

112TH CONGRESS
1ST SESSION

H. R. 2873

To amend the Internal Revenue Code of 1986 to provide a credit to employers for the retention of certain individuals hired before 2013.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2011

Ms. VELÁZQUEZ introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit to employers for the retention of certain individuals hired before 2013.

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 Expan-
5 sion and Hiring Act of 2011”.

6 **SEC. 2. BUSINESS CREDIT FOR RETENTION OF CERTAIN IN-**
7 **DIVIDUALS NEWLY HIRED BEFORE 2013.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by
2 adding at the end the following new section:

3 **“SEC. 45S. RETENTION OF CERTAIN INDIVIDUALS NEWLY**
4 **HIRED BEFORE 2013.**

5 “(a) IN GENERAL.—For purposes of section 38, in
6 the case of any taxable year ending after the date of the
7 enactment of this section and beginning before January
8 1, 2013, the retained worker credit determined under this
9 section for the taxable year is the aggregate of the lesser
10 of—

11 “(1) \$4,000 (\$6,000 in the case of a long-term
12 unemployed individual), or

13 “(2) 6.2 percent of the wages (as defined in
14 section 3401(a)) paid by the taxpayer to such re-
15 tained worker during the 52 consecutive week period
16 referred to in subsection (c)(2).

17 “(b) LIMITATIONS.—

18 “(1) INCREASE IN EMPLOYMENT.—The number
19 of retained workers taken into account under sub-
20 section (a) shall not exceed the excess of (if any)—

21 “(A) the number of employees of the tax-
22 payer at the end of the taxable year, over

23 “(B) the number of employees of the tax-
24 payer at the beginning of the taxable year.

1 “(2) DOLLAR LIMITATION.—The amount al-
2 lowed as a credit under subsection (a) for a taxable
3 year with respect to any business location of the em-
4 ployer shall not exceed \$400,000.

5 “(3) SPECIAL RULES.—

6 “(A) BUSINESS-LOCATION SPECIFIC.—All
7 determinations under this section regarding the
8 number of employees shall be determined on a
9 location basis.

10 “(B) EMPLOYEES ROTATED AMONG BUSI-
11 NESS NOT ELIGIBLE.—An employee who is
12 moved from one location of the taxpayer to an-
13 other location shall not be taken into account
14 for purposes of paragraph (1).

15 “(c) DEFINITIONS.—For purposes of this section—

16 “(1) RETAINED WORKER.—The term ‘retained
17 worker’ means any qualified individual—

18 “(A) who was employed by the taxpayer on
19 any date during the taxable year,

20 “(B) who was so employed by the taxpayer
21 for a period of not less than 52 consecutive
22 weeks, and

23 “(C) whose wages (as defined in section
24 3401(a)) for such employment during the last
25 26 weeks of such period equaled at least 80

1 percent of such wages for the first 26 weeks of
2 such period.

3 “(2) QUALIFIED INDIVIDUAL.—The term ‘quali-
4 fied individual’ means any individual who—

5 “(A) begins employment with a qualified
6 employer after December 31, 2010, and before
7 January 1, 2014,

8 “(B) certifies by signed affidavit, under
9 penalties of perjury, that such individual has
10 not been employed for 40 hours or more per
11 week during the 60-day period ending on the
12 date such individual begins such employment,

13 “(C) is not employed by the qualified em-
14 ployer to replace another employee of such em-
15 ployer unless such other employee separated
16 from employment voluntarily or for cause, and

17 “(D) is not an individual described in sec-
18 tion 51(i)(1) (applied by substituting ‘qualified
19 employer’ for ‘taxpayer’ each place it appears).

20 “(3) QUALIFIED EMPLOYER.—

21 “(A) IN GENERAL.—The term ‘qualified
22 employer’ means any employer other than the
23 United States, any State, or any political sub-
24 division thereof, or any instrumentality of the
25 foregoing which employed an average of less

1 than 100 employees on business days during
2 such taxable year.

3 “(B) TREATMENT OF EMPLOYEES OF
4 POST-SECONDARY EDUCATIONAL INSTITU-
5 TIONS.—Notwithstanding subparagraph (A),
6 the term ‘qualified employer’ includes any em-
7 ployer which is a public institution of higher
8 education (as defined in section 101(b) of the
9 Higher Education Act of 1965).

10 “(4) LONG-TERM UNEMPLOYED INDIVIDUAL.—
11 The term ‘long-term unemployed individual’ means
12 an individual who was in receipt of unemployment
13 compensation under State or Federal law for not
14 less than 26 weeks during the 1-year period ending
15 on the day the individual is hired by the employer.”.

16 (b) CREDIT ALLOWED AS BUSINESS CREDIT.—Sec-
17 tion 38(b) of the Internal Revenue Code of 1986 (relating
18 to current year business credit) is amended by striking
19 “plus” at the end of paragraph (35), by striking the period
20 at the end of paragraph (36) and inserting “, plus”, and
21 by adding at the end the following new paragraph:

22 “(37) the retained worker credit determined
23 under section 45S.”.

1 (c) LIMITATION ON CARRYFORWARD.—Section 39(a)
2 of such Code is amended by adding at the end the fol-
3 lowing:

4 “(5) 3-YEAR CARRYFORWARD FOR RETAINED
5 WORKER CREDIT.—In the case of the retained work-
6 er credit, paragraph (2) shall be applied—

7 “(A) by substituting ‘3 taxable years’ for
8 ‘21 taxable years’ in subparagraph (A) thereof,
9 and

10 “(B) by substituting ‘2 taxable years’ for
11 ‘20 taxable years’ in subparagraph (B) there-
12 of.”.

13 (d) CLERICAL AMENDMENT.—The table of sections
14 for subpart D of part IV of subchapter A of chapter 1
15 of the Internal Revenue Code of 1986 is amended by in-
16 serting after the item relating to section 45R the following
17 new item:

“Sec. 45S. Retention of certain individuals newly hired before 2013.”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 the date of the enactment of this Act.

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