

114TH CONGRESS
1ST SESSION

S. 1737

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

IN THE SENATE OF THE UNITED STATES

JULY 9, 2015

Ms. STABENOW (for herself, Mr. SCHUMER, Mr. WHITEHOUSE, Ms. WARREN, Mr. UDALL, Ms. BALDWIN, Mrs. SHAHEEN, Mr. FRANKEN, Mr. REED, Mr. MERKLEY, Mr. BLUMENTHAL, Mr. MARKEY, Ms. KLOBUCHAR, Mr. CARDIN, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Finance

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

1 1986 is amended by adding at the end the following new
 2 section:

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

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

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

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

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

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

1 if such establishment constitutes the relocation of
2 the business unit so eliminated. For purposes of the
3 preceding sentence, a relocation shall not be treated
4 as failing to occur merely because such elimination
5 occurs in a different taxable year than such estab-
6 lishment.

7 “(2) ELIGIBLE EXPENSES.—The term ‘eligible
8 expenses’ means—

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

11 “(B) permit and license fees, lease broker-
12 age fees, equipment installation costs, and, to
13 the extent provided by the Secretary, other
14 similar expenses.

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

19 “(3) BUSINESS UNIT.—The term ‘business unit’
20 means—

21 “(A) any trade or business, and

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

24 “(4) EXPANDED AFFILIATED GROUP.—The
25 term ‘expanded affiliated group’ means an affiliated

1 group as defined in section 1504(a), determined
 2 without regard to section 1504(b)(3) and by sub-
 3 stituting ‘more than 50 percent’ for ‘at least 80 per-
 4 cent’ each place it appears in section 1504(a). A
 5 partnership or any other entity (other than a cor-
 6 poration) shall be treated as a member of an ex-
 7 panded affiliated group if such entity is controlled
 8 (within the meaning of section 954(d)(3)) by mem-
 9 bers of such group (including any entity treated as
 10 a member of such group by reason of this para-
 11 graph).

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

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

24 “(c) INCREASED DOMESTIC EMPLOYMENT REQUIRE-
 25 MENT.—No credit shall be allowed under this section un-

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

13 “(d) CREDIT ALLOWED UPON COMPLETION OF
 14 INSOURCING PLAN.—

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

22 “(2) ELECTION TO APPLY EMPLOYMENT TEST
 23 AND CLAIM CREDIT IN FIRST FULL TAXABLE YEAR
 24 AFTER COMPLETION OF PLAN.—If the taxpayer
 25 elects the application of this paragraph, eligible

1 insourcing expenses shall be taken into account
 2 under subsection (a) in the first taxable year after
 3 the taxable year described in paragraph (1).

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

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

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

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

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

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

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

4 (e) APPLICATION TO UNITED STATES POSSES-
 5 SIONS.—

6 (1) PAYMENTS TO POSSESSIONS.—

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

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

1 in effect in such possession. The preceding sen-
 2 tence shall not apply with respect to any posses-
 3 sion of the United States unless such possession
 4 has a plan, which has been approved by the
 5 Secretary of the Treasury, under which such
 6 possession will promptly distribute such pay-
 7 ment to the residents of such possession.

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

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

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

18 (3) DEFINITIONS AND SPECIAL RULES.—

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

(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.

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

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

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

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

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

23 “(2) APPLICATION OF CERTAIN DEFINITIONS
24 AND RULES.—

1 “(A) DEFINITIONS.—For purposes of this
2 section, the terms ‘eligible expenses’, ‘business
3 unit’, and ‘expanded affiliated group’ shall have
4 the respective meanings given such terms by
5 section 45S(b).

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

10 “(c) SPECIAL RULES.—

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

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

23 “(d) REGULATIONS.—The Secretary shall prescribe
24 such regulations or other guidance as may be necessary
25 or appropriate to carry out the purposes of this section,

1 including regulations which provide (or create a rebuttable
 2 presumption) that certain establishments of business units
 3 outside the United States will be treated as relocations
 4 (based on timing or such other factors as the Secretary
 5 may provide) of business units eliminated within the
 6 United States.”.

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

12 “(4) EARNINGS AND PROFITS DETERMINED
 13 WITHOUT REGARD TO SPECIFIED OUTSOURCING EX-
 14 PENSES.—For purposes of this subsection, earnings
 15 and profits of any controlled foreign corporation
 16 shall be determined without regard to any specified
 17 outsourcing expense (as defined in section
 18 280I(b)).”.

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

“Sec. 280I. Outsourcing 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.

