

111TH CONGRESS
1ST SESSION

H. R. 433

To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax equal to 50 percent of the compensation paid to employees while they are performing active duty service as members of the Ready Reserve or the National Guard and of the compensation paid to temporary replacement employees.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2009

Mr. POE of Texas (for himself, Ms. BORDALLO, Mr. LAMBORN, Mrs. GILLIBRAND, Ms. ROS-LEHTINEN, Mr. MCCOTTER, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. PITTS) 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 allow employers a credit against income tax equal to 50 percent of the compensation paid to employees while they are performing active duty service as members of the Ready Reserve or the National Guard and of the compensation paid to temporary replacement employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE, ETC.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Ready Employers Willing to Assist Reservists’ Deploy-
4 ment Act of 2009” or as the “REWARD Act of 2009”.

5 (b) **FINDINGS.**—The Congress finds the following:

6 (1) The Secretary of Defense presents Freedom
7 Awards to employers who demonstrate exceptional
8 understanding and support for employees who are
9 deployed as members of the Ready Reserve and Na-
10 tional Guard.

11 (2) Since the Freedom Awards program was es-
12 tablished in 1996, more than 100 employers have re-
13 ceived the prestigious Freedom Award.

14 **SEC. 2. EMPLOYER CREDIT FOR COMPENSATION PAID TO**
15 **EMPLOYEES WHILE SERVING ON ACTIVE**
16 **DUTY AS MEMBERS OF READY RESERVE OR**
17 **THE NATIONAL GUARD.**

18 (a) **IN GENERAL.**—Subpart D of part IV of sub-
19 chapter A of chapter 1 of the Internal Revenue Code of
20 1986 (relating to business-related credits) is amended by
21 adding at the end the following new section:

1 **“SEC. 45R. EMPLOYER CREDIT FOR COMPENSATION PAID**
2 **TO EMPLOYEES WHILE SERVING ON ACTIVE**
3 **DUTY AS MEMBERS OF READY RESERVE OR**
4 **THE NATIONAL GUARD AND FOR COMPENSA-**
5 **TION PAID TO TEMPORARY REPLACEMENT**
6 **EMPLOYEES.**

7 “(a) GENERAL RULE.—For purposes of section 38,
8 in the case of an employer, the employer Ready Reserve-
9 National Guard active duty credit determined under this
10 section for the taxable year is an amount equal to—

11 “(1) 50 percent of the compensation paid or in-
12 curred to each Ready Reserve-National Guard em-
13 ployee of the taxpayer while the employee is absent
14 from employment while performing qualified active
15 duty, and

16 “(2) 50 percent of the compensation paid or in-
17 curred to each qualified replacement employee of the
18 taxpayer.

19 “(b) LIMITATION APPLICABLE TO READY RESERVE-
20 NATIONAL GUARD EMPLOYEES.—

21 “(1) IN GENERAL.—The amount of compensa-
22 tion taken into account under subsection (a) for any
23 period of qualified active duty with respect to a
24 Ready Reserve-National Guard employee shall not
25 exceed the active duty wage differential of such em-
26 ployee for such period.

1 “(2) ACTIVE DUTY WAGE DIFFERENTIAL.—

2 “(A) IN GENERAL.—For purposes of this
3 section, the active duty wage differential of a
4 Ready Reserve-National Guard employee for
5 any period of qualified active duty is the
6 amount equal to the product of—

7 “(i) the daily wage differential of such
8 employee for such period, multiplied by

9 “(ii) the number of days that such
10 employee is on qualified active duty during
11 such period.

12 “(B) DAILY WAGE DIFFERENTIAL.—For
13 purposes of subparagraph (A), the daily wage
14 differential of a Ready Reserve-National Guard
15 employee for any period is an amount equal to
16 the excess of—

17 “(i) such employee’s average daily em-
18 ployer-provided compensation for such pe-
19 riod, over

20 “(ii) such employee’s average daily
21 military pay for such period.

22 “(C) AVERAGE DAILY EMPLOYER-PRO-
23 VIDED COMPENSATION.—

24 “(i) IN GENERAL.—For purposes of
25 subparagraph (B), an employee’s average

1 daily employer-provided compensation for
2 any period is the average daily compensa-
3 tion paid by the employer to the employee
4 for the 1-year period ending on the day be-
5 fore the date that the employee begins
6 qualified active duty, adjusted for cost-of-
7 living and other increases generally appli-
8 cable to employees of the employer for
9 such period.

10 “(ii) EMPLOYER-PROVIDED COM-
11 PENSATION.—The term ‘compensation’
12 means any remuneration for employment,
13 whether in cash or in kind, which is allow-
14 able as a deduction under section
15 162(a)(1).

