

113TH CONGRESS  
1ST SESSION

# S. 337

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

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2013

Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mrs. MCCASKILL, Mr. DURBIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, and Mr. BLUMENTHAL) 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.

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 “Bring Jobs Home  
5 Act”.

6 **SEC. 2. CREDIT FOR INSOURCING EXPENSES.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-  
8 chapter A of chapter 1 of the Internal Revenue Code of  
9 1986 is amended by adding at the end the following new  
10 section:

1 **“SEC. 45S. CREDIT FOR INSOURCING EXPENSES.**

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

7       “(b) ELIGIBLE INSOURCING EXPENSES.—For pur-  
8 poses of this section—

9           “(1) IN GENERAL.—The term ‘eligible  
10 insourcing expenses’ means—

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

17           “(B) eligible expenses paid or incurred by  
18 the taxpayer in connection with the establish-  
19 ment of any business unit of the taxpayer (or  
20 of any member of any expanded affiliated group  
21 in which the taxpayer is also a member) located  
22 within the United States,

23 if such establishment constitutes the relocation of  
24 the business unit so eliminated. For purposes of the  
25 preceding sentence, a relocation shall not be treated  
26 as failing to occur merely because such elimination

1 occurs in a different taxable year than such estab-  
2 lishment.

3 “(2) ELIGIBLE EXPENSES.—The term ‘eligible  
4 expenses’ means—

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

7 “(B) permit and license fees, lease broker-  
8 age fees, equipment installation costs, and, to  
9 the extent provided by the Secretary, other  
10 similar expenses.

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

15 “(3) BUSINESS UNIT.—The term ‘business unit’  
16 means—

17 “(A) any trade or business, and

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

20 “(4) EXPANDED AFFILIATED GROUP.—The  
21 term ‘expanded affiliated group’ means an affiliated  
22 group as defined in section 1504(a), determined  
23 without regard to section 1504(b)(3) and by sub-  
24 stituting ‘more than 50 percent’ for ‘at least 80 per-  
25 cent’ each place it appears in section 1504(a). A

1 partnership or any other entity (other than a cor-  
2 poration) shall be treated as a member of an ex-  
3 panded affiliated group if such entity is controlled  
4 (within the meaning of section 954(d)(3)) by mem-  
5 bers of such group (including any entity treated as  
6 a member of such group by reason of this para-  
7 graph).

8 “(5) EXPENSES MUST BE PURSUANT TO  
9 INSOURCING PLAN.—Amounts shall be taken into ac-  
10 count under paragraph (1) only to the extent that  
11 such amounts are paid or incurred pursuant to a  
12 written plan to carry out the relocation described in  
13 paragraph (1).

14 “(6) OPERATING EXPENSES NOT TAKEN INTO  
15 ACCOUNT.—Any amount paid or incurred in connec-  
16 tion with the on-going operation of a business unit  
17 shall not be treated as an amount paid or incurred  
18 in connection with the establishment or elimination  
19 of such business unit.

20 “(c) INCREASED DOMESTIC EMPLOYMENT REQUIRE-  
21 MENT.—No credit shall be allowed under this section un-  
22 less the number of full-time equivalent employees of the  
23 taxpayer for the taxable year for which the credit is  
24 claimed exceeds the number of full-time equivalent em-  
25 ployees of the taxpayer for the last taxable year ending

1 before the first taxable year in which such eligible  
2 insourcing expenses were paid or incurred. For purposes  
3 of this subsection, full-time equivalent employees has the  
4 meaning given such term under section 45R(d) (and the  
5 applicable rules of section 45R(e)). All employers treated  
6 as a single employer under subsection (b), (c), (m), or (o)  
7 of section 414 shall be treated as a single employer for  
8 purposes of this subsection.

9 “(d) CREDIT ALLOWED UPON COMPLETION OF  
10 INSOURCING PLAN.—

11 “(1) IN GENERAL.—Except as provided in para-  
12 graph (2), eligible insourcing expenses shall be taken  
13 into account under subsection (a) in the taxable year  
14 during which the plan described in subsection (b)(5)  
15 has been completed and all eligible insourcing ex-  
16 penses pursuant to such plan have been paid or in-  
17 curred.

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

1       “(e) POSSESSIONS TREATED AS PART OF THE  
2 UNITED STATES.—For purposes of this section, the term  
3 ‘United States’ shall be treated as including each posses-  
4 sion of the United States (including the Commonwealth  
5 of Puerto Rico and the Commonwealth of the Northern  
6 Mariana Islands).

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

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

16               “(37) the insourcing expenses credit determined  
17       under section 45S(a).”.

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

      “Sec. 45S. Credit for insourcing expenses.”.

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

1 (e) APPLICATION TO UNITED STATES POSSES-  
2 SIONS.—

3 (1) PAYMENTS TO POSSESSIONS.—

4 (A) MIRROR CODE POSSESSIONS.—The  
5 Secretary of the Treasury shall make periodic  
6 payments to each possession of the United  
7 States with a mirror code tax system in an  
8 amount equal to the loss to that possession by  
9 reason of section 45S of the Internal Revenue  
10 Code of 1986. Such amount shall be determined  
11 by the Secretary of the Treasury based on in-  
12 formation provided by the government of the re-  
13 spective possession.

