

116TH CONGRESS  
2D SESSION

# H. R. 7222

To provide for a credit against employment taxes for certain virus transmission prevention expenses, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2020

Mr. PANETTA introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To provide for a credit against employment taxes for certain virus transmission prevention expenses, 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 “Safe Reopening Tax  
5 Credit”.

6 **SEC. 2. TAX CREDIT FOR SAFETY IMPROVEMENTS.**

7 (a) IN GENERAL.—In the case of an eligible em-  
8 ployer, there shall be allowed as a credit against applicable  
9 employment taxes for each calendar quarter an amount  
10 equal to 30 percent of the qualified virus transmission pre-

1 vention expenses paid or incurred by such employer during  
2 such calendar quarter.

3 (b) LIMITATIONS AND REFUNDABILITY.—

4 (1) LIMITATION.—The qualified fixed expenses  
5 which may be taken into account under subsection  
6 (a) by any eligible employer for any calendar quarter  
7 shall not exceed the least of—

8 (A) \$15,000, or

9 (B) the greater of—

10 (i) 25 percent of the wages paid with  
11 respect to the employment of all employees  
12 of the eligible employer for such calendar  
13 quarter, or

14 (ii) 6.25 percent of gross receipts of  
15 the eligible employer for calendar year  
16 2019.

17 (2) CREDIT LIMITED TO CERTAIN EMPLOYMENT  
18 TAXES.—The credit allowed by subsection (a) with  
19 respect to any calendar quarter shall not exceed the  
20 applicable employment taxes for such calendar quar-  
21 ter (reduced by any credits allowed under sub-  
22 sections (e) and (f) of section 3111 of such Code,  
23 sections 7001 and 7003 of the Families First  
24 Coronavirus Response Act, and section 2301 of the  
25 CARES Act, for such quarter) on the wages paid

1 with respect to the employment of all the employees  
2 of the eligible employer for such calendar quarter.

3 (3) REFUNDABILITY OF EXCESS CREDIT.—

4 (A) IN GENERAL.—If the amount of the  
5 credit under subsection (a) exceeds the limita-  
6 tion of paragraph (2) for any calendar quarter,  
7 such excess shall be treated as an overpayment  
8 that shall be refunded under sections 6402(a)  
9 and 6413(b) of the Internal Revenue Code of  
10 1986.

11 (B) TREATMENT OF PAYMENTS.—For pur-  
12 poses of section 1324 of title 31, United States  
13 Code, any amounts due to an employer under  
14 this paragraph shall be treated in the same  
15 manner as a refund due from a credit provision  
16 referred to in subsection (b)(2) of such section.

17 (c) DEFINITIONS.—For purposes of this section—

18 (1) APPLICABLE EMPLOYMENT TAXES.—The  
19 term “applicable employment taxes” means the fol-  
20 lowing:

21 (A) The taxes imposed under section  
22 3111(a) of the Internal Revenue Code of 1986.

23 (B) So much of the taxes imposed under  
24 section 3221(a) of such Code as are attrib-

1           utable to the rate in effect under section  
2           3111(a) of such Code.

3           (2) ELIGIBLE EMPLOYER.—

4                 (A) IN GENERAL.—The term “eligible em-  
5           ployer” means any employer—

6                     (i) which was carrying on a trade or  
7           business at any time during calendar year  
8           2020,

9                     (ii) which had either—

10                         (I) not more than 1,500 full time  
11                         equivalent employees (as determined  
12                         for the purposes of determining  
13                         whether an employer is an applicable  
14                         large employer for the purposes of  
15                         section 4980H(c)(2) of the Internal  
16                         Revenue Code of 1986) for calendar  
17                         year 2019, or

18                         (II) not more than \$41,500,000  
19                         in gross receipts in the last taxable  
20                         year ending in 2019, and

21                         (iii) is primarily an establishment  
22                         classified under one of the following:

23                                 (I) The North American Industry  
24                                 Classification System Sector codes 44,  
25                                 45, 71, or 72.

1 (II) The North American Indus-  
2 try Classification System Subsector  
3 code 624.

4 (III) The North American Indus-  
5 try Classification System codes  
6 512131 or 519120.

7 (B) TAX-EXEMPT ORGANIZATIONS.—In the  
8 case of an organization which is described in  
9 section 501(c) of the Internal Revenue Code of  
10 1986 and exempt from tax under section 501(a)  
11 of such Code—

12 (i) clauses (i) and (iii)(I) of subpara-  
13 graph (A) shall apply to all operations of  
14 such organization, and

15 (ii) any reference in this section to  
16 gross receipts shall be treated as a ref-  
17 erence to gross receipts within the meaning  
18 of section 6033 of the Internal Revenue  
19 Code of 1986.

