

113TH CONGRESS
1ST SESSION

S. 115

To amend the Internal Revenue Code of 1986 to provide a credit for
increasing payroll.

IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 3), 2013

Mr. CASEY introduced the following bill; which was read twice and referred
to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide
a credit for increasing payroll.

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 “Small Business Job
5 Creation Act”.

6 **SEC. 2. EMPLOYER PAYROLL INCREASE CREDIT.**

7 (a) IN GENERAL.—Subchapter B of chapter 65 of the
8 Internal Revenue Code of 1986 is amended by adding at
9 the end the following new section:

1 **“SEC. 6433. EMPLOYER PAYROLL INCREASE CREDITS.**

2 “(a) IN GENERAL.—Each qualified employer shall be
3 treated as having made a payment against the tax imposed
4 by section 3111(a) or section 3221(a), whichever is appli-
5 cable, for each qualified quarter in an amount equal to
6 the credit amount.

7 “(b) CREDIT AMOUNT.—For purposes of this section,
8 the credit amount with respect to any qualified quarter
9 is equal to 10 percent of the qualified payroll increase of
10 such employer for such qualified quarter.

11 “(c) DOLLAR LIMITATION.—The total credit amount
12 with respect to any employer shall not exceed \$500,000
13 for all qualified quarters.

14 “(d) QUALIFIED EMPLOYER.—For purposes of this
15 section, the term ‘qualified employer’ means any American
16 employer other than the United States, any State, or any
17 instrumentality thereof.

18 “(e) QUALIFIED PAYROLL INCREASE.—For purposes
19 of this section—

20 “(1) IN GENERAL.—The term ‘qualified payroll
21 increase’ with respect to any qualified quarter means
22 the amount, if any, by which a qualified employer’s
23 qualified payroll for such quarter exceeds the quali-
24 fied payroll for such quarter of the calendar year
25 preceding the year in which such qualified quarter
26 falls.

1 “(2) QUALIFIED PAYROLL.—The term ‘quali-
2 fied payroll’ means the amount of all wages (within
3 the meaning of section 3121(a)) paid or incurred by
4 a qualified employer to the employees of such em-
5 ployer, except that, with respect to each such em-
6 ployee for any quarter of the employer, such wages
7 shall be taken into account only to the extent that
8 such wages do not exceed the contribution and ben-
9 efit base as determined under section 230 of the So-
10 cial Security Act.

11 “(3) RAILWAY LABOR.—In the case of remu-
12 neration subject to the tax imposed by section
13 3221(a), paragraph (1) shall be applied by sub-
14 stituting ‘all compensation (within the meaning of
15 section 3231(e))’ for ‘all wages (within the meaning
16 of section 3121(a))’.

17 “(4) SPECIAL RULE FOR LARGE EMPLOYERS.—
18 In the case of an employer that employs 100 or
19 more employees during the qualified quarter, no
20 qualified payroll increase shall be taken into account
21 for such qualified quarter unless the qualified pay-
22 roll increase with respect to such qualified quarter
23 exceeds 3 percent of the qualified payroll for such
24 quarter of the calendar year preceding the year in
25 which such qualified quarter falls.

1 “(f) QUALIFIED QUARTER.—For purposes of this
2 section, the term ‘qualified quarter’ means—

3 “(1) the calendar quarter which includes the
4 date of the enactment of the Small Business Job
5 Creation Act, and

6 “(2) each of the 3 calendar quarters following
7 such quarter.

8 “(g) DEFINITIONS.—Except as provided in sub-
9 section (h)(1), any term used in this section which is also
10 used in section 3111 has the same meaning as when used
11 in such section.

12 “(h) SPECIAL RULES.—For purposes of this sec-
13 tion—

14 “(1) EMPLOYEE.—The term ‘employee’ includes
15 only individuals who are citizens or lawful residents
16 of the United States who receive wages, remunera-
17 tion, compensation, or tips from an employer for
18 work performed within a State or a possession of the
19 United States.

