 subtitle F of such Code, such liability, together  
 23 with interest on such liability at the under-  
 24 payment rate established under section 6621,

1           shall be assessed and collected in the manner  
2           prescribed by the Secretary.

3           “(5) REGULATIONS.—The Secretary, in con-  
4           sultation with the Commissioner of Social Security,  
5           shall prescribe such regulations or other guidance as  
6           may be necessary to carry out this subsection. Such  
7           regulations or other guidance shall include proce-  
8           dures providing for the exchange of information be-  
9           tween the Secretary and the Commissioner of Social  
10          Security for purposes of this subsection.”.

11          (b) EXTENSION OF RETIREMENT AGE IN CONNEC-  
12          TION WITH ELECTION TO TAKE PAYROLL TAX CUT.—  
13          Section 216(l) of the Social Security Act (42 U.S.C  
14          416(l)) is amended by adding at the end the following new  
15          paragraph:

16          “(4)(A) For each calendar year beginning with or  
17          after 2012 for which section 601(a) of the Tax Relief, Un-  
18          employment Insurance Reauthorization, and Job Creation  
19          Act of 2010 applies with respect to the wages received by  
20          an individual for services rendered in such year, the retire-  
21          ment age (as defined in paragraph (1)) of such individual  
22          shall be increased by 1 month.

23          “(B) In the case of any taxable year for which such  
24          section 601(a) applies (with respect to remuneration re-  
25          ceived by an individual as self-employment income for

1 services rendered in such taxable year), any calendar year  
2 in which such taxable year commences shall be treated as  
3 a calendar year for which such section 601(a) applies as  
4 described in subparagraph (A).”.

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