

112TH CONGRESS
2D SESSION

H. R. 5542

To amend the Internal Revenue Code of 1986 to encourage domestic insourcing and discourage foreign outsourcing.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2012

Mr. PASCRELL (for himself, Mr. LEVIN, Mr. RANGEL, Mr. STARK, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL, Mr. BECERRA, Mr. DOGGETT, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. BLUMENAUER, Mr. KIND, Ms. BERKLEY, and Mr. CROWLEY) 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 encourage domestic insourcing and discourage foreign outsourcing.

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 “Bring Jobs Home
5 Act”.

6 **SEC. 2. CREDIT FOR INSOURCING EXPENSES.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of

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

3 **“SEC. 45S. CREDIT FOR INSOURCING EXPENSES.**

4 “(a) IN GENERAL.—For purposes of section 38, the
5 insourcing expenses credit for any taxable year is an
6 amount equal to 20 percent of the eligible insourcing ex-
7 penses of the taxpayer which are taken into account in
8 such taxable year under subsection (d).

9 “(b) ELIGIBLE INSOURCING EXPENSES.—For pur-
10 poses of this section—

11 “(1) IN GENERAL.—The term ‘eligible
12 insourcing expenses’ means—

13 “(A) eligible expenses paid or incurred by
14 the taxpayer in connection with the elimination
15 of any business unit of the taxpayer (or of any
16 member of any expanded affiliated group in
17 which the taxpayer is also a member) located
18 outside the United States, and

19 “(B) eligible expenses paid or incurred by
20 the taxpayer in connection with the establish-
21 ment of any business unit of the taxpayer (or
22 of any member of any expanded affiliated group
23 in which the taxpayer is also a member) located
24 within the United States,

1 if such establishment constitutes the relocation of
2 business unit so eliminated. For purposes of the pre-
3 ceding sentence, a relocation shall not be treated as
4 failing to occur merely because such elimination oc-
5 curs in a different taxable year than such establish-
6 ment.

7 “(2) ELIGIBLE EXPENSES.—The term ‘eligible
8 expenses’ means—

9 “(A) any amount for which a deduction is
10 allowed to the taxpayer under section 162, and

11 “(B) permit and license fees, lease broker-
12 age fees, equipment installation costs, and, to
13 the extent provided by the Secretary, other
14 similar expenses.

15 Such term does not include any compensation which
16 is paid or incurred in connection with severance
17 from employment and, to the extent provided by the
18 Secretary, any similar amount.

19 “(3) BUSINESS UNIT.—The term ‘business unit’
20 means—

21 “(A) any trade or business, and

22 “(B) any line of business, or functional
23 unit, which is part of any trade or business.

24 “(4) EXPANDED AFFILIATED GROUP.—The
25 term ‘expanded affiliated group’ means an affiliated

1 group as defined in section 1504(a), determined
2 without regard to section 1504(b)(3) and by sub-
3 stituting ‘more than 50 percent’ for ‘at least 80 per-
4 cent’ each place it appears in section 1504(a). A
5 partnership or any other entity (other than a cor-
6 poration) shall be treated as a member of an ex-
7 panded affiliated group if such entity is controlled
8 (within the meaning of section 954(d)(3)) by mem-
9 bers of such group (including any entity treated as
10 a member of such group by reason of this para-
11 graph).

12 “(5) EXPENSES MUST BE PURSUANT TO
13 INSOURCING PLAN.—Amounts shall be taken into ac-
14 count under paragraph (1) only to the extent that
15 such amounts are paid or incurred pursuant to a
16 written plan to carry out the relocation described in
17 paragraph (1).

18 “(6) OPERATING EXPENSES NOT TAKEN INTO
19 ACCOUNT.—Any amount paid or incurred in connec-
20 tion with the on-going operation of a business unit
21 shall not be treated as an amount paid or incurred
22 in connection with the establishment or elimination
23 of such business unit.

24 “(c) INCREASED DOMESTIC EMPLOYMENT REQUIRE-
25 MENT.—No credit shall be allowed under this section un-

1 less the number of full-time equivalent employees of the
2 taxpayer for the taxable year for which the credit is
3 claimed exceeds the number of full-time equivalent em-
4 ployees of the taxpayer for the last taxable year ending
5 before the first taxable year in which such eligible
6 insourcing expenses were paid or incurred. For purposes
7 of this subsection, full-time equivalent employees has the
8 meaning given such term under section 45R(d) (and the
9 applicable rules of section 45R(e)), determined by only
10 taking into account wages (as otherwise defined in section
11 45R(e)) paid with respect to services performed within the
12 United States. All employers treated as a single employer
13 under subsection (b), (c), (m), or (o) of section 414 shall
14 be treated as a single employer for purposes of this sub-
15 section.

