

116TH CONGRESS
2D SESSION

H. R. 7615

To provide a payroll tax credit for certain expenses associated with protecting employees from COVID-19.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2020

Mr. RICE of South Carolina introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide a payroll tax credit for certain expenses associated with protecting employees from COVID-19.

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. HEALTHY WORKPLACE TAX CREDIT.**

4 (a) IN GENERAL.—In the case of an employer, there
5 shall be allowed as a credit against applicable employment
6 taxes for each calendar quarter an amount equal to 50
7 percent of the sum of—

8 (1) the qualified employee protection expenses
9 paid or incurred by the employer during such cal-
10 endar quarter,

1 (2) the qualified workplace reconfiguration ex-
2 penses paid or incurred by the employer during such
3 calendar quarter, and

4 (3) the qualified workplace technology expenses
5 paid or incurred by the employer during such cal-
6 endar quarter.

7 (b) LIMITATIONS AND REFUNDABILITY.—

8 (1) OVERALL DOLLAR LIMITATION ON CRED-
9 IT.—

10 (A) IN GENERAL.—The amount of the
11 credit allowed under subsection (a) with respect
12 to any employer for any calendar quarter shall
13 not exceed the excess (if any) of—

14 (i) the applicable dollar limit with re-
15 spect to such employer for such calendar
16 quarter, over

17 (ii) the aggregate credits allowed
18 under subsection (a) with respect to such
19 employer for all preceding calendar quar-
20 ters.

21 (B) APPLICABLE DOLLAR LIMIT.—The
22 term “applicable dollar limit” means, with re-
23 spect to any employer for any calendar quarter,
24 the sum of—

1 (i) \$1,000, multiplied so much of the
2 average number of employees employed by
3 such employer during such calendar quar-
4 ter as does not exceed 500, plus

5 (ii) \$750, multiplied by so much of
6 such average number of employees as ex-
7 ceeds 500 but does not exceed 1,000, plus

8 (iii) \$500, multiplied by so much of
9 such average number of employees as ex-
10 ceeds 1,000.

11 (2) CREDIT LIMITED TO EMPLOYMENT
12 TAXES.—The credit allowed by subsection (a) with
13 respect to any calendar quarter shall not exceed the
14 applicable employment taxes (reduced by any credits
15 allowed under subsections (e) and (f) of section
16 3111 of the Internal Revenue Code of 1986, sections
17 7001 and 7003 of the Families First Coronavirus
18 Response Act, and section 2301 of the CARES Act)
19 on the wages paid with respect to the employment
20 of all the employees of the eligible employer for such
21 calendar quarter.

22 (3) REFUNDABILITY OF EXCESS CREDIT.—

23 (A) IN GENERAL.—If the amount of the
24 credit under subsection (a) exceeds the limita-
25 tion of paragraph (2) for any calendar quarter,

1 such excess shall be treated as an overpayment
2 that shall be refunded under sections 6402(a)
3 and 6413(b) of the Internal Revenue Code of
4 1986.

5 (B) TREATMENT OF PAYMENTS.—For pur-
6 poses of section 1324 of title 31, United States
7 Code, any amounts due to the employer under
8 this paragraph shall be treated in the same
9 manner as a refund due from a credit provision
10 referred to in subsection (b)(2) of such section.

11 (c) QUALIFIED EMPLOYEE PROTECTION EX-
12 PENSES.—For purposes of this section, the term “quali-
13 fied employee protection expenses” means amounts paid
14 or incurred by the employer for—

15 (1) testing employees of the employer for
16 COVID-19 (including on a periodic basis),

17 (2) equipment to protect employees of the em-
18 ployer from contracting COVID-19, including masks,
19 gloves, and disinfectants, and

20 (3) cleaning products or services (whether pro-
21 vided by an employee of the taxpayer or a cleaning
22 service provider) related to preventing the spread of
23 COVID-19.

24 (d) QUALIFIED WORKPLACE RECONFIGURATION EX-
25 PENSES.—For purposes of this section—

1 (1) IN GENERAL.—The term “qualified work-
2 place reconfiguration expenses” means amounts paid
3 or incurred by the employer to design and recon-
4 figure retail space, work areas, break areas, or other
5 areas that employees or customers regularly use in
6 the ordinary course of the employer’s trade or busi-
7 ness if such design and reconfiguration—

8 (A) has a primary purpose of preventing
9 the spread of COVID-19,

10 (B) is with respect to an area that is lo-
11 cated in the United States and that is leased or
12 owned by the employer,

13 (C) is consistent with the purpose of the
14 property immediately before the reconfigura-
15 tion,

16 (D) is commensurate with the risks faced
17 by the employees or customers or is consistent
18 with recommendations made by the Centers for
19 Disease Control and Prevention or the Occupa-
20 tional Safety and Health Administration,

21 (E) is completed pursuant to a reconfig-
22 uration plan and no comparable reconfiguration
23 plan was in place before March 13, 2020, and

24 (F) is completed before January 1, 2021.

1 (2) REGULATIONS.—The Secretary shall pre-
2 scribe such regulations and other guidance as may
3 be necessary or appropriate to carry out the pur-
4 poses of this subsection, including guidance defining
5 primary purpose and reconfiguration plan.

