

115TH CONGRESS
2D SESSION

H. R. 5516

To amend the Internal Revenue Code of 1986 to provide a credit for employer-provided worker training.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2018

Mr. KRISHNAMOORTHY (for himself, Mr. CROWLEY, Ms. SÁNCHEZ, Ms. DELBENE, Mrs. DINGELL, Mr. SOTO, Mr. BROWN of Maryland, and Mr. BERA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for employer-provided worker training.

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 “Investing in American
5 Workers Act”.

6 **SEC. 2. EMPLOYER-PROVIDED WORKER TRAINING CREDIT.**

7 (a) IN GENERAL.—

1 (1) DETERMINATION OF CREDIT.—Subpart D
 2 of part IV of subchapter A of chapter 1 of the Inter-
 3 nal Revenue Code of 1986 is amended by adding at
 4 the end the following new section:

5 **“SEC. 45T. EMPLOYER-PROVIDED WORKER TRAINING**
 6 **CREDIT.**

7 “(a) IN GENERAL.—For purposes of section 38, ex-
 8 cept as provided in subsection (d), the employer-provided
 9 worker training credit under this section for the taxable
 10 year is an amount equal to 20 percent of the excess (if
 11 any) of—

12 “(1) the qualified training expenditures for
 13 such taxable year, over

14 “(2) the average of the qualified training ex-
 15 penditures (if any) for the 3 taxable years preceding
 16 such taxable year.

17 “(b) QUALIFIED TRAINING EXPENDITURES.—For
 18 purposes of this section—

19 “(1) QUALIFIED TRAINING EXPENDITURES DE-
 20 FINED.—

21 “(A) IN GENERAL.—The term ‘qualified
 22 training expenditures’ means any expenditures
 23 by an employer for qualified training for any
 24 non-highly compensated employee.

1 “(B) EXCLUSIONS.—The term ‘qualified
2 training expenditures’ shall not include any
3 amounts paid for meals, lodging, transpor-
4 tation, or other services incidental to expendi-
5 tures described in subparagraph (A).

6 “(2) QUALIFIED TRAINING.—

7 “(A) IN GENERAL.—The term ‘qualified
8 training’ means training which results in the at-
9 tainment of a recognized postsecondary creden-
10 tial and which is provided pursuant to one of
11 the following:

12 “(i) An apprenticeship program which
13 is registered under the Act of August 16,
14 1937 (commonly known as the ‘National
15 Apprenticeship Act’; 50 Stat. 664, chapter
16 663), and is in an emerging industry.

17 “(ii) An apprenticeship program
18 which is registered or approved by a recog-
19 nized State apprenticeship agency in ac-
20 cordance with section 1 of such Act and
21 which is in an emerging industry.

22 “(iii) A program of training services
23 listed pursuant to section 122(d) of the
24 Workforce Innovation and Opportunity
25 Act.

1 “(iv) A program which is conducted
2 by an area career and technical education
3 school, a community college, or a labor or-
4 ganization.

5 “(v) A program which is sponsored
6 and administered by an employer, industry
7 trade association, industry or sector part-
8 nership, or labor organization.

9 “(B) EMERGING INDUSTRY.—The term
10 ‘emerging industry’ means, for a taxable year,
11 an industry that comprises less than 30 percent
12 of all civilian apprentices registered with the
13 Department of Labor for the fiscal year ending
14 in such taxable year.

15 “(C) COMMUNITY COLLEGE.—The term
16 ‘community college’ means an institution which
17 is a junior or community college as defined in
18 section 312(f) of the Higher Education Act of
19 1965.

20 “(D) LABOR ORGANIZATION.—The term
21 ‘labor organization’ means a labor organization,
22 within the meaning of the term in section
23 501(c)(5) of the Internal Revenue Code of
24 1986.

1 “(E) INDUSTRY TRADE ASSOCIATION.—

2 The term ‘industry trade association’ means an
3 organization which—

4 “(i) is described in paragraph (3) or
5 (6) of section 501(c) of the Internal Rev-
6 enue Code of 1986 and exempt from tax-
7 ation under section 501(a) of such Code,
8 and

9 “(ii) is representing an industry.

10 “(F) OTHER TERMS.—The terms ‘area ca-
11 reer and technical education school’, ‘recognized
12 postsecondary credential’, and ‘industry or sec-
13 tor partnership’ have the meanings given such
14 terms, respectively, by section 3 of the Work-
15 force Innovation and Opportunity Act.

16 “(3) NON-HIGHLY COMPENSATED EMPLOYEE.—

17 The term ‘non-highly compensated employee’ means,
18 with respect to an employer, an employee whose—

19 “(A) compensation (as such term is de-
20 fined in section 415(c)(3)) from such employer
21 for services provided for the taxable year does
22 not exceed \$82,000, and

23 “(B) rate of compensation, if applied to a
24 full-time employee for a year, would not exceed
25 \$82,000.

