

117TH CONGRESS
1ST SESSION

H. R. 5231

To amend the Internal Revenue Code of 1986 to modify the employer credit for paid family and medical leave, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2021

Mr. KELLY of Pennsylvania 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 modify the employer credit for paid family and medical leave, 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 “Relief for Working
5 Families Act”.

6 **SEC. 2. MODIFICATIONS TO EMPLOYER CREDIT FOR PAID**
7 **FAMILY AND MEDICAL LEAVE.**

8 (a) CREDIT MADE PERMANENT AND LIMITED TO
9 FIRST 5 YEARS AFTER ESTABLISHMENT OF PLAN.—

1 (1) IN GENERAL.—Section 45S(i) of the Inter-
2 nal Revenue Code of 1986 is amended to read as fol-
3 lows:

4 (2) PHASE-OUT.—Section 45S of such Code is
5 amended by adding at the end the following new
6 subsection:

7 “(i) CREDIT LIMITED TO FIRST 5 YEARS AFTER ES-
8 TABLISHMENT OF PLAN.—

9 “(1) IN GENERAL.—No credit shall be allowed
10 under this section with respect to any taxpayer after
11 the 5-taxable-year period beginning with the taxable
12 year which includes the date on which the taxpayer
13 first has in place a policy described in subsection
14 (c)(1).

15 “(2) PHASE-DOWN OF CREDIT.—The credit de-
16 termined under this section (without regard to this
17 subsection) shall be reduced by—

18 “(A) in the case of the fourth taxable year
19 in the 5-taxable-year period described in para-
20 graph (1), 25 percent of the amount of such
21 credit, and

22 “(B) in the case of the fifth taxable year
23 in such 5-taxable-year period, 50 percent of the
24 amount of such credit.

1 “(3) TRANSITIONAL RULE.—The 5-taxable-year
 2 period described in paragraph (1) shall not be treat-
 3 ed as beginning before the beginning of the tax-
 4 payer’s first taxable year beginning after December
 5 31, 2022.”.

6 (b) ENHANCED CREDIT FOR NEW PLANS OF SMALL
 7 EMPLOYERS.—

8 (1) IN GENERAL.—Section 45S of such Code is
 9 amended by adding at the end the following new
 10 subsection:

11 “(j) ENHANCED CREDIT FOR CERTAIN NEW PLANS
 12 OF SMALL EMPLOYERS.—

13 “(1) IN GENERAL.—In the case of an eligible
 14 small employer—

15 “(A) subsection (a)(2) shall be applied—

16 “(i) by substituting ‘25 percent’ for
 17 ‘12.5 percent’, and

18 “(ii) by substituting ‘50 percent’ for
 19 ‘25 percent’ (determined without regard to
 20 the substitution described in clause (i)),

21 “(B) the credit determined under sub-
 22 section (a)(1) for any taxable year shall be in-
 23 creased by the applicable percentage (deter-
 24 mined after application of subparagraph (A)) of
 25 the sum of—

1 “(i) so much of the amounts paid dur-
2 ing such taxable year as administrative ex-
3 penses of carrying out the policy described
4 in subsection (c)(1) (other than any
5 amounts paid to establish such policy), in-
6 cluding payments to third-party adminis-
7 trators and premiums for short-term dis-
8 ability insurance, as do not exceed
9 \$50,000, plus

10 “(ii) in the case of the taxable year
11 which includes the date on which the policy
12 described in subsection (c)(1) takes effect,
13 so much of the amounts paid to establish
14 such policy as do not exceed \$1,000.

15 “(2) ELIGIBLE SMALL EMPLOYER.—For pur-
16 poses of this subsection, the term ‘eligible small em-
17 ployer’ means, with respect to any taxable year, any
18 eligible employer—

19 “(A) the gross receipts of which for such
20 taxable year do not exceed \$25,000,000,

21 “(B) which employed on average 50 or
22 fewer employees on business days during the
23 taxable year, and

1 “(C) which did not have a policy described
2 in subsection (c)(1) in place at any time prior
3 to the date of the enactment of this Act.”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by this subsection shall apply to taxable years begin-
6 ning after the date of the enactment of this Act.

7 (c) EMPLOYER REQUIREMENTS FOR RATE OF PAY-
8 MENT.—

9 (1) IN GENERAL.—Subsection (c) of section
10 45S of such Code is amended—

11 (A) in paragraph (1)(B), by inserting after
12 the first sentence the following: “For purposes
13 of determining the rate of payment under the
14 program, any family and medical leave which is
15 paid by a State or local government or required
16 by State or local law, determined as a percent-
17 age of the wages normally paid to such em-
18 ployee for services performed for the employer,
19 shall be taken into account.”; and

20 (B) in paragraph (4)—

21 (i) by striking “For purposes of this
22 section, any” and inserting “Any”; and

23 (ii) by striking “amount of paid fam-
24 ily and medical leave provided by the em-

1 ployer” and inserting “wages taken into
2 account under subsection (a)”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by this subsection shall take effect as if included in
5 section 13403 of Public Law 115–97.

6 (d) TECHNICAL CORRECTIONS.—

7 (1) IN GENERAL.—Section 45S of such Code is
8 amended—

9 (A) in subsection (b)(1), by striking “cred-
10 it allowed” and inserting “wages taken into ac-
11 count”;

12 (B) in subsection (c), by striking para-
13 graph (3) and inserting the following:

14 “(3) AGGREGATION RULE.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), all persons which are treated
17 as a single employer under subsections (b) and
18 (c) of section 414 shall be treated as a single
19 employer.

20 “(B) EXCEPTION.—

21 “(i) IN GENERAL.—Subparagraph (A)
22 shall not apply to any person who estab-
23 lishes to the satisfaction of the Secretary
24 that such person has a substantial and le-
25 gitimate business reason for failing to pro-

1 vide a written policy described in para-
2 graph (1) or (2).

3 “(ii) SUBSTANTIAL AND LEGITIMATE
4 BUSINESS REASON.—For purposes of
5 clause (i), the term ‘substantial and legiti-
6 mate business reason’ shall not include the
7 operation of a separate line of business,
8 the rate of wages or category of jobs for
9 employees (or any similar basis), or the ap-
10 plication of State or local laws relating to
11 family and medical leave, but may include
12 the grouping of employees of a common
13 law employer.”; and

14 (C) in subsection (d)(2), by inserting “, as
15 determined on an annualized basis (pro-rata for
16 part-time employees),” after “compensation”.

17 (2) EFFECTIVE DATE.—The amendments made
18 by this subsection shall take effect as if included in
19 section 13403 of Public Law 115–97.

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