

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4850

To amend the Internal Revenue Code of 1986 to allow companies to utilize existing alternative minimum tax credits to create and maintain United States jobs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2010

Mr. PETERS (for himself, Mr. LARSON of Connecticut, Mr. REICHERT, and Mr. TIBERI) 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 allow companies to utilize existing alternative minimum tax credits to create and maintain United States jobs, and for other purposes.

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 “American Job Creation  
5       and Investment Act”.

1 **SEC. 2. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT**  
2 **CREDITS DETERMINED BY DOMESTIC WAGES**  
3 **AND DOMESTIC INVESTMENT.**

4 (a) IN GENERAL.—Section 53 of the Internal Rev-  
5 enue Code of 1986 is amended by adding at the end the  
6 following new subsection:

7 “(g) ELECTION FOR CORPORATIONS WITH UNUSED  
8 CREDITS.—

9 “(1) IN GENERAL.—If a corporation elects to  
10 have this subsection apply, then notwithstanding any  
11 other provision of law, the limitation imposed by  
12 subsection (c) for any such taxable year shall be in-  
13 creased by the AMT credit adjustment amount.

14 “(2) AMT CREDIT ADJUSTMENT AMOUNT.—  
15 For purposes of paragraph (1), the term ‘AMT cred-  
16 it adjustment amount’ means with respect to any  
17 taxable year beginning in 2010 or 2011, the lesser  
18 of—

19 “(A) a corporation’s minimum tax credit  
20 determined under subsection (b), or

21 “(B) the sum of—

22 “(i) 20 percent of new qualifying do-  
23 mestic compensation paid during such tax-  
24 able year, determined by taking into ac-  
25 count not more than \$100,000 for each  
26 employee, plus

1                   “(ii) 20 percent of new domestic in-  
2                   vestments made during such taxable year,  
3                   plus

4                   “(iii) 10 percent of qualifying domes-  
5                   tic compensation paid during the preceding  
6                   taxable year, determined by taking into ac-  
7                   count not more than \$100,000 for each  
8                   employee.

9                   “(3) QUALIFYING DOMESTIC COMPENSATION.—  
10                  For purposes of this subsection, the term ‘qualifying  
11                  domestic compensation’ means, with respect to any  
12                  person for any taxable year of such person, the sum  
13                  of the amounts described in paragraphs (3), (8), and  
14                  (9) of section 6051(a) paid by such person with re-  
15                  spect to employment of citizens or residents of the  
16                  United States (within the meaning of section  
17                  7701(a)(30)(A)) by such person during the calendar  
18                  year ending during such taxable year.

19                  “(4) NEW QUALIFYING DOMESTIC COMPENSA-  
20                  TION.—For purposes of this subsection, the term  
21                  ‘new qualifying domestic compensation’ means quali-  
22                  fying domestic compensation paid with respect to  
23                  employment of individuals the hiring date (or, in the  
24                  case of furloughed employees, the recall date) of  
25                  whom occurs during the taxable year. For purposes

1 of the preceding sentence, rules similar to the rules  
2 of section 51(i)(1) shall apply.

3 “(5) NEW DOMESTIC INVESTMENTS.—For pur-  
4 poses of this subsection, the term ‘new domestic in-  
5 vestments’ means the cost of qualified property (as  
6 defined in section 168(k)(2)(A)(i))—

7 “(A) the original use of which commences  
8 with the taxpayer during the taxable year, and

9 “(B) which is placed in service in the  
10 United States by the taxpayer during such tax-  
11 able year.

12 “(6) SPECIAL MAINTENANCE OF WORKFORCE  
13 RULE.—

14 “(A) IN GENERAL.—In any taxable year  
15 beginning in 2011, paragraph (2)(B)(iii) shall  
16 apply only if the taxpayer’s qualifying domestic  
17 compensation in such taxable year is at least  
18 100 percent of such compensation in the pre-  
19 ceding taxable year.

20 “(B) ACQUISITIONS, ETC.—For purposes  
21 of subparagraph (A), in determining the quali-  
22 fying domestic compensation for the preceding  
23 taxable year, rules similar to the rules under  
24 subparagraphs (A) and (B) of section 41(f)(3)  
25 shall apply to adjust the compensation for ac-

1           quisitions and dispositions (taxable or other-  
2           wise) of any major portion of a trade or busi-  
3           ness or any major portion of a separate unit of  
4           a trade or business.