1 “(c) SPECIAL RULES.—

2 “(1) SPECIAL RULE IN CASE OF NO QUALIFIED
3 TRAINING EXPENDITURES IN ANY OF 3 PRECEDING
4 TAXABLE YEARS.—

5 “(A) TAXPAYERS TO WHICH PARAGRAPH
6 APPLIES.—The credit under this section shall
7 be determined under this paragraph if the tax-
8 payer has no qualified training expenditures in
9 any one of the 3 taxable years preceding the
10 taxable year for which the credit is being deter-
11 mined.

12 “(B) CREDIT RATE.—The credit deter-
13 mined under this paragraph shall be equal to
14 10 percent of the adjusted qualified training ex-
15 penditures for the taxable year.

16 “(2) AGGREGATION AND ALLOCATION OF EX-
17 PENDITURES, ETC.—In determining the amount of
18 the credit under this section, rules similar to the
19 rules of paragraphs (1), (2), (3), (4), and (5) of sec-
20 tion 41(f) shall apply.

21 “(d) ELECTION TO APPLY CREDIT AGAINST PAY-
22 ROLL TAXES.—

23 “(1) IN GENERAL.—At the election of a quali-
24 fied small business (as defined in section 41(h)) or
25 a qualified tax-exempt organization (as defined in

1 section 3111(e)(5)(A)) for any taxable year, section
 2 3111(g) shall apply to the payroll tax credit portion
 3 of the credit otherwise determined under subsection
 4 (a) for the taxable year and such portion shall not
 5 be treated (other than for purposes of section 280C)
 6 as a credit determined under subsection (a).

7 “(2) PAYROLL TAX CREDIT PORTION.—For
 8 purposes of this subsection, the payroll tax credit
 9 portion of the credit determined under subsection
 10 (a) with respect to any taxpayer for any taxable year
 11 is the least of—

12 “(A) the amount specified in the election
 13 made under this subsection,

14 “(B) the credit determined under sub-
 15 section (a) for the taxable year (determined be-
 16 fore the application of this subsection), or

17 “(C) in the case of a qualified small busi-
 18 ness other than a partnership or S corporation,
 19 the amount of the business credit carryforward
 20 under section 39 carried from the taxable year
 21 (determined before the application of this sub-
 22 section to the taxable year).

23 “(3) ELECTION.—

24 “(A) IN GENERAL.—Any election under
 25 this subsection for any taxable year—

1 “(i) shall specify the amount of the
2 credit to which such election applies,

3 “(ii) shall be made on or before the
4 due date (including extensions) of—

5 “(I) in the case of a partnership,
6 the return required to be filed under
7 section 6031,

8 “(II) in the case of an S corpora-
9 tion, the return required to be filed
10 under section 6037, and

11 “(III) in the case of any other
12 taxpayer, the return of tax for the
13 taxable year, and

14 “(iii) may be revoked only with the
15 consent of the Secretary.

16 “(B) LIMITATIONS.—

17 “(i) AMOUNT.—The amount specified
18 in any election made under this subsection
19 shall not exceed \$250,000.

20 “(ii) NUMBER OF TAXABLE YEARS.—
21 A person may not make an election under
22 this subsection if such person (or any other
23 person treated as a single taxpayer with
24 such person under paragraph (5)(A)) has

1 made an election under this subsection for
2 five or more preceding taxable years.

3 “(C) SPECIAL RULE FOR PARTNERSHIPS
4 AND S CORPORATIONS.—In the case of a part-
5 nership or S corporation, the election made
6 under this subsection shall be made at the enti-
7 ty level.

8 “(4) AGGREGATION RULES.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B)—

11 “(i) all members of the same con-
12 trolled group of corporations shall be treat-
13 ed as a single taxpayer, and

14 “(ii) all trades or businesses (whether
15 or not incorporated) which are under com-
16 mon control shall be treated as a single
17 taxpayer.

18 “(B) SPECIAL RULES.—For purposes of
19 this subsection and section 3111(g)—

20 “(i) each of the persons treated as a
21 single taxpayer under subparagraph (A)
22 may separately make the election under
23 paragraph (1) for any taxable year, and

24 “(ii) the \$250,000 amount under
25 paragraph (4)(B)(i) shall be allocated

1 among all persons treated as a single tax-
2 payer under subparagraph (A) in the same
3 manner as under section 41(f)(1).

