I

114TH CONGRESS
1ST SESSION

H. R. 3198

To amend the Internal Revenue Code of 1986 to allow a credit to small employers for certain newly hired employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2015

Mr. AGUILAR introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to allow a credit to small employers for certain newly hired employees, and for other purposes.

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 "Small Business Jobs Act of 2015".

SEC. 2. CREDIT FOR CERTAIN INDIVIDUALS HIRED BY A SMALL EMPLOYER.

(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:

“SEC. 45S. CERTAIN INDIVIDUALS HIRED BY A SMALL EMPLOYER.

‘‘(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible small employer, the small employer hiring credit determined under this section for any taxable year is the amount determined under subsection (b).

‘‘(b) SMALL EMPLOYER HIRING CREDIT AMOUNT.—The amount determined under this subsection for a taxable year with respect to a qualified small employer is the product of—

‘‘(1) the tax rate in effect under section 3111(a) for the calendar year in which such taxable year ends, multiplied by

‘‘(2) the wages paid by the qualified small employer with respect to employment of all covered employees during the taxable year.

‘‘(c) QUALIFIED EMPLOYER.—For purposes of this subsection—

‘‘(1) IN GENERAL.—The term ‘qualified small employer’ means with respect to any calendar year, an employer who—

‘‘(A) has a place of business in a county with an annual unemployment rate for the preceding calendar year of at least one percentage point greater than the national annual unemployment rate for the preceding calendar year, and

"(B) who on no business day of the preceding calendar year employed less than 2, or more than 100, employees.

"(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) PREDECESSOR AND SUCCESSOR.—Any reference in this paragraph to an employer shall include a reference to any predecessor of, or successor to, such employer.

"(B) AGGREGATION RULE.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as one employer.

"(C) GOVERNMENTAL EMPLOYERS NOT INCLUDED.—The term 'employer' does not include the United States, any State, or any political subdivision thereof, or any instrumentality of the foregoing.

"(D) DETERMINATION OF UNEMPLOYMENT RATE.—The unemployment rate shall be the rate determined by the Bureau of Labor Statistics.

"(4) CREDIT APPLIES FOR ONLY 1 YEAR.—If an election to claim the credit under this section is in effect for any calendar year, paragraph (1) shall not apply to such employer for any year after such calendar year.

"(d) COVERED EMPLOYEE.—For purposes of this subsection—

"(1) IN GENERAL.—The term 'covered employee' means, with respect to any week, is an employee who—

"(A) first begins work for the employer for services performed by the employee—

"(i) in a trade or business of such qualified small employer, or

"(ii) in the case of a qualified small employer exempt from tax under section 501(a), in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501, and

"(B) is employed on average at least 30 hours of service per week.

"(2) LIMITATION TO 5 EMPLOYEES.—An employer may not treat more than 5 employees as covered employees.

"(3) HOURS OF SERVICE.—The Secretary, in consultation with the Secretary of Labor, shall prescribe such regulations, rules, and guidance as may be necessary to determine the hours of service of an employee, including rules for the application of this paragraph to employees who are not compensated on an hourly basis.

"(e) CREDIT MADE AVAILABLE TO TAX-EXEMPT ELIGIBLE SMALL EMPLOYERS.—

"(1) IN GENERAL.—In the case of a tax-exempt eligible small employer, there shall be treated as a credit allowable under subpart C (and not allowable under this subpart) the amount of the credit determined under this section with respect to such employer.

"(2) TAX-EXEMPT ELIGIBLE SMALL EMPLOYER.—For purposes of this section, the term 'tax-exempt eligible small employer' means an eligible small employer which is any organization described in section 501(c) which is exempt from taxation under section 501(a).

"(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) ELECTION.—This section shall apply to any taxpayer for any taxable year only if such taxpayer elects (at such time and in such manner as the Secretary may by regulations prescribe) to have this section apply for such taxable year.

"(h) TERMINATION.—This section shall not apply with respect to wages paid after December 31, 2017.".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) 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 inserting after paragraph (36) the following:

"(37) the small employer small employer hiring credit determined under section 45S.".

(c) CLERICAL AMENDMENT.—The table of sections for 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:

"Sec. 45S. Certain individuals hired by a small employer.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2015.

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