20 “(2) MAINTENANCE OF BASE EMPLOYMENT RE-
21 QUIREMENT.—This section shall not apply to any
22 qualified employer for any qualified quarter if the
23 total number of employees of such employer during
24 such quarter is less than the total number of such
25 employees during the quarter preceding such quar-

1 ter, determined by not taking into account any em-
 2 ployee who is a seasonal employee during such pre-
 3 ceding quarter.

4 “(3) CONTROLLED GROUPS.—All employers
 5 treated as a single employer under section (a) or (b)
 6 of section 52 shall be treated as a single employer
 7 for purposes of the dollar limitation under sub-
 8 section (c), except that any employer which is not an
 9 American employer shall not be taken into account.

10 “(4) NEW EMPLOYERS.—

11 “(A) IN GENERAL.—In the case of a quali-
 12 fied employer which comes into existence after
 13 the date of the enactment of the Small Business
 14 Job Creation Act and before January 1,
 15 2014—

16 “(i) the term ‘qualified quarter’
 17 means—

18 “(I) the first calendar quarter for
 19 which such qualified employer is in
 20 existence, and

21 “(II) each of the 3 quarters fol-
 22 lowing such quarter,

23 “(ii) the qualified payroll increase of
 24 such employer for the quarter described in
 25 clause (i)(I) shall be equal to the amount

of the employer's qualified payroll for such quarter, and

“(iii) the qualified payroll increase of such employer for any quarter described in clause (i)(II) shall be the amount, if any, by which the employer's qualified payroll for such quarter exceeds the qualified payroll of the quarter preceding such quarter.

“(B) TRANSITION RULE.—

“(i) IN GENERAL.—In the case of a qualified employer which comes into existence—

“(I) after the last day of the calendar quarter which is 5 calendar quarters before the date of the enactment of the Small Business Job Creation Act, and

“(II) before such date of enactment,

the qualified payroll increase of such employer for any transition quarter shall be the amount, if any, by which the employer's qualified payroll for such quarter exceeds the qualified payroll of the quarter preceding such quarter.

1 “(ii) TRANSITION QUARTER.—For
 2 purposes of clause (i), the term ‘transition
 3 quarter’ means a qualified quarter with re-
 4 spect to which the qualified payroll in-
 5 crease cannot be determined under sub-
 6 section (e)(1) solely because the employer
 7 was not in existence during such quarter of
 8 the calendar year preceding the year in
 9 which such qualified quarter falls.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
 11 for subchapter B of chapter 65 of the Internal Revenue
 12 Code of 1986 is amended by adding at the end the fol-
 13 lowing new item:

“Sec. 6433. Employer payroll increase credits.”.

14 (c) NOTIFICATION.—Not later than 30 days after the
 15 date of the enactment of this Act, the Commissioner of
 16 Internal Revenue shall notify all employers required to
 17 withhold employment taxes under chapter 21 or 22 of the
 18 Internal Revenue Code of 1986 of the enactment and ap-
 19 plicability of section 6433 of the Internal Revenue Code
 20 of 1986, as added by this Act.

21 (d) INVESTIGATION AND REPORT ON ENFORCEMENT
 22 ACTIONS.—Not later than 6 months after the date of the
 23 enactment of this Act, and quarterly thereafter, the Com-
 24 missioner of Internal Revenue shall submit a report to the
 25 Committee on Finance of the Senate and the Committee

1 on Ways and Means of the House of Representatives on
2 the enforcement measures taken to prevent and penalize
3 fraud related to section 6433 of the Internal Revenue
4 Code of 1986, including such information as—

5 (1) general statistics related to the application
6 of such section,

7 (2) cases of fraud, and

8 (3) the status of investigatory and prosecutorial
9 actions related to such cases.

10 (e) EFFECTIVE DATE.—The amendments made by
11 subsections (a) and (b) shall apply to calendar quarters
12 beginning with the calendar quarter which includes the
13 date of the enactment of this Act.

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