16 “(d) CREDIT ALLOWED UPON COMPLETION OF
17 INSOURCING PLAN.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), eligible insourcing expenses shall be taken
20 into account under subsection (a) in the taxable year
21 during which the plan described in subsection (b)(5)
22 has been completed and all eligible insourcing ex-
23 penses pursuant to such plan have been paid or in-
24 curred.

1 “(2) ELECTION TO APPLY EMPLOYMENT TEST
2 AND CLAIM CREDIT IN FIRST FULL TAXABLE YEAR
3 AFTER COMPLETION OF PLAN.—If the taxpayer
4 elects the application of this paragraph, eligible
5 insourcing expenses shall be taken into account
6 under subsection (a) in the first taxable year after
7 the taxable year described in paragraph (1).

8 “(e) POSSESSIONS TREATED AS PART OF THE
9 UNITED STATES.—For purposes of this section, the term
10 ‘United States’ shall be treated as including each posses-
11 sion of the United States (including the Commonwealth
12 of Puerto Rico and the Commonwealth of the Northern
13 Mariana Islands).

14 “(f) REGULATIONS.—The Secretary shall prescribe
15 such regulations or other guidance as may be necessary
16 or appropriate to carry out the purposes of this section.”.

17 (b) CREDIT TO BE PART OF GENERAL BUSINESS
18 CREDIT.—Subsection (b) of section 38 of such Code is
19 amended by striking “plus” at the end of paragraph (35),
20 by striking the period at the end of paragraph (36) and
21 inserting “, plus”, and by adding at the end the following
22 new paragraph:

23 “(37) the insourcing expenses credit determined
24 under section 45S(a).”.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for subpart D of part IV of subchapter A of chapter 1
3 of such Code is amended by adding at the end the fol-
4 lowing new item:

“Sec. 45S. Credit for insourcing expenses.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to amounts paid or incurred after
7 the date of the enactment of this Act.

8 (e) APPLICATION TO UNITED STATES POSSES-
9 SIONS.—

10 (1) PAYMENTS TO POSSESSIONS.—

11 (A) MIRROR CODE POSSESSIONS.—The
12 Secretary of the Treasury shall make periodic
13 payments to each possession of the United
14 States with a mirror code tax system in an
15 amount equal to the loss to that possession by
16 reason of section 45S of the Internal Revenue
17 Code of 1986. Such amount shall be determined
18 by the Secretary of the Treasury based on in-
19 formation provided by the government of the re-
20 spective possession.

21 (B) OTHER POSSESSIONS.—The Secretary
22 of the Treasury shall make annual payments to
23 each possession of the United States which does
24 not have a mirror code tax system in an
25 amount estimated by the Secretary of the

1 Treasury as being equal to the aggregate bene-
2 fits that would have been provided to residents
3 of such possession by reason of section 45S of
4 such Code if a mirror code tax system had been
5 in effect in such possession. The preceding sen-
6 tence shall not apply with respect to any posses-
7 sion of the United States unless such possession
8 has a plan, which has been approved by the
9 Secretary of the Treasury, under which such
10 possession will promptly distribute such pay-
11 ment to the residents of such possession.

12 (2) COORDINATION WITH CREDIT ALLOWED
13 AGAINST UNITED STATES INCOME TAXES.—No cred-
14 it shall be allowed against United States income
15 taxes under section 45S of such Code to any per-
16 son—

17 (A) to whom a credit is allowed against
18 taxes imposed by the possession by reason of
19 such section, or

20 (B) who is eligible for a payment under a
21 plan described in paragraph (1)(B).

22 (3) DEFINITIONS AND SPECIAL RULES.—

23 (A) POSSESSIONS OF THE UNITED
24 STATES.—For purposes of this section, the
25 term “possession of the United States” includes

1 the Commonwealth of Puerto Rico and the
2 Commonwealth of the Northern Mariana Is-
3 lands.

4 (B) MIRROR CODE TAX SYSTEM.—For pur-
5 poses of this section, the term “mirror code tax
6 system” means, with respect to any possession
7 of the United States, the income tax system of
8 such possession if the income tax liability of the
9 residents of such possession under such system
10 is determined by reference to the income tax
11 laws of the United States as if such possession
12 were the United States.