4 “(5) REGULATIONS.—The Secretary shall pre-
5 scribe such regulations as may be necessary to carry
6 out the purposes of this subsection, including—

7 “(A) regulations to prevent the avoidance
8 of the purposes of the limitations and aggrega-
9 tion rules under this subsection,

10 “(B) regulations to minimize compliance
11 and recordkeeping burdens under this sub-
12 section, and

13 “(C) regulations for recapturing the ben-
14 efit of credits determined under section 3111(g)
15 in cases where there is a recapture or a subse-
16 quent adjustment to the payroll tax credit por-
17 tion of the credit determined under subsection
18 (a), including requiring amended income tax re-
19 turns in the cases where there is such an ad-
20 justment.”.

21 (2) CREDIT PART OF GENERAL BUSINESS
22 CREDIT.—Section 38(b) of the Internal Revenue
23 Code of 1986 is amended by striking “plus” at the
24 end of paragraph (36), by striking the period at the

1 end of paragraph (37) and inserting “, plus”, and
 2 by adding at the end the following new paragraph:

3 “(38) the employer-provided worker training
 4 credit determined under section 45T(a).”.

5 (3) COORDINATION WITH DEDUCTIONS.—Sec-
 6 tion 280C of the Internal Revenue Code of 1986 is
 7 amended by adding at the end the following new
 8 subsection:

9 “(j) EMPLOYER-PROVIDED WORKER TRAINING
 10 CREDIT.—No deduction shall be allowed for that portion
 11 of the expenses otherwise allowable as a deduction taken
 12 into account in determining the credit under section 45T
 13 for the taxable year which is equal to the amount of the
 14 credit determined for such taxable year under section
 15 45T(a).”.

16 (4) CLERICAL AMENDMENT.—The table of sec-
 17 tions for subpart D of part IV of subchapter A of
 18 chapter 1 of the Internal Revenue Code of 1986 is
 19 amended by adding at the end the following new
 20 item:

“Sec. 45T. Employer-provided worker training credit.”.

21 (b) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 22 IMUM TAX.—Subparagraph (B) of section 38(c)(4) of the
 23 Internal Revenue Code of 1986 is amended—

24 (1) by redesignating clauses (x), (xi), and (xii)
 25 as clauses (xi), (xii), and (xiii), respectively; and

1 (2) by inserting after clause (ix) the following
2 new clause:

3 “(x) the credit determined under sec-
4 tion 45T with respect to an eligible small
5 business (as defined in paragraph (5)(C),
6 after application of rules similar to the
7 rules of paragraph (5)(D)),”.

8 (c) PAYROLL TAX CREDIT.—Section 3111 of the In-
9 ternal Revenue Code of 1986 is amended by adding at the
10 end the following new subsection:

11 “(g) CREDIT FOR WORKER TRAINING EXPENSES.—

12 “(1) IN GENERAL.—In the case of a taxpayer
13 who has made an election under section 45S(e) for
14 a taxable year, there shall be allowed as a credit
15 against the tax imposed by subsection (a) for the
16 first calendar quarter which begins after the date on
17 which the taxpayer files the return specified in sec-
18 tion 45S(e)(4)(A)(ii) an amount equal to the payroll
19 tax credit portion determined under section
20 45S(e)(2).

21 “(2) LIMITATION.—The credit allowed by para-
22 graph (1) shall not exceed the tax imposed by sub-
23 section (a) for any calendar quarter on the wages
24 paid with respect to the employment of all individ-
25 uals in the employ of the employer.

1 “(3) CARRYOVER OF UNUSED CREDIT.—If the
2 amount of the credit under paragraph (1) exceeds
3 the limitation of paragraph (2) for any calendar
4 quarter, such excess shall be carried to the suc-
5 ceeding calendar quarter and allowed as a credit
6 under paragraph (1) for such quarter.

7 “(4) DEDUCTION ALLOWED FOR CREDITED
8 AMOUNTS.—The credit allowed under paragraph (1)
9 shall not be taken into account for purposes of de-
10 termining the amount of any deduction allowed
11 under chapter 1 for taxes imposed under subsection
12 (a).”.

13 (d) SIMPLIFIED FILING FOR CERTAIN SMALL BUSI-
14 NESSES.—The Secretary of the Treasury shall provide for
15 a method of filing returns of tax and information returns
16 required under the Internal Revenue Code of 1986 in a
17 simplified format, to the extent possible, for employers
18 with less than \$5,000,000 in annual gross receipts.

19 (e) REGULATIONS RELATING TO POSTSECONDARY
20 CREDENTIALS.—Not later than 1 year after the date of
21 the enactment of this Act, the Secretary of Labor, in con-
22 sultation with the Secretary of the Treasury, shall issue
23 regulations or other guidance applying the definition of
24 the term “recognized postsecondary credential” as pro-

1 vided in section 3 of the Workforce Innovation and Oppor-
2 tunity Act (29 U.S.C. 3102).

3 (f) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 the date of the enactment of this Act.

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