

111TH CONGRESS  
1ST SESSION

# H. R. 2466

To amend the Internal Revenue Code of 1986 to protect the financial stability of activated members of the Ready Reserve and National Guard while serving abroad.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2009

Mrs. LOWEY 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 protect the financial stability of activated members of the Ready Reserve and National Guard while serving abroad.

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 “Guard and Reserve  
5 Financial Stability Act of 2009”.

6 **SEC. 2. READY RESERVE-NATIONAL GUARD EMPLOYEE**  
7 **CREDIT AND READY RESERVE-NATIONAL**  
8 **GUARD REPLACEMENT EMPLOYEE CREDIT.**

9 (a) READY RESERVE-NATIONAL GUARD CREDIT.—

1           (1) IN GENERAL.—Subpart D of part IV of  
2           subchapter A of chapter 1 of the Internal Revenue  
3           Code of 1986 (relating to business-related credits) is  
4           amended by inserting after section 45Q the following  
5           new section:

6   **“SEC. 45R. READY RESERVE-NATIONAL GUARD EMPLOYEE**  
7                                   **CREDIT.**

8           “(a) GENERAL RULE.—For purposes of section 38,  
9           in the case of an eligible taxpayer, the Ready Reserve-Na-  
10          tional Guard employee credit determined under this sec-  
11          tion for any taxable year with respect to each Ready Re-  
12          serve-National Guard employee of such taxpayer is an  
13          amount equal to 50 percent of the lesser of—

14                   “(1) the actual compensation amount with re-  
15                   spect to such employee for such taxable year, or

16                   “(2) \$30,000.

17          “(b) DEFINITION OF ACTUAL COMPENSATION  
18          AMOUNT.—For purposes of this section, the term ‘actual  
19          compensation amount’ means the amount of compensation  
20          paid or incurred by an eligible taxpayer with respect to  
21          a Ready Reserve-National Guard employee on any day  
22          when the employee was absent from employment for the  
23          purpose of performing qualified active duty.

24          “(c) LIMITATIONS.—No credit shall be allowed with  
25          respect to any day that a Ready Reserve-National Guard

1 employee who performs qualified active duty was not  
2 scheduled to work (for reason other than to participate  
3 in qualified active duty).

4 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
5 poses of this section—

6 “(1) ELIGIBLE TAXPAYER.—

7 “(A) IN GENERAL.—The term ‘eligible tax-  
8 payer’ means a small business employer.

9 “(B) SMALL BUSINESS EMPLOYER.—

10 “(i) IN GENERAL.—The term ‘small  
11 business employer’ means, with respect to  
12 any taxable year, any employer who em-  
13 ployed an average of 50 or fewer employees  
14 on business days during such taxable year.

15 “(ii) CONTROLLED GROUPS.—For  
16 purposes of clause (i), all persons treated  
17 as a single employer under subsection (b),  
18 (c), (m), or (o) of section 414 shall be  
19 treated as a single employer.

20 “(2) QUALIFIED ACTIVE DUTY.—The term  
21 ‘qualified active duty’ means—

22 “(A) active duty under an order or call for  
23 a period in excess of 179 days or for an indefi-  
24 nite period, other than the training duty speci-  
25 fied in section 10147 of title 10, United States

1 Code (relating to training requirements for the  
2 Ready Reserve), or section 502(a) of title 32,  
3 United States Code (relating to required drills  
4 and field exercises for the National Guard), in  
5 connection with which an employee is entitled to  
6 reemployment rights and other benefits or to a  
7 leave of absence from employment under chap-  
8 ter 43 of title 38, United States Code, and

9 “(B) hospitalization incident to such duty.

10 “(3) COMPENSATION.—The term ‘compensa-  
11 tion’ means any remuneration for employment,  
12 whether in cash or in kind, which is paid or incurred  
13 by a taxpayer and which is deductible from the tax-  
14 payer’s gross income under section 162(a)(1).

15 “(4) READY RESERVE-NATIONAL GUARD EM-  
16 PLOYEE.—The term ‘Ready Reserve-National Guard  
17 employee’ means an employee who is a member of  
18 the Ready Reserve of a Reserve component of an  
19 Armed Force of the United States as described in  
20 sections 10142 and 10101 of title 10, United States  
21 Code.

22 “(5) CERTAIN RULES TO APPLY.—Rules similar  
23 to the rules of section 52 shall apply.

24 “(e) TERMINATION.—This section shall not apply to  
25 any amount paid or incurred after December 31, 2009.”.

1           (2) CREDIT TO BE PART OF GENERAL BUSI-  
2           NESS CREDIT.—Subsection (b) of section 38 of the  
3           Internal Revenue Code of 1986 (relating to general  
4           business credit) is amended by striking “plus” at the  
5           end of paragraph (34), by striking the period at the  
6           end of paragraph (35) and inserting “, plus”, and  
7           by adding at the end the following:

8           “(36) the Ready Reserve-National Guard em-  
9           ployee credit determined under section 45R(a).”.

10          (3) DENIAL OF DOUBLE BENEFIT.—Section  
11          280C(a) of the Internal Revenue Code of 1986 (re-  
12          lating to rule for employment credits) is amended by  
13          inserting “45R(a),” after “45P(a),”.

