

117TH CONGRESS
1ST SESSION

S. 1178

To amend the Internal Revenue Code of 1986 to allow for a credit against tax for employers of reservists.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2021

Ms. DUCKWORTH (for herself, Mr. MORAN, Mr. DURBIN, Ms. BALDWIN, Mr. BLUMENTHAL, Mrs. FEINSTEIN, and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow for a credit against tax for employers of reservists.

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 “Reserve Employers
5 Comprehensive Relief and Uniform Incentives on Taxes
6 Act of 2021” or as the “RECRUIT Act of 2021”.

7 **SEC. 2. RESERVIST EMPLOYMENT CREDIT.**

8 (a) ALLOWANCE OF CREDIT.—Subpart D of part IV
9 of subchapter A of chapter 1 of the Internal Revenue Code

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

3 **“SEC. 45U. RESERVIST EMPLOYMENT CREDIT.**

4 “(a) ESTABLISHMENT OF CREDIT.—For purposes of
 5 section 38, in the case of an eligible employer, the reservist
 6 employment credit for any taxable year is an amount equal
 7 to 40 percent of the wages paid or incurred to qualified
 8 reservists by such employer during such taxable year.

9 “(b) LIMITATION.—

10 “(1) IN GENERAL.—The reservist employment
 11 credit determined under subsection (a), with respect
 12 to any qualified reservist for any taxable year, shall
 13 not exceed the reservist credit amount.

14 “(2) RESERVIST CREDIT AMOUNT.—For pur-
 15 poses of this section, the term ‘reservist credit
 16 amount’ means, with respect to a qualified reservist
 17 for a taxable year, an amount equal to the sum of—

18 “(A) \$1,000, plus

19 “(B) in the case of a qualified reservist—

20 “(i) with 30 or more days, and fewer
 21 than 90 days, of service in the uniformed
 22 services during such year, \$3,000,

23 “(ii) with 90 or more days, and fewer
 24 than 180 days, of service in the uniformed
 25 services during such year, \$5,000, and

1 “(iii) with 180 or more days of service
2 in the uniformed services during such year,
3 \$10,000.

4 “(3) DAYS OF SERVICE.—For purposes of para-
5 graph (2), any day of service—

6 “(A) shall not be taken into account if
7 such day constitutes regularly scheduled unit
8 training or annual training, and

9 “(B) shall only be taken into account with
10 respect to a qualified reservist employed by an
11 eligible employer to the extent such days are
12 during a period of employment of such reservist
13 by such employer.

14 “(4) QUALIFIED RESERVIST.—The term ‘quali-
15 fied reservist’ means, with respect to a taxable year,
16 an individual who is, at any time during such tax-
17 able year, a member of the National Guard or a re-
18 serve component of the Armed Forces, as named in
19 section 10101 of title 10, United States Code (ex-
20 cept for a member of the Individual Ready Reserve).

21 “(5) OTHER DEFINITIONS.—The term ‘reserve
22 component’ has the meanings given such term in
23 section 101 of title 10, United States Code. The
24 term ‘National Guard’ has the meaning given such
25 term in section 101(3) of title 32, United States

1 Code. The term ‘service in the uniformed services’
 2 has the meaning given such term in section 4303 of
 3 title 38, United States Code.

4 “(c) ELIGIBLE EMPLOYER.—For purposes of this
 5 section, the term ‘eligible employer’ means any employer
 6 which has an average of less than 500 employees employed
 7 on business days during the taxable year.

8 “(d) AGGREGATION RULE.—All persons treated as a
 9 single employer under subsection (b), (c), (m), or (o) of
 10 section 414 shall be treated as 1 employer for purposes
 11 of this section.

12 “(e) ELECTION TO HAVE CREDIT NOT APPLY.—

13 “(1) IN GENERAL.—A taxpayer may elect to
 14 have this section not apply for any taxable year.

15 “(2) OTHER RULES.—Rules similar to the rules
 16 of paragraphs (2) and (3) of section 51(j) shall
 17 apply for purposes of this subsection.

18 “(f) ELECTION TO TREAT CREDIT AS PAYROLL TAX
 19 CREDIT.—

20 “(1) IN GENERAL.—At the election of an eligi-
 21 ble employer for any taxable year, section 3111(g)
 22 shall apply to the payroll tax credit portion of the
 23 credit otherwise determined under subsection (a) for
 24 the taxable year and such portion shall not be treat-

1 ed (other than for purposes of section 280C) as a
2 credit determined under subsection (a).

3 “(2) PAYROLL TAX CREDIT PORTION.—For
4 purposes of this subsection, the term ‘payroll tax
5 credit portion’ means the lesser of—

6 “(A) the amount specified in the election
7 made under this subsection, or

8 “(B) the amount of the credit otherwise
9 determined under subsection (a) for the taxable
10 year.