16 “(D) AVERAGE DAILY MILITARY PAY.—

17 “(i) IN GENERAL.—For purposes of
18 subparagraph (B), a Ready Reserve-Na-
19 tional Guard employee’s average daily mili-
20 tary pay is the average daily military pay
21 and allowances received by the employee on
22 account of the employee’s performance of
23 qualified active duty during the period.

24 “(ii) MILITARY PAY AND ALLOW-
25 ANCES.—For purposes of clause (i)—

1 “(I) MILITARY PAY.—The term
2 ‘military pay’ means pay (as defined
3 in section 101(21) of title 37, United
4 States Code).

5 “(II) ALLOWANCES.—The term
6 ‘allowances’ means the allowances
7 payable to a member of the Armed
8 Forces of the United States under
9 chapter 7 of such title.

10 “(c) LIMITATION APPLICABLE TO QUALIFIED RE-
11 PLACEMENT EMPLOYEES.—

12 “(1) IN GENERAL.—The amount of compensa-
13 tion taken into account under subsection (a) with re-
14 spect to any qualified replacement employee for any
15 period shall not exceed the amount equal to the
16 product of—

17 “(A) the average daily employer-provided
18 compensation for such period of the Ready Re-
19 serve-National Guard employee being replaced
20 by such replacement employee for such period,
21 and

22 “(B) the number of days that the Ready
23 Reserve-National Guard employee is on quali-
24 fied active duty during such period.

25 “(d) DEFINITIONS.—For purposes of this section—

1 “(1) READY RESERVE-NATIONAL GUARD EM-
2 PLOYEE.—

3 “(A) IN GENERAL.—The term ‘Ready Re-
4 serve-National Guard employee’ means any em-
5 ployee—

6 “(i) who is a member of the Ready
7 Reserve or of the National Guard, and

8 “(ii) who was an employee of the tax-
9 payer during the 1-year period ending on
10 the day before the date that the employee
11 begins qualified active duty.

12 “(B) NATIONAL GUARD.—The term ‘Na-
13 tional Guard’ has the meaning given such term
14 by section 101(c)(1) of title 10, United States
15 Code.

16 “(C) READY RESERVE.—The term ‘Ready
17 Reserve’ has the meaning given such term by
18 section 10142 of title 10, United States Code.

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

21 “(A) active duty under an order or call for
22 a period in excess of 90 days or for an indefi-
23 nite period, other than the training duty speci-
24 fied in—

1 “(i) section 10147 of title 10, United
2 States Code (relating to training require-
3 ments for the Ready Reserve), or

4 “(ii) section 502(a) of title 32, United
5 States Code (relating to required drills and
6 field exercises for the National Guard), in
7 connection with which an employee is enti-
8 tled to reemployment rights and other ben-
9 efits or to a leave of absence from employ-
10 ment under chapter 43 of title 38, United
11 States Code, and

12 “(B) hospitalization incident to such active
13 duty.

14 “(3) QUALIFIED REPLACEMENT EMPLOYEE.—
15 The term ‘qualified replacement employee’ means
16 any employee who is hired by the taxpayer to replace
17 a Ready Reserve-National Guard employee during a
18 period of qualified active duty, but only with respect
19 to periods for which the taxpayer has paid such
20 Ready Reserve-National Guard employee an amount
21 not less than the active duty wage differential (if
22 any) for such period.”.

23 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
24 of section 280C of such Code (relating to certain expenses

1 for which credits are allowable) is amended by inserting
2 “45R(a),” after “45P(a),”.

3 (c) CREDIT TO BE PART OF GENERAL BUSINESS
4 CREDIT.—Subsection (b) of section 38 of such Code (re-
5 lating to general business credit) is amended by striking
6 “plus” at the end of paragraph (34), by striking the period
7 at the end of paragraph (35) and inserting “, plus”, and
8 by inserting after paragraph (35) the following new para-
9 graph:

10 “(36) in the case of an employer, the employer
11 Ready Reserve-National Guard employee credit de-
12 termined under section 45R(a).”.

13 (d) CONFORMING AMENDMENT.—The table of sec-
14 tions for subpart D of part IV of subchapter A of chapter
15 1 of such Code is amended by inserting after the item
16 relating to section 45Q the following new item:

“Sec. 45R. Employer credit for compensation paid to employees while serving
on active duty as members of Ready Reserve or the National
Guard and for compensation paid to temporary replacement
employees.”.

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to periods of qualified active duty
19 (as defined in section 45R(d) of the Internal Revenue
20 Code of 1986, as added by this section) in taxable years
21 beginning after December 31, 2008.

22 (f) INFORMATION ON MILITARY PAY AND ALLOW-
23 ANCES.—The Secretary concerned (as defined in section

1 101 of title 10, United States Code) shall provide to em-
2 ployers and the Secretary of the Treasury such informa-
3 tion as is necessary to determine the proper amount of
4 credit allowable to employers under such section 45R.

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