20 (3) QUALIFIED VIRUS TRANSMISSION PREVEN-  
21 TION EXPENSES.—The term “qualified virus trans-  
22 mission prevention expenses” means the payment or  
23 accrual of any expense which is intended to reduce  
24 or prevent the transmission of communicable viruses  
25 (including Severe Acute Respiratory Syndrome

1       Coronavirus 2 (SARS-CoV-2)), which is used in the  
2       operation of a trade or business in the United States  
3       (including the possessions of the United States), in-  
4       cluding—

5               (A) barriers erected to prevent virus  
6               spread between customers and employees, in-  
7               cluding plexiglass installed at cashiers and  
8               other counters, and partitions to separate cus-  
9               tomers,

10              (B) changes to fixtures to facilitate social  
11              distancing, including additional check-out sta-  
12              tions,

13              (C) contactless point-of-sale systems,

14              (D) enhanced sanitation, including deep  
15              cleaning and hand sanitizer,

16              (E) thermometers and other virus moni-  
17              toring devices or methods, including COVID-19  
18              testing,

19              (F) ventilation or air filtration,

20              (G) signage related to public health aware-  
21              ness, social distancing, or altered services like  
22              curbside pickups,

23              (H) employee health education,

24              (I) training for new business procedures  
25              resulting from COVID-19,

1 (J) personal protective equipment, and

2 (K) such additional expenses as the Sec-  
3 retary, in consultation with the Secretary of  
4 Health and Human Services, determines to be  
5 necessary.

6 (4) SECRETARY.—The term “Secretary” means  
7 the Secretary of the Treasury or the Secretary’s del-  
8 egate.

9 (d) AGGREGATION RULE.—All persons treated as a  
10 single employer under subsection (a) or (b) of section 52  
11 of the Internal Revenue Code of 1986, or subsection (m)  
12 or (o) of section 414 of such Code, shall be treated as  
13 one employer for purposes of this section.

14 (e) DENIAL OF DOUBLE BENEFIT.—For purposes of  
15 chapter 1 of such Code, the gross income of any eligible  
16 employer, for the taxable year which includes the last day  
17 of any calendar quarter with respect to which a credit is  
18 allowed under this section, shall be increased by the  
19 amount of such credit.

20 (f) ELECTION NOT TO HAVE SECTION APPLY.—This  
21 section shall not apply with respect to any eligible em-  
22 ployer for any calendar quarter if such employer elects (at  
23 such time and in such manner as the Secretary may pre-  
24 scribe) not to have this section apply.

1       (g) TRANSFERS TO CERTAIN TRUST FUNDS.—There  
2 are hereby appropriated to the Federal Old-Age and Sur-  
3 vivors Insurance Trust Fund and the Federal Disability  
4 Insurance Trust Fund established under section 201 of  
5 the Social Security Act (42 U.S.C. 401) and the Social  
6 Security Equivalent Benefit Account established under  
7 section 15A(a) of the Railroad Retirement Act of 1974  
8 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in  
9 revenues to the Treasury by reason of this section (without  
10 regard to this subsection). Amounts appropriated by the  
11 preceding sentence shall be transferred from the general  
12 fund at such times and in such manner as to replicate  
13 to the extent possible the transfers which would have oc-  
14 curred to such Trust Fund or Account had this section  
15 not been enacted.

16       (h) TREATMENT OF DEPOSITS.—The Secretary shall  
17 waive any penalty under section 6656 of such Code for  
18 any failure to make a deposit of applicable employment  
19 taxes if the Secretary determines that such failure was due  
20 to the anticipation of the credit allowed under this section.

21       (i) REGULATIONS AND GUIDANCE.—The Secretary  
22 shall issue such forms, instructions, regulations, and guid-  
23 ance as are necessary—

24               (1) to allow the advance payment of the credit  
25       under subsection (a), subject to the limitations pro-

1 vided in this section, based on such information as  
2 the Secretary shall require,

3 (2) to provide for the reconciliation of such ad-  
4 vance payment with the amount of the credit at the  
5 time of filing the return of tax for the applicable  
6 quarter or taxable year,

7 (3) with respect to the application of the credit  
8 under subsection (a) to third-party payors (including  
9 professional employer organizations, certified profes-  
10 sional employer organizations, or agents under sec-  
11 tion 3504 of the Internal Revenue Code of 1986),  
12 including regulations or guidance allowing such  
13 payors to submit documentation necessary to sub-  
14 stantiate the eligible employer status of employers  
15 that use such payors,

16 (4) for application of subsection (c)(2)(A)(ii) in  
17 the case of any employer which was not carrying on  
18 a trade or business for all or part of the same cal-  
19 endar quarter in the prior year, and

20 (5) for recapturing the benefit of credits deter-  
21 mined under this section in cases where there is a  
22 subsequent adjustment to the credit determined  
23 under subsection (a).

24 (j) APPLICATION OF SECTION.—This section shall  
25 apply only to qualified fixed expenses paid or accrued in

- 1 calendar quarters beginning on or after the date of the
- 2 enactment of this Act and before January 1, 2021.

