

117TH CONGRESS
1ST SESSION

H. R. 5056

To amend the Internal Revenue Code of 1986 to provide tax credits for carriage of independent programmers by qualified distributors and multi-channel video programming distributors.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 20, 2021

Ms. CLARKE of New York 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 tax credits for carriage of independent programmers by qualified distributors and multichannel video programming distributors.

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. CARRIAGE OF INDEPENDENT PROGRAMMERS**

4 **TAX CREDIT.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
6 chapter A of chapter 1 of the Internal Revenue Code of
7 1986 is amended by adding at the end the following new
8 section:

1 **“SEC. 45U. CARRIAGE OF INDEPENDENT PROGRAMMERS**

2 **CREDIT.**

3 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
4 tion 38, in the case of any eligible distributor, the carriage
5 of independent programmers credit determined under this
6 section for the taxable year is, with respect to each agree-
7 ment for qualifying carriage entered into by such eligible
8 distributor, the lesser of—

9 “(1) the net license fees paid or incurred by
10 such eligible distributor during such taxable year
11 under such agreement for qualifying carriage, or

12 “(2) the product of \$0.10 multiplied by the
13 number of subscribers per month to which carriage
14 is provided under such agreement.

15 “(b) MAXIMUM CREDIT.—The credit determined
16 under this section with respect to any eligible distributor
17 for any taxable year shall not exceed the product of—

18 “(1) \$0.10, multiplied by

19 “(2) 3 times the average number of subscribers
20 of the eligible distributor on days during such tax-
21 able year.

22 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
23 poses of this section—

24 “(1) ELIGIBLE DISTRIBUTOR.—The term ‘eligi-
25 ble distributor’ means—

1 “(A) any person engaged in the trade or
2 business of being a qualified distributor or mul-
3 tichannel video programming distributor, as
4 such term is defined in section 76.1000 of title
5 47 of the Code of Federal Regulations, and

6 “(B) any person engaged in the trade or
7 business of being a virtual multichannel video
8 programming distributor.

9 “(2) AGREEMENT FOR QUALIFYING CAR-
10 RIAGE.—The term ‘agreement for qualifying car-
11 riage’ means a written agreement between an eligible
12 distributor and a qualified independent programmer
13 that provides for new or expanded carriage of a
14 qualified independent programmer to at least 40
15 percent of a subscriber base and which requires the
16 eligible distributor to pay a license fee to the quali-
17 fied independent programmer.

18 “(3) QUALIFIED INDEPENDENT PRO-
19 GRAMMER.—The term ‘qualified independent pro-
20 grammer’—

21 “(A) means a United States-based person
22 engaged in the production, creation, or whole-
23 sale distribution of three or fewer television
24 channels in which no multichannel video pro-
25 gramming distributor, cable programmer, or

1 broadcast network has attributable interest, as
2 such term is defined by section 1000(b) of title
3 47 of the Code of Federal Regulations, and

4 “(B) includes rural, women, socially dis-
5 advantaged, and minority-owned programmers.

6 “(4) CABLE PROGRAMMER.—The term ‘cable
7 programmer’ means WarnerMedia LLC, The Walt
8 Disney Company, News Corporation, CBSViacom,
9 Inc., Discovery, Inc., Comcast and their managed or
10 controlled subsidiaries, successors, and assigns.

11 “(5) LICENSE FEES.—Except as otherwise pro-
12 vided by the Secretary, in the case of an agreement
13 for qualifying carriage which is net effective rate
14 positive for the qualified independent programmer,
15 the appropriate amount shall be treated as a license
16 fee paid by the eligible distributor to the qualified
17 independent programmer.

18 “(6) SOCIALLY DISADVANTAGED.—The term
19 ‘socially disadvantaged’ with respect to an individual
20 means that the individual has been subjected to ra-
21 cial or ethnic prejudice or cultural bias because of
22 the identity of the individual as a member of a
23 group without regard to the individual qualities of
24 the individual.

1 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction
2 shall be allowed under this chapter for any amount to the
3 extent that such amount is allowed as a credit under this
4 section.”.

5 (b) CREDIT MADE PART OF GENERAL BUSINESS
6 CREDIT.—Subsection (b) of section 38 of such Code is
7 amended by striking “plus” at the end of paragraph (32),
8 by striking the period at the end of paragraph (33) and
9 inserting “, plus”, and by adding at the end the following
10 new paragraph:

11 “(34) the carriage of independent programmers
12 credit determined under section 45U.”.

13 (c) CLERICAL AMENDMENT.—The table of sections
14 for subpart D of part IV of subchapter A of chapter 1
15 is amended by adding at the end the following new item:

“Sec. 45U. Carriage of Independent Programmers Credit.”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to expenses made or incurred after
18 December 31, 2020, in taxable years ending after such
19 date.

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