5           “(7) CREDIT REFUNDABLE.—For purposes of  
6           subsections (b) and (c) of section 6401, the aggre-  
7           gate increase in the credits allowable under part IV  
8           of subchapter A for any taxable year resulting from  
9           the application of this subsection shall be treated as  
10          allowed under subpart C of such part (and not to  
11          any other subpart).

12          “(8) ELECTION.—

13                 “(A) IN GENERAL.—An election under this  
14                 subsection shall be made at such time and in  
15                 such manner as prescribed by the Secretary,  
16                 and once effective, may be revoked only with  
17                 the consent of the Secretary.

18                 “(B) INTERIM ELECTIONS.—Until such  
19                 time as the Secretary prescribes a manner for  
20                 making an election under this subsection, a tax-  
21                 payer is treated as having made a valid election  
22                 by providing written notification to the Sec-  
23                 retary and the Commissioner of Internal Rev-  
24                 enue of such election.

1           “(C) ELECTION TO INCREASE LIMITATION  
2           IN EARLIER YEAR.—A corporation may elect to  
3           increase the limitation under subsection (c) for  
4           its taxable year which includes December 31,  
5           2009. The increase in the limitation under sub-  
6           section (c) to which an election under this sub-  
7           paragraph applies shall not exceed the AMT  
8           credit adjustment amount (as determined under  
9           paragraph (2)) as of the date of such election  
10          is made. Any AMT credit adjustment amount  
11          not included in such election will be included in  
12          the corporation’s return for its first taxable  
13          year beginning after December 31, 2009. Such  
14          election, once made, is irrevocable. Such elec-  
15          tion may be made only if the corporation files  
16          such amended returns (and pays such tax) as  
17          is necessary to comply with paragraph (11).

18          “(9) AGGREGATION RULE.—For purposes of  
19          this subsection—

20                 “(A) all corporations which are members  
21                 of an affiliated group of corporations filing a  
22                 consolidated tax return, and

23                 “(B) all partnerships in which more than  
24                 50 percent of the capital and profits interest in  
25                 the partnership are owned by the corporation

1 (directly or indirectly) at all times during the  
2 taxable year in which an election under this  
3 subsection is in effect,  
4 shall be treated as a single corporation.

5 “(10) APPLICATION TO PARTNERSHIPS.—In the  
6 case of a partnership—

7 “(A) this subsection shall be applied at the  
8 partner level, and

9 “(B) each partner shall be treated as hav-  
10 ing for the taxable year an amount equal to  
11 such partner’s allocable share of the qualifying  
12 domestic compensation, new qualifying domestic  
13 compensation, and new domestic investments of  
14 the partnership for such taxable year (as deter-  
15 mined under regulations prescribed by the Sec-  
16 retary).

17 “(11) NO DOUBLE BENEFIT.—Notwithstanding  
18 clause (iii)(II) of section 172(b)(1)(H), any taxpayer  
19 which has previously made an election under such  
20 section shall be deemed to have revoked such elec-  
21 tion by the making of its first election under this  
22 subsection.

23 “(12) REGULATIONS.—The Secretary may issue  
24 such regulations or other guidance as may be nec-  
25 essary or appropriate to carry out the purposes of

1       this subsection, including to prevent fraud and abuse  
2       under this subsection.

3               “(13) TERMINATION.—This subsection shall not  
4       apply to any taxable year that begins after Decem-  
5       ber 31, 2011.”.

6       (b) QUICK REFUND OF REFUNDABLE CREDIT.—Sec-  
7       tion 6425 of the Internal Revenue Code of 1986 is amend-  
8       ed by adding at the end the following new subsection:

9               “(e) ALLOWANCE OF AMT CREDIT ADJUSTMENT  
10       AMOUNT.—The amount of an adjustment under this sec-  
11       tion as determined under subsection (c)(2) for any taxable  
12       year may be increased to the extent of the corporation’s  
13       AMT credit adjustment amount determined under section  
14       53(g) for such taxable year.”.

15       (c) EFFECTIVE DATE.—

16               (1) SUBSECTION (a).—The amendment made  
17       by subsection (a) shall apply to taxable years ending  
18       after December 30, 2009.

19               (2) SUBSECTION (b).—The amendment made  
20       by subsection (b) shall apply to taxable years begin-  
21       ning after December 31, 2009.

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