

113TH CONGRESS
2D SESSION

H. R. 4128

To amend the Internal Revenue Code of 1986 to expand and modify the credit for employee health insurance expenses of small employers.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2014

Ms. DELBENE (for herself, Ms. SHEA-PORTER, and Mr. PALLONE) 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 expand and modify the credit for employee health insurance expenses of small employers.

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 Tax
5 Credit Accessibility Act”.

6 **SEC. 2. SENSE OF THE CONGRESS.**

7 It is the sense of the Congress that the Obama ad-
8 ministration should work to make the small business
9 health care tax credit under section 45R of the Internal

1 Revenue Code of 1986 more accessible for small employ-
2 ers.

3 **SEC. 3. EXPANSION AND MODIFICATION OF CREDIT FOR**
4 **EMPLOYEE HEALTH INSURANCE EXPENSES**
5 **OF SMALL EMPLOYERS.**

6 (a) EXPANSION OF DEFINITION OF ELIGIBLE SMALL
7 EMPLOYER.—Subparagraph (A) of section 45R(d)(1) of
8 the Internal Revenue Code of 1986 is amended by striking
9 “25” and inserting “50”.

10 (b) AMENDMENT TO PHASEOUT DETERMINATION.—
11 Subsection (c) of section 45R of the Internal Revenue
12 Code of 1986 is amended to read as follows:

13 “(c) PHASEOUT OF CREDIT AMOUNT BASED ON
14 NUMBER OF EMPLOYEES AND AVERAGE WAGES.—The
15 amount of the credit determined under subsection (b)
16 (without regard to this subsection) shall be adjusted (but
17 not below zero) by multiplying such amount by the prod-
18 uct of—

19 “(1) the lesser of—

20 “(A) a fraction the numerator of which is
21 the excess (if any) of 50 over the total number
22 of full-time equivalent employees of the em-
23 ployer and the denominator of which is 30, and

24 “(B) 1, and

25 “(2) the lesser of—

1 “(A) a fraction the numerator of which is
2 the excess (if any) of—

3 “(i) the dollar amount in effect under
4 subsection (d)(3)(B) for the taxable year,
5 multiplied by 2, over

6 “(ii) the average annual wages of the
7 employer for such taxable year, and
8 the denominator of which is the dollar amount
9 so in effect under subsection (d)(3)(B), and

10 “(B) 1.”.

11 (c) PARTIALLY PHASED OUT CREDIT ALLOWED FOR
12 INSURANCE OUTSIDE AN EXCHANGE.—

13 (1) IN GENERAL.—Section 45R of the Internal
14 Revenue Code of 1986 is amended by redesignating
15 subsections (h) and (i) as subsections (i) and (j), re-
16 spectively, and by inserting after subsection (g) the
17 following new subsection:

18 “(h) PARTIALLY PHASED OUT CREDIT ALLOWED
19 FOR INSURANCE OUTSIDE AN EXCHANGE FOR 2014.—

20 “(1) IN GENERAL.—If an eligible small em-
21 ployer offers to its employees in a manner other
22 than through an Exchange a health plan that meets
23 the requirements of paragraph (2), the following
24 modifications shall apply with respect to a taxable
25 year beginning in 2014:

1 “(A) QUALIFIED HEALTH PLAN.—This
2 section and section 280C(h) shall be applied for
3 such taxable year by treating such plan as a
4 qualified health plan.

5 “(B) REDUCED CREDIT PERCENTAGE.—
6 Subsection (b) shall be applied—

7 “(i) by substituting ‘25 percent’ for
8 ‘35 percent’,

9 “(ii) by substituting ‘35 percent’ for
10 ‘50 percent’, and

11 “(iii) without regard to ‘through an
12 Exchange’ in paragraph (1) thereof.

13 “(C) CONTRIBUTION ARRANGEMENTS.—
14 Subsection (d)(4) shall be applied without re-
15 gard to ‘through an exchange’.