6 (e) QUALIFIED WORKPLACE TECHNOLOGY EX-
7 PENSES.—For purposes of this section—

8 (1) IN GENERAL.—The term “qualified work-
9 place technology expenses” means amounts paid or
10 incurred by the employer for technology systems
11 that employees or customers use in the ordinary
12 course of the employer’s trade or business if such
13 technology system—

14 (A) has a primary purpose of preventing
15 the spread of COVID-19,

16 (B) is used for limiting physical contact
17 between customers and employees in the United
18 States,

19 (C) is commensurate with the risks faced
20 by the employees or customers or is consistent
21 with recommendations made by the Centers for
22 Disease Control and Prevention or the Occupa-
23 tional Safety and Health Administration,

24 (D) is acquired by the taxpayer after
25 March 12, 2020, and is not acquired pursuant

1 to a written binding contract entered into be-
2 fore such date, and

3 (E) is placed in service by the taxpayer be-
4 fore January 1, 2021.

5 (2) TECHNOLOGY SYSTEMS.—The term “tech-
6 nology systems” means computer software (as de-
7 fined in section 167(f)(1)) and qualified techno-
8 logical equipment (as defined in section 168(i)(2)).

9 (3) REGULATIONS.—The Secretary shall pre-
10 scribe such regulations and other guidance as may
11 be necessary or appropriate to carry out the pur-
12 poses of this subsection, including guidance defining
13 primary purpose.

14 (f) OTHER DEFINITIONS.—For purposes of this sec-
15 tion—

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

19 (A) The taxes imposed under section
20 3111(a) of the Internal Revenue Code of 1986.

21 (B) So much of the taxes imposed under
22 section 3221(a) of such Code as are attrib-
23 utable to the rate in effect under section
24 3111(a) of such Code.

1 (2) COVID-19.—Except where the context
2 clearly indicates otherwise, any reference in this sec-
3 tion to COVID-19 shall be treated as including a
4 reference to the virus which causes COVID-19.

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

8 (4) OTHER TERMS.—Any term used in this sec-
9 tion (other than subsection (b)(1)(B)) which is also
10 used in chapter 21 or 22 of the Internal Revenue
11 Code of 1986 shall have the same meaning as when
12 used in such chapter.

13 (g) CERTAIN GOVERNMENTAL EMPLOYERS.—This
14 credit shall not apply to the Government of the United
15 States, the government of any State or political subdivi-
16 sion thereof, or any agency or instrumentality of any of
17 the foregoing.

18 (h) SPECIAL RULES.—

19 (1) AGGREGATION RULE.—All persons treated
20 as a single employer under subsection (a) or (b) of
21 section 52 of the Internal Revenue Code of 1986, or
22 subsection (m) or (o) of section 414 of such Code,
23 shall be treated as one employer for purposes of this
24 section.

25 (2) DENIAL OF DOUBLE BENEFIT.—

1 (A) IN GENERAL.—Rules similar to the
2 rules of paragraphs (1) and (2) of section
3 280C(b) shall apply for purposes of this section.

4 (B) EXPENSES NOT TAKEN INTO ACCOUNT
5 MORE THAN ONCE.—Any qualified workplace
6 reconfiguration expense or qualified workplace
7 technology expense shall not be treated as a
8 qualified employee protection expense and any
9 qualified workplace technology expense shall not
10 be treated as a qualified workplace reconfigura-
11 tion expense.

12 (3) THIRD-PARTY PAYORS.—Any credit allowed
13 under this section shall be treated as a credit de-
14 scribed in section 3511(d)(2) of such Code.

15 (4) ELECTION NOT TO HAVE SECTION APPLY.—
16 This section shall not apply with respect to any eligi-
17 ble employer for any calendar quarter if such em-
18 ployer elects (at such time and in such manner as
19 the Secretary may prescribe) not to have this section
20 apply.

21 (i) TRANSFERS TO CERTAIN TRUST FUNDS.—There
22 are hereby appropriated to the Federal Old-Age and Sur-
23 vivors Insurance Trust Fund and the Federal Disability
24 Insurance Trust Fund established under section 201 of
25 the Social Security Act (42 U.S.C. 401) and the Social

1 Security Equivalent Benefit Account established under
2 section 15A(a) of the Railroad Retirement Act of 1974
3 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in
4 revenues to the Treasury by reason of this section (without
5 regard to this subsection). Amounts appropriated by the
6 preceding sentence shall be transferred from the general
7 fund at such times and in such manner as to replicate
8 to the extent possible the transfers which would have oc-
9 curred to such Trust Fund or Account had this section
10 not been enacted.

11 (j) TREATMENT OF DEPOSITS.—The Secretary shall
12 waive any penalty under section 6656 of the Internal Rev-
13 enue Code of 1986 for any failure to make a deposit of
14 any applicable employment taxes if the Secretary deter-
15 mines that such failure was due to the reasonable anticipa-
16 tion of the credit allowed under this section.

17 (k) REGULATIONS AND GUIDANCE.—The Secretary
18 shall prescribe such regulations and other guidance as
19 may be necessary or appropriate to carry out the purposes
20 of this section, including—

21 (1) with respect to the application of the credit
22 under subsection (a) to third-party payors (including
23 professional employer organizations, certified profes-
24 sional employer organizations, or agents under sec-
25 tion 3504 of the Internal Revenue Code of 1986),

1 regulations or other guidance allowing such payors
2 to submit documentation necessary to substantiate
3 the amount of the credit allowed under subsection
4 (a), and

5 (2) regulations or other guidance to prevent
6 abusive transactions.

7 (l) APPLICATION.—This section shall only apply to
8 amounts paid or incurred after March 12, 2020, and be-
9 fore January 1, 2021.

○