11 “(3) ELECTION.—Any election under this sub-
12 section for any taxable year—

13 “(A) shall specify the amount of the credit
14 to which such election applies,

15 “(B) shall be made on or before the due
16 date (including extensions) of—

17 “(i) in the case of an eligible employer
18 which is a partnership, the return required
19 to be filed under section 6031,

20 “(ii) in the case of an eligible em-
21 ployer which is an S corporation, the re-
22 turn required to be filed under section
23 6037, and

1 “(iii) in the case of any other eligible
 2 employer, the return of tax for the taxable
 3 year, and

4 “(C) may be revoked only with the consent
 5 of the Secretary.”.

6 (b) CREDIT PART OF GENERAL BUSINESS CREDIT.—

7 Section 38(b) of the Internal Revenue Code of 1986 is
 8 amended by striking “plus” at the end of paragraph (32),
 9 by striking the period at the end of paragraph (33) and
 10 inserting “, plus”, and by adding at the end the following
 11 new paragraph:

12 “(34) in the case of an eligible employer (as de-
 13 fined in section 45U(c)), the reservist employment
 14 credit determined under section 45U(a).”.

15 (c) CREDIT ALLOWED AGAINST AMT.—Subpara-

16 graph (B) of section 38(c)(4) of the Internal Revenue
 17 Code of 1986 is amended by redesignating clauses (x)
 18 through (xii) as clauses (xi) through (xiii), respectively,
 19 and by inserting after clause (ix) the following new clause:

20 “(x) the credit determined under sec-
 21 tion 45U,”.

22 (d) PAYROLL TAX CREDIT.—Section 3111 of the In-
 23 ternal Revenue Code of 1986 is amended by adding at the
 24 end the following new subsection:

25 “(g) RESERVIST EMPLOYMENT CREDIT.—

1 “(1) IN GENERAL.—In the case of a taxpayer
 2 which has made an election under section 45U(f) for
 3 a taxable year, there shall be allowed as a credit
 4 against the tax imposed by subsection (a) for the
 5 first calendar quarter which begins after the date on
 6 which the taxpayer files the return specified in sec-
 7 tion 45U(f)(3)(B) an amount equal to the payroll
 8 tax credit portion determined under section
 9 45U(f)(2).

10 “(2) LIMITATION.—

11 “(A) IN GENERAL.—The credit allowed by
 12 paragraph (1) shall not exceed the tax imposed
 13 by subsection (a) for any calendar quarter on
 14 the wages paid with respect to the employment
 15 of all individuals in the employ of the employer.
 16 The limitation imposed by the preceding sen-
 17 tence shall be applied to appropriately take into
 18 account any other credits allowed against such
 19 tax in such manner as the Secretary may pro-
 20 vide.

21 “(B) TEMPORARY REFUNDABILITY.—In
 22 the case of any credit allowed by paragraph (1)
 23 with respect to a payroll tax credit portion de-
 24 termined for a taxable year beginning in 2021
 25 or 2022, if the amount of such credit exceeds

the limitation of subparagraph (A) for the calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of such Code. For purposes of section 1324 of title 31, United States Code, any amounts due to an employer under this subparagraph shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(C) CARRYOVER.—In the case of any credit allowed by paragraph (1) with respect to a payroll tax credit portion determined for a taxable year beginning after 2022, if the amount of such credit exceeds the limitation of subparagraph (A) for any calendar quarter, such excess shall be carried to the succeeding calendar quarter and allowed as a credit under paragraph (1) for such quarter.

“(3) DEDUCTION ALLOWED FOR CREDITED AMOUNTS.—The credit allowed under paragraph (1) shall not be taken into account for purposes of determining the amount of any deduction allowed under chapter 1 for taxes imposed under subsection (a).”.

1 (e) CONFORMING AMENDMENTS.—

2 (1) DENIAL OF DOUBLE BENEFIT.—Section
3 280C(a) of the Internal Revenue Code of 1986 is
4 amended by inserting “45U(a),” after “45S(a),”.

5 (2) ELECTION TO HAVE CREDIT NOT APPLY.—
6 Section 6501(m) of the Internal Revenue Code of
7 1986 is amended by inserting “45U(d),” after
8 “45H(g),”.

9 (3) CLERICAL AMENDMENT.—The table of sec-
10 tions for subpart D of part IV of subchapter A of
11 chapter 1 of the Internal Revenue Code of 1986 is
12 amended by adding at the end the following new
13 item:

“Sec. 45U. Reservist employment credit.”.

14 (f) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to wages paid in taxable years be-
16 ginning after December 31, 2020.

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