16 “(D) CREDIT PERIOD.—

17 “(i) IN GENERAL.—The credit under
18 this section shall be determined without re-
19 gard to whether such taxable year is in a
20 credit period.

21 “(ii) YEAR TAKEN INTO ACCOUNT AS
22 PORTION OF CREDIT PERIOD IN SUBSE-
23 QUENT YEARS.—For purposes of applying
24 this section to taxable years beginning
25 after 2014 in which the employer offers a

1 qualified health plan (without regard to
2 subparagraph (A)) to its employees
3 through an Exchange, subsection (e)(2)
4 shall be applied by substituting ‘2-consecu-
5 tive-taxable’ for ‘3-consecutive-taxable’.

6 “(2) REQUIREMENTS.—A health plan meets the
7 requirements of this paragraph if such plan—

8 “(A) provides the essential health benefits
9 package described in section 1302(a) of the Pa-
10 tient Protection and Affordable Care Act, and

11 “(B) is offered by a health insurance
12 issuer that—

13 “(i) is licensed and in good standing
14 to offer health insurance coverage in each
15 State in which such issuer offers health in-
16 surance coverage, and

17 “(ii) if such issuer offers health plans
18 through an Exchange, agrees to charge the
19 same premium rate for each qualified
20 health plan of the issuer without regard to
21 whether the plan is offered through an Ex-
22 change or whether the plan is offered di-
23 rectly from the issuer or through an
24 agent.”.

1 (2) CONFORMING AMENDMENT.—Section
2 6055(b)(2)(C) of such Code is amended by striking
3 “Exchange” and inserting “Exchange (or a plan
4 with respect to which a credit is allowed under sec-
5 tion 45R by reason of subsection (h) thereof)”.

6 (d) EXTENSION OF CREDIT PERIOD.—Paragraph (2)
7 of section 45R(e) of the Internal Revenue Code of 1986
8 is amended by striking “2-consecutive-taxable” and insert-
9 ing “3-consecutive-taxable”.

10 (e) AVERAGE ANNUAL WAGE LIMITATION.—Sub-
11 paragraph (B) of section 45R(d)(3) of the Internal Rev-
12 enue Code of 1986 is amended to read as follows:

13 “(B) DOLLAR AMOUNT.—For purposes of
14 paragraph (1)(B) and subsection (c)(2), the
15 dollar amount in effect under this paragraph is
16 the amount equal to 110 percent of the poverty
17 line (within the meaning of section 36B(d)(3))
18 for a family of 4.”.

19 (f) ELIMINATION OF UNIFORM PERCENTAGE CON-
20 TRIBUTION REQUIREMENT.—Paragraph (4) of section
21 45R(d) of the Internal Revenue Code of 1986 is amended
22 by striking “a uniform percentage (not less than 50 per-
23 cent)” and inserting “at least 50 percent”.

24 (g) ELIMINATION OF CAP RELATING TO AVERAGE
25 LOCAL PREMIUMS.—Subsection (b) of section 45R of the

1 Internal Revenue Code of 1986 is amended by striking
2 “the lesser of” and all that follows and inserting “the ag-
3 gregate amount of nonelective contributions the employer
4 made on behalf of its employees during the taxable year
5 under the arrangement described in subsection (d)(4) for
6 premiums for qualified health plans offered by the em-
7 ployer to its employees through an Exchange.”.

8 (h) CREDIT AVAILABILITY FOR FAMILY MEMBERS IN
9 CERTAIN CASES.—Clause (iv) of section 45R(e)(1)(A) of
10 the Internal Revenue Code of 1986 is amended to read
11 as follows:

12 (iv) any individual who is a spouse
13 or dependent (within the meaning of sec-
14 tion 152) of an individual described in
15 clause (i), (ii), or (iii).”.

16 (i) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to amounts paid or incurred in tax-
18 able years beginning after December 31, 2013.

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