14 (B) OTHER POSSESSIONS.—The Secretary  
15 of the Treasury shall make annual payments to  
16 each possession of the United States which does  
17 not have a mirror code tax system in an  
18 amount estimated by the Secretary of the  
19 Treasury as being equal to the aggregate bene-  
20 fits that would have been provided to residents  
21 of such possession by reason of section 45S of  
22 such Code if a mirror code tax system had been  
23 in effect in such possession. The preceding sen-  
24 tence shall not apply with respect to any posses-  
25 sion of the United States unless such possession

1 has a plan, which has been approved by the  
2 Secretary of the Treasury, under which such  
3 possession will promptly distribute such pay-  
4 ment to the residents of such possession.

5 (2) COORDINATION WITH CREDIT ALLOWED  
6 AGAINST UNITED STATES INCOME TAXES.—No cred-  
7 it shall be allowed against United States income  
8 taxes under section 45S of such Code to any per-  
9 son—

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

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

15 (3) DEFINITIONS AND SPECIAL RULES.—

16 (A) POSSESSIONS OF THE UNITED  
17 STATES.—For purposes of this section, the  
18 term “possession of the United States” includes  
19 the Commonwealth of Puerto Rico and the  
20 Commonwealth of the Northern Mariana Is-  
21 lands.

22 (B) MIRROR CODE TAX SYSTEM.—For pur-  
23 poses of this section, the term “mirror code tax  
24 system” means, with respect to any possession  
25 of the United States, the income tax system of

1 such possession if the income tax liability of the  
2 residents of such possession under such system  
3 is determined by reference to the income tax  
4 laws of the United States as if such possession  
5 were the United States.

6 (C) TREATMENT OF PAYMENTS.—For pur-  
7 poses of section 1324(b)(2) of title 31, United  
8 States Code, the payments under this section  
9 shall be treated in the same manner as a refund  
10 due from sections referred to in such section  
11 1324(b)(2).

12 **SEC. 3. DENIAL OF DEDUCTION FOR OUTSOURCING EX-**  
13 **PENSES.**

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

17 **“SEC. 280I. OUTSOURCING EXPENSES.**

18 “(a) IN GENERAL.—No deduction otherwise allow-  
19 able under this chapter shall be allowed for any specified  
20 outsourcing expense.

21 “(b) SPECIFIED OUTSOURCING EXPENSE.—For pur-  
22 poses of this section—

23 “(1) IN GENERAL.—The term ‘specified out-  
24 sourcing expense’ means—

1           “(A) any eligible expense paid or incurred  
2           by the taxpayer in connection with the elimi-  
3           nation of any business unit of the taxpayer (or  
4           of any member of any expanded affiliated group  
5           in which the taxpayer is also a member) located  
6           within the United States, and

7           “(B) any eligible expense paid or incurred  
8           by the taxpayer in connection with the estab-  
9           lishment of any business unit of the taxpayer  
10          (or of any member of any expanded affiliated  
11          group in which the taxpayer is also a member)  
12          located outside the United States,

13          if such establishment constitutes the relocation of  
14          the business unit so eliminated. For purposes of the  
15          preceding sentence, a relocation shall not be treated  
16          as failing to occur merely because such elimination  
17          occurs in a different taxable year than such estab-  
18          lishment.

19          “(2) APPLICATION OF CERTAIN DEFINITIONS  
20          AND RULES.—

21                 “(A) DEFINITIONS.—For purposes of this  
22                 section, the terms ‘eligible expenses’, ‘business  
23                 unit’, and ‘expanded affiliated group’ shall have  
24                 the respective meanings given such terms by  
25                 section 45S(b).

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

5           “(c) SPECIAL RULES.—

6           “(1) APPLICATION TO DEDUCTIONS FOR DE-  
7           PRECIATION AND AMORTIZATION.—In the case of  
8           any portion of a specified outsourcing expense which  
9           is not deductible in the taxable year in which paid  
10          or incurred, such portion shall neither be chargeable  
11          to capital account nor amortizable.

12          “(2) POSSESSIONS TREATED AS PART OF THE  
13          UNITED STATES.—For purposes of this section, the  
14          term ‘United States’ shall be treated as including  
15          each possession of the United States (including the  
16          Commonwealth of Puerto Rico and the Common-  
17          wealth of the Northern Mariana Islands).

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

1 may provide) of business units eliminated within the  
2 United States.”.

3 (b) LIMITATION ON SUBPART F INCOME OF CON-  
4 TROLLED FOREIGN CORPORATIONS DETERMINED WITH-  
5 OUT REGARD TO SPECIFIED OUTSOURCING EXPENSES.—  
6 Subsection (c) of section 952 of such Code is amended  
7 by adding at the end the following new paragraph:

8 “(4) EARNINGS AND PROFITS DETERMINED  
9 WITHOUT REGARD TO SPECIFIED OUTSOURCING EX-  
10 PENSES.—For purposes of this subsection, earnings  
11 and profits of any controlled foreign corporation  
12 shall be determined without regard to any specified  
13 outsourcing expense (as defined in section  
14 280I(b)).”.

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

“Sec. 280I. Outsourcing expenses.”.

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

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