13 (C) TREATMENT OF PAYMENTS.—For pur-
14 poses of section 1324(b)(2) of title 31, United
15 States Code, the payments under this section
16 shall be treated in the same manner as a refund
17 due from sections referred to in such section
18 1324(b)(2).

19 **SEC. 3. DENIAL OF DEDUCTION FOR OUTSOURCING EX-**
20 **PENSES.**

21 (a) IN GENERAL.—Part IX of subchapter B of chap-
22 ter 1 of the Internal Revenue Code of 1986 is amended
23 by adding at the end the following new section:

1 **“SEC. 280I. OUTSOURCING EXPENSES.**

2 “(a) IN GENERAL.—No deduction otherwise allow-
3 able under this chapter shall be allowed for any specified
4 outsourcing expense.

5 “(b) SPECIFIED OUTSOURCING EXPENSE.—For pur-
6 poses of this section—

7 “(1) IN GENERAL.—The term ‘specified out-
8 sourcing expense’ means—

9 “(A) any eligible expense paid or incurred
10 by the taxpayer in connection with the elimi-
11 nation of any business unit of the taxpayer (or
12 of any member of any expanded affiliated group
13 in which the taxpayer is also a member) located
14 within the United States, and

15 “(B) any eligible expense paid or incurred
16 by the taxpayer in connection with the estab-
17 lishment of any business unit of the taxpayer
18 (or of any member of any expanded affiliated
19 group in which the taxpayer is also a member)
20 located outside the United States,

21 if such establishment constitutes the relocation of
22 business unit so eliminated. For purposes of the pre-
23 ceding sentence, a relocation shall not be treated as
24 failing to occur merely because such elimination oc-
25 curs in a different taxable year than such establish-
26 ment.

1 “(2) APPLICATION OF CERTAIN DEFINITIONS
2 AND RULES.—

3 “(A) DEFINITIONS.—For purposes of this
4 section, the terms ‘eligible expenses’, ‘business
5 unit’, and ‘expanded affiliated group’ shall have
6 the respective meanings given such terms by
7 section 45S(b).

8 “(B) OPERATING EXPENSES NOT TAKEN
9 INTO ACCOUNT.—A rule similar to the rule of
10 section 45S(b)(6) shall apply for purposes of
11 this section.

12 “(c) SPECIAL RULES.—

13 “(1) APPLICATION TO DEDUCTIONS FOR DE-
14 PRECIATION AND AMORTIZATION.—In the case of
15 any portion of a specified outsourcing expense which
16 is not deductible in the taxable year in which paid
17 or incurred, such portion shall neither be chargeable
18 to capital account nor amortizable.

19 “(2) POSSESSIONS TREATED AS PART OF THE
20 UNITED STATES.—For purposes of this section, the
21 term ‘United States’ shall be treated as including
22 each possession of the United States (including the
23 Commonwealth of Puerto Rico and the Common-
24 wealth of the Northern Mariana Islands).

1 “(d) REGULATIONS.—The Secretary shall prescribe
2 such regulations or other guidance as may be necessary
3 or appropriate to carry out the purposes of this section,
4 including regulations which provide (or create a rebuttable
5 presumption) that certain establishments of business units
6 outside the United States will be treated as relocations
7 (based on timing or such other factors as the Secretary
8 may provide) of business units eliminated within the
9 United States.”.

10 (b) LIMITATION ON SUBPART F INCOME OF CON-
11 TROLLED FOREIGN CORPORATIONS DETERMINED WITH-
12 OUT REGARD TO SPECIFIED OUTSOURCING EXPENSES.—
13 Subsection (c) of section 952 of such Code is amended
14 by adding at the end the following new paragraph:

15 “(4) EARNINGS AND PROFITS DETERMINED
16 WITHOUT REGARD TO SPECIFIED OUTSOURCING EX-
17 PENSES.—For purposes of this subsection, earnings
18 and profits of any controlled foreign corporation
19 shall be determined without regard to any specified
20 outsourcing expense (as defined in section
21 280I(b)).”.

22 (c) CLERICAL AMENDMENT.—The table of sections
23 for part IX of subchapter B of chapter 1 of such Code
24 is amended by adding at the end the following new item:

“Sec. 280I. Outsourcing expenses.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred after
3 the date of the enactment of this Act.

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