

114TH CONGRESS
2D SESSION

H. R. 6032

To amend the Internal Revenue Code of 1986 to provide a tax credit for purchase of data breach insurance.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2016

Mr. PERLMUTTER 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 provide a tax credit for purchase of data breach insurance.

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 “Data Breach Insurance
5 Act”.

6 **SEC. 2. CREDITS FOR PURCHASE OF DATA BREACH INSUR-**
7 **ANCE.**

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

1 1986 (relating to business related credits) is amended by
2 adding at the end the following new section:

3 **“SEC. 45S. DATA BREACH INSURANCE.**

4 “(a) IN GENERAL.—For purposes of section 38, the
5 data breach insurance credit determined under this section
6 for the taxable year is an amount equal to 15 percent of
7 the aggregate premiums paid or incurred by the taxpayer
8 during such taxable year for qualified data breach insur-
9 ance.

10 “(b) QUALIFIED DATA BREACH INSURANCE.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the term ‘qualified data breach insurance’
13 means coverage provided by an insurance company
14 for expenses or losses in connection with the theft,
15 loss, disclosure, inaccessibility, or manipulation, of
16 data.

17 “(2) CYBERSECURITY FRAMEWORK REQUIRE-
18 MENT.—Such term shall not include coverage for
19 any period unless the taxpayer has adopted, and is
20 in compliance with, one of the following with respect
21 to such period:

22 “(A) Version 1.0 of the Framework for
23 Improving Critical Infrastructure Cybersecurity
24 published by the National Institute of Stand-

1 ards and Technology as in effect on February
2 12, 2014, or subsequent versions or iterations.

3 “(B) Any similar standard specified by the
4 Secretary (after consultation with the Secretary
5 of Homeland Security and the Secretary of
6 Commerce) for purposes of this paragraph.

7 “(3) INSURANCE COMPANY.—The term ‘insur-
8 ance company’ means any corporation subject to tax
9 under subchapter L (or which would be so subject
10 if such corporation were a domestic corporation).

11 “(4) TREATMENT OF INSURANCE COVERING
12 MORE THAN DATA.—In the case of coverage under
13 which amounts are payable for other than expenses
14 or losses described in paragraph (1)—

15 “(A) no amount shall be treated as pre-
16 miums for qualified data breach insurance un-
17 less the charge for such insurance is either sep-
18 arately stated in the contract, or furnished to
19 the policyholder by the insurance company in a
20 separate statement,

21 “(B) the amount taken into account as the
22 premium paid or incurred for such insurance
23 shall not exceed such charge, and

24 “(C) no amount shall be treated as paid or
25 incurred for such insurance if the amount speci-

1 fied in the contract (or furnished to the policy-
2 holder by the insurance company in a separate
3 statement) as the charge for such insurance is
4 unreasonably large in relation to the total
5 charges under the contract.

6 “(c) PREMIUMS MUST BE TRADE OR BUSINESS EX-
7 PENSE.—Premiums shall be taken into account under sub-
8 section (a) only if such premiums are paid or incurred in
9 the ordinary course of the taxpayer’s trade or business.

10 “(d) TERMINATION.—No credit shall be determined
11 under this section for any taxable year beginning after the
12 date which is 5 years after the date of the enactment of
13 this section.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 38(b) of such Code is amended by
16 striking “plus” at the end of paragraph (35), by
17 striking the period at the end of paragraph (36),
18 and inserting “, plus”, and by adding at the end the
19 following new paragraph:

20 “(37) the data breach insurance credit deter-
21 mined under section 45S.”.

22 (2) The table of sections for subpart D of part
23 IV of subchapter A of chapter 1 of such Code is
24 amended by adding at the end the following new
25 item:

“Sec. 45S. Data breach insurance.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

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