14          (4) CONFORMING AMENDMENT.—The table of  
15          sections for subpart D of part IV of subchapter A  
16          of chapter 1 of the Internal Revenue Code of 1986  
17          is amended by inserting after the item relating to  
18          section 45Q the following:

“Sec. 45R. Ready Reserve-National Guard employee credit.”.

19          (5) EFFECTIVE DATE.—The amendments made  
20          by this subsection shall apply to amounts paid or in-  
21          curred after September 30, 2008, in taxable years  
22          ending after such date.

23          (b) READY RESERVE-NATIONAL GUARD REPLACE-  
24          MENT EMPLOYEE CREDIT.—

1           (1) IN GENERAL.—Paragraph (1) of section  
2           51(d) of the Internal Revenue Code of 1986 (relat-  
3           ing to members of targeted groups) is amended by  
4           striking “or” at the end of subparagraph (H), by  
5           striking the period at the end of subparagraph (I)  
6           and inserting “, or” and by adding at the end the  
7           following new subparagraph:

8                     “(J) a qualified replacement employee.”.

9           (2) QUALIFIED REPLACEMENT EMPLOYEE.—  
10          Section 51(d) of the Internal Revenue Code of 1986  
11          is amended by redesignating paragraphs (11), (12),  
12          and (13) as paragraphs (12), (13), and (14), respec-  
13          tively, and by inserting after paragraph (10) the fol-  
14          lowing new paragraph:

15                   “(11) QUALIFIED REPLACEMENT EMPLOYEE.—

16                             “(A) IN GENERAL.—The term ‘qualified  
17                             replacement employee’ means an individual who  
18                             is certified by the designated local agency as  
19                             being hired by an eligible taxpayer to replace a  
20                             Ready Reserve-National Guard employee of  
21                             such taxpayer, but only with respect to the pe-  
22                             riod during which such Ready Reserve-National  
23                             Guard employee participates in qualified active  
24                             duty, including time spent in travel status.

1                   “(B) GENERAL DEFINITIONS AND SPECIAL  
2 RULES.—For purposes of this paragraph—

3                   “(i) ELIGIBLE TAXPAYER.—The term  
4 ‘eligible taxpayer’ means a small business  
5 employer.

6                   “(ii) SMALL BUSINESS EMPLOYER.—

7                   “(I) IN GENERAL.—The term  
8 ‘small business employer’ means, with  
9 respect to any taxable year, any em-  
10 ployer who employed an average of 50  
11 or fewer employees on business days  
12 during such taxable year.

13                   “(II) CONTROLLED GROUPS.—

14 For purposes of subclause (I), all per-  
15 sons treated as a single employer  
16 under subsection (b), (c), (m), or (o)  
17 of section 414 shall be treated as a  
18 single employer.

19                   “(iii) READY RESERVE-NATIONAL  
20 GUARD EMPLOYEE.—The term ‘Ready Re-  
21 serve-National Guard employee’ has the  
22 meaning given such term by section  
23 45R(d)(4).

1                   “(iv) QUALIFIED ACTIVE DUTY.—The  
2                   term ‘qualified active duty’ has the mean-  
3                   ing given such term by section 45R(d)(2).

4                   “(C) DISALLOWANCE FOR FAILURE TO  
5                   COMPLY WITH EMPLOYMENT OR REEMPLOY-  
6                   MENT RIGHTS OF MEMBERS OF THE RESERVE  
7                   COMPONENTS OF THE ARMED FORCES OF THE  
8                   UNITED STATES.—No credit shall be allowed  
9                   under subsection (a) by reason of paragraph  
10                  (1)(J) to a taxpayer for—

11                  “(i) any taxable year, beginning after  
12                  the date of the enactment of this section,  
13                  in which the taxpayer is under a final  
14                  order, judgment, or other process issued or  
15                  required by a district court of the United  
16                  States under section 4323 of title 38 of the  
17                  United States Code with respect to a viola-  
18                  tion of chapter 43 of such title, and

19                  “(ii) the 2 succeeding taxable years.”.

20                  (3) EFFECTIVE DATE.—The amendments made  
21                  by this subsection shall apply to amounts paid or in-  
22                  curred to an individual who begins work for the em-  
23                  ployer after September 30, 2008.

24                  (c) STUDY BY GAO.—



1           (1) IN GENERAL.—The Comptroller General of  
2 the United States shall study the following:

3           (A) What, if any, problems exist in recruit-  
4 ing individuals for a Reserve component of an  
5 Armed Force of the United States.

6           (B) Whether the credit allowed under sec-  
7 tion 45R of the Internal Revenue Code of 1986  
8 (as added by this section) is an effective incen-  
9 tive for the hiring and retention of employees  
10 who are individuals described in subparagraph  
11 (A) and whether there exists any compliance  
12 problems in the administration of such credit.

13           (2) REPORT.—The Comptroller General of the  
14 United States shall report on the results of the  
15 study required under paragraph (1) to the Com-  
16 mittee on Finance of the Senate and the Committee  
17 on Ways and Means of the House of Representatives  
18 before December 1, 2009.

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