II

112TH CONGRESS
2D SESSION

S. 2884

To provide an incentive for businesses to bring jobs back to America.

IN THE SENATE OF THE UNITED STATES

MAY 8, 2012

Ms. STABENOW (for herself, Mr. WHITEHOUSE, and Mr. BROWN of Ohio) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To provide an incentive for businesses to bring jobs back to America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bring Jobs Home Act".

SEC. 2. CREDIT FOR INSOURCING EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 45S. CREDIT FOR INSOURCING EXPENSES.

"(a) IN GENERAL.—For purposes of section 38, the insourcing expenses credit for any taxable year is an amount equal to 20 percent of the eligible insourcing expenses of the taxpayer which are taken into account in such taxable year under subsection (d).

"(b) ELIGIBLE INSOURCING EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible insourcing expenses' means—

"(A) eligible expenses paid or incurred by the taxpayer in connection with the elimination of any business unit of the taxpayer (or of any member of any expanded affiliated group in which the taxpayer is also a member) located outside the United States, and

"(B) eligible expenses paid or incurred by the taxpayer in connection with the establishment of any business unit of the taxpayer (or of any member of any expanded affiliated group in which the taxpayer is also a member) located within the United States,

if such establishment constitutes the relocation of business unit so eliminated. For purposes of the preceding sentence, a relocation shall not be treated as failing to occur merely because such elimination occurs in a different taxable year than such establishment.

"(2) ELIGIBLE EXPENSES.—The term 'eligible expenses' means—

"(A) any amount for which a deduction is allowed to the taxpayer under section 162, and

"(B) permit and license fees, lease brokerage fees, equipment installation costs, and, to the extent provided by the Secretary, other similar expenses.

Such term does not include any compensation which is paid or incurred in connection with severance from employment and, to the extent provided by the Secretary, any similar amount.

"(3) BUSINESS UNIT.—The term 'business unit' means—

"(A) any trade or business, and

"(B) any line of business, or functional unit, which is part of any trade or business.

"(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined without regard to section 1504(b)(3) and by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears in section 1504(a). A partnership or any other entity (other than a corporation) shall be treated as a member of an expanded affiliated group if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this paragraph).

"(5) EXPENSES MUST BE PURSUANT TO INSOURCING PLAN.—Amounts shall be taken into account under paragraph (1) only to the extent that such amounts are paid or incurred pursuant to a written plan to carry out the relocation described in paragraph (1).

"(6) OPERATING EXPENSES NOT TAKEN INTO ACCOUNT.—Any amount paid or incurred in connection with the on-going operation of a business unit shall not be treated as an amount paid or incurred in connection with the establishment or elimination of such business unit.

"(c) INCREASED DOMESTIC EMPLOYMENT REQUIREMENT.—No credit shall be allowed under this section unless the number of full-time equivalent employees of the taxpayer for the taxable year for which the credit is claimed exceeds the number of full-time equivalent employees of the taxpayer for the last taxable year ending before the first taxable year in which such eligible insourcing expenses were paid or incurred. For purposes of this subsection, full-time equivalent employees has the meaning given such term under section 45R(d) (and the applicable rules of section 45R(e)). All employers treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer for purposes of this subsection.

"(d) CREDIT ALLOWED UPON COMPLETION OF INSOURCING PLAN.—

"(1) IN GENERAL.—Except as provided in paragraph (2), eligible insourcing expenses shall be taken into account under subsection (a) in the taxable year during which the plan described in subsection (b)(5) has been completed and all eligible insourcing expenses pursuant to such plan have been paid or incurred.

"(2) ELECTION TO APPLY EMPLOYMENT TEST AND CLAIM CREDIT IN FIRST FULL TAXABLE YEAR AFTER COMPLETION OF PLAN.—If the taxpayer elects the application of this paragraph, eligible insourcing expenses shall be taken into account under subsection (a) in the first taxable year after the taxable year described in paragraph (1).

"(e) POSSESSIONS TREATED AS PART OF THE UNITED STATES.—For purposes of this section, the term 'United States' shall be treated as including each possession of the United States (including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands).

"(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section.".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code is amended by striking "plus" at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting ", plus", and by adding at the end the following new paragraph:

"(37) the insourcing expenses credit determined under section 45S(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45S. Credit for insourcing expenses.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

(e) APPLICATION TO UNITED STATES POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall make periodic payments to each possession of the United States with a mirror code tax system in an amount equal to the loss to that possession by reason of section 45S of the Internal Revenue Code of 1986. Such amount shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall make annual payments to each possession of the United States which does not have a mirror code tax system in an amount estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of section 45S of such Code if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payment to the residents of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes under section 45S of such Code to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of such section, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B).

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSIONS OF THE UNITED STATES.—For purposes of this section, the term ''possession of the United States'' includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from sections referred to in such section 1324(b)(2).

SEC. 3. DENIAL OF DEDUCTION FOR OUTSOURCING EXPENSES.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 280I. OUTSOURCING EXPENSES.

"(a) IN GENERAL.—No deduction otherwise allowable under this chapter shall be allowed for any specified outsourcing expense.

"(b) SPECIFIED OUTSOURCING EXPENSE.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified outsourcing expense' means—

"(A) any eligible expense paid or incurred by the taxpayer in connection with the elimination of any business unit of the taxpayer (or of any member of any expanded affiliated group in which the taxpayer is also a member) located within the United States, and

"(B) any eligible expense paid or incurred by the taxpayer in connection with the establishment of any business unit of the taxpayer (or of any member of any expanded affiliated group in which the taxpayer is also a member) located outside the United States,

if such establishment constitutes the relocation of business unit so eliminated. For purposes of the preceding sentence, a relocation shall not be treated as failing to occur merely because such elimination occurs in a different taxable year than such establishment.

"(2) APPLICATION OF CERTAIN DEFINITIONS AND RULES.—

"(A) DEFINITIONS.—For purposes of this section, the terms 'eligible expenses', 'business unit', and 'expanded affiliated group' shall have the respective meanings given such terms by section 45S(b).

"(B) OPERATING EXPENSES NOT TAKEN INTO ACCOUNT.—A rule similar to the rule of section 45S(b)(6) shall apply for purposes of this section.

"(c) SPECIAL RULES.—

"(1) APPLICATION TO DEDUCTIONS FOR DEPRECIATION AND AMORTIZATION.—In the case of any portion of a specified outsourcing expense which is not deductible in the taxable year in which paid or incurred, such portion shall neither be chargeable to capital account nor amortizable.

"(2) POSSESSIONS TREATED AS PART OF THE UNITED STATES.—For purposes of this section, the term 'United States' shall be treated as including each possession of the United States (including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands).

"(d) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations which provide (or create a rebuttable presumption) that certain establishments of business units outside the United States will be treated as relocations (based on timing or such other factors as the Secretary may provide) of business units eliminated within the United States.''.

(b) LIMITATION ON SUBPART F INCOME OF CONTROLLED FOREIGN CORPORATIONS DETERMINED WITHOUT REGARD TO SPECIFIED OUTSOURCING EXPENSES.—Subsection (c) of section 952 of such Code is amended by adding at the end the following new paragraph:

``(4) EARNINGS AND PROFITS DETERMINED WITHOUT REGARD TO SPECIFIED OUTSOURCING EXPENSES.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to any specified outsourcing expense (as defined in section 280I(b)).''.

(c) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end the following new item:

``Sec. 280I. Outsourcing expenses.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

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