

116TH CONGRESS
2D SESSION

H. R. 7431

To provide a payroll tax credit for personal protective equipment for use by employees and customers.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2020

Mr. ROUDA (for himself and Mr. MAST) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide a payroll tax credit for personal protective equipment for use by employees and customers.

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 “Helping Small Busi-
5 nesses Reopen Safely Act of 2020”.

6 **SEC. 2. PAYROLL TAX CREDIT FOR PERSONAL PROTECTIVE**
7 **EQUIPMENT.**

8 (a) IN GENERAL.—In the case of an eligible em-
9 ployer, there shall be allowed as a credit against applicable
10 employment taxes for each calendar quarter an amount

1 equal to 90 percent of the amount paid or incurred by
2 such employer during such calendar quarter for eligible
3 personal protective equipment provided free of charge by
4 such employer for the use or for the benefit of employees
5 and customers of such employer.

6 (b) LIMITATIONS AND REFUNDABILITY.—

7 (1) DOLLAR LIMITATION.—The amount of the
8 credit allowed under subsection (a) with respect to
9 any eligible employer for any calendar quarter shall
10 not exceed the lesser of—

11 (A) \$6,250, or

12 (B) the greater of—

13 (i) 2 percent of the employer's gross
14 receipts for such calendar quarter, or

15 (ii) 0.5 percent of the employer's
16 gross receipts for the employer's last tax-
17 able year ending in 2019.

18 (2) CREDIT LIMITED TO EMPLOYMENT
19 TAXES.—The credit allowed by subsection (a) with
20 respect to any calendar quarter shall not exceed the
21 applicable employment taxes (reduced by any credits
22 allowed under subsections (e) and (f) of section
23 3111 of the Internal Revenue Code of 1986, sections
24 7001 and 7003 of the Families First Coronavirus
25 Response Act, and section 2301 of the CARES Act)

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

4 (3) REFUNDABILITY OF EXCESS CREDIT.—

5 (A) IN GENERAL.—If the amount of the
6 credit under subsection (a) exceeds the limita-
7 tion of paragraph (2) for any calendar quarter,
8 such excess shall be treated as an overpayment
9 that shall be refunded under sections 6402(a)
10 and 6413(b) of the Internal Revenue Code of
11 1986.

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

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

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

22 (A) The taxes imposed under section
23 3111(a) of the Internal Revenue Code of 1986.

24 (B) So much of the taxes imposed under
25 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, with respect to any calendar
6 quarter, any employer—

7 (i) which was carrying on a trade or
8 business during such calendar quarter, and

9 (ii) the average number of full-time
10 employees (within the meaning of section
11 4980H of the Internal Revenue Code of
12 1986) employed by such employer during
13 such calendar quarter was less than 500.

14 (B) CERTAIN TAX-EXEMPT ORGANIZA-
15 TIONS AND GOVERNMENTAL EMPLOYERS.—In
16 the case of an organization which is described
17 in section 501(c) of the Internal Revenue Code
18 of 1986 and exempt from tax under section
19 501(a) of such Code, or any governmental enti-
20 ty (other than a governmental entity described
21 in subparagraph (D)), subparagraph (A)(i)
22 shall apply to all operations of such organiza-
23 tion or government.

24 (C) EXCLUSION OF CERTAIN TAX-EXEMPT
25 ORGANIZATIONS.—The term “eligible employer”

1 shall not include any organization described in
2 section 501(c)(4) of such Code unless such or-
3 ganization does not participate in, or intervene
4 in (including the publishing or distributing of
5 statements), any political campaign on behalf of
6 (or in opposition to) any candidate for public
7 office.

8 (D) EXCLUSION OF FEDERAL AND FOR-
9 EIGN GOVERNMENTS.—The term “eligible em-
10 ployer” shall not include the Government of the
11 United States, the government of any foreign
12 country, or any agency or instrumentality of the
13 foregoing.

14 (3) ELIGIBLE PERSONAL PROTECTIVE EQUIP-
15 MENT.—The term “eligible personal protective
16 equipment” means masks or face coverings, goggles,
17 face shields, respiratory protection, gloves, gowns,
18 shields or barriers, hand sanitizers, surface cleaners
19 or disinfectants, items that are intended to reduce
20 the spread of infectious disease, and any other sup-
21 plies or equipment that the Secretary determines ap-
22 propriate for purposes of this section after consulta-
23 tion with Secretary of Health and Human Services
24 and the Secretary of Labor.

1 (4) SECRETARY.—The term “Secretary” means
2 the Secretary of the Treasury or the Secretary’s del-
3 egate.

4 (5) OTHER TERMS.—Any term used in this sec-
5 tion which is also used in chapter 21 or 22 of the
6 Internal Revenue Code of 1986 shall have the same
7 meaning as when used in such chapter.

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

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

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

1 (g) THIRD-PARTY PAYORS.—Any credit allowed
2 under this section shall be treated as a credit described
3 in section 3511(d)(2) of such Code.

4 (h) TRANSFERS TO FEDERAL OLD-AGE AND SUR-
5 VIVORS INSURANCE TRUST FUND.—There are hereby ap-
6 propriated to the Federal Old-Age and Survivors Insur-
7 ance Trust Fund and the Federal Disability Insurance
8 Trust Fund established under section 201 of the Social
9 Security Act (42 U.S.C. 401) and the Social Security
10 Equivalent Benefit Account established under section
11 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C.
12 14 231n–1(a)) amounts equal to the reduction in revenues
13 to the Treasury by reason of this section (without regard
14 to this subsection). Amounts appropriated by the pre-
15 ceding sentence shall be transferred from the general fund
16 at such times and in such manner as to replicate to the
17 extent possible the transfers which would have occurred
18 to such Trust Fund or Account had this section not been
19 enacted.

20 (i) TREATMENT OF DEPOSITS.—The Secretary shall
21 waive any penalty under section 6656 of the Internal Rev-
22 enue Code of 1986 for any failure to make a deposit of
23 any applicable employment taxes if the Secretary deter-
24 mines that such failure was due to the reasonable anticipa-
25 tion of the credit allowed under this section.

1 (j) REGULATIONS AND GUIDANCE.—The Secretary
2 shall issue such forms, instructions, regulations, and guid-
3 ance as are necessary—

4 (1) to allow the advance payment of the credit
5 under subsection (a), subject to the limitations pro-
6 vided in this section, based on such information as
7 the Secretary shall require,

8 (2) to provide for the reconciliation of such ad-
9 vance payment with the amount advanced at the
10 time of filing the return of tax for the applicable cal-
11 endar quarter or taxable year, and

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

21 (k) APPLICATION.—This section shall only apply to
22 calendar quarters beginning after December 31, 2019, and
23 before January 1, 2022.

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