

109TH CONGRESS
2^D SESSION

H. R. 5751

To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax equal to 50 percent of the compensation paid to employees while they are performing active duty service as members of the Ready Reserve or the National Guard and of the compensation paid to temporary replacement employees.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2006

Mr. POE 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 allow employers a credit against income tax equal to 50 percent of the compensation paid to employees while they are performing active duty service as members of the Ready Reserve or the National Guard and of the compensation paid to temporary replacement employees.

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 “Reservist’s Employer
5 Support Paycheck Enhancement Act of 2006”.

1 **SEC. 2. EMPLOYER CREDIT FOR COMPENSATION PAID TO**
2 **EMPLOYEES WHILE SERVING ON ACTIVE**
3 **DUTY AS MEMBERS OF READY RESERVE OR**
4 **THE NATIONAL GUARD.**

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 (relating to business-related credits) is amended by
8 adding at the end the following new section:

9 **“SEC. 45N. EMPLOYER CREDIT FOR COMPENSATION PAID**
10 **TO EMPLOYEES WHILE SERVING ON ACTIVE**
11 **DUTY AS MEMBERS OF READY RESERVE OR**
12 **THE NATIONAL GUARD AND FOR COMPENSA-**
13 **TION PAID TO TEMPORARY REPLACEMENT**
14 **EMPLOYEES.**

15 “(a) GENERAL RULE.—For purposes of section 38,
16 in the case of an employer, the employer Ready Reserve-
17 National Guard active duty credit determined under this
18 section for the taxable year is an amount equal to—

19 “(1) 50 percent of the compensation paid or in-
20 curred to each Ready Reserve-National Guard em-
21 ployee of the taxpayer while the employee is absent
22 from employment while performing qualified active
23 duty, and

24 “(2) 50 percent of the compensation paid or in-
25 curred to each qualified replacement employee of the
26 taxpayer.

1 “(b) LIMITATION APPLICABLE TO READY RESERVE-
2 NATIONAL GUARD EMPLOYEES.—

3 “(1) IN GENERAL.—The amount of compensa-
4 tion taken into account under subsection (a) for any
5 period of qualified active duty with respect to a
6 Ready Reserve-National Guard employee shall not
7 exceed the active duty wage differential of such em-
8 ployee for such period.

9 “(2) ACTIVE DUTY WAGE DIFFERENTIAL.—

10 “(A) IN GENERAL.—For purposes of para-
11 graph (1), the active duty wage differential of
12 a Ready Reserve-National Guard employee for
13 any period of qualified active duty is the
14 amount equal to the product of—

15 “(i) the daily wage differential of such
16 employee for such period, multiplied by

17 “(ii) the number of days that such
18 employee is on qualified active duty during
19 such period.

20 “(B) DAILY WAGE DIFFERENTIAL.—For
21 purposes of subparagraph (A), the daily wage
22 differential of a Ready Reserve-National Guard
23 employee for any period is an amount equal to
24 the excess of—

1 “(i) such employee’s average daily em-
2 ployer-provided compensation for such pe-
3 riod, over

4 “(ii) such employee’s average daily
5 military pay for such period.

6 “(C) AVERAGE DAILY EMPLOYER-PRO-
7 VIDED COMPENSATION.—

8 “(i) IN GENERAL.—For purposes of
9 subparagraph (B), an employee’s average
10 daily employer-provided compensation for
11 any period is the average daily compensa-
12 tion paid by the employer to the employee
13 for the 1-year period ending on the day be-
14 fore the date that the employee begins
15 qualified active duty, adjusted for cost-of-
16 living and other increases generally appli-
17 cable to employees of the employer for
18 such period.

19 “(ii) EMPLOYER-PROVIDED COM-
20 PENSATION.—The term ‘compensation’
21 means any remuneration for employment,
22 whether in cash or in kind, which is allow-
23 able as a deduction under section
24 162(a)(1).

25 “(D) AVERAGE DAILY MILITARY PAY.—

1 “(i) IN GENERAL.—For purposes of
2 subparagraph (B), a Ready Reserve-Na-
3 tional Guard employee’s average daily mili-
4 tary pay is the average daily military pay
5 and allowances received by the employee on
6 account of the employees’s performance of
7 qualified active duty during the period.

8 “(ii) MILITARY PAY AND ALLOW-
9 ANCES.—For purposes of clause (i)—

10 “(I) MILITARY PAY.—The term
11 ‘military pay’ means pay (as defined
12 in section 101(21) of title 37, United
13 States Code).

14 “(II) ALLOWANCES.—The term
15 ‘allowances’ means the allowances
16 payable to a member of the Armed
17 Forces of the United States under
18 chapter 7 of such title.

19 “(c) LIMITATION APPLICABLE TO QUALIFIED RE-
20 PLACEMENT EMPLOYEES.—

21 “(1) IN GENERAL.—The amount of compensa-
22 tion taken into account under subsection (a) with re-
23 spect to any qualified replacement employee for any
24 period shall not exceed the amount equal to the
25 product of—

1 “(A) the average daily employer-provided
2 compensation for such period of the Ready Re-
3 serve-National Guard employee being replaced
4 by such replacement employee for such period,
5 and

6 “(B) the number of days that the Ready
7 Reserve-National Guard employee is on quali-
8 fied active duty during such period.

9 “(d) DEFINITIONS.—For purposes of this section—

10 “(1) READY RESERVE-NATIONAL GUARD EM-
11 PLOYEE.—

12 “(A) IN GENERAL.—The term ‘Ready Re-
13 serve-National Guard employee’ means any em-
14 ployee—

15 “(i) who is a member of the Ready
16 Reserve or of the National Guard, and

17 “(ii) who was an employee of the tax-
18 payer during the 1-year period ending on
19 the day before the date that the employee
20 begins qualified active duty.

21 “(B) NATIONAL GUARD.—The term ‘Na-
22 tional Guard’ has the meaning given such term
23 by section 101(c)(1) of title 10, United States
24 Code.

1 “(C) READY RESERVE.—The term ‘Ready
2 Reserve’ has the meaning given such term by
3 section 10142 of title 10, United States Code.

4 “(2) QUALIFIED ACTIVE DUTY.—The term
5 ‘qualified active duty’ means—

6 “(A) active duty under an order or call for
7 a period in excess of 90 days or for an indefi-
8 nite period, other than the training duty speci-
9 fied in—

10 “(i) section 10147 of title 10, United
11 States Code (relating to training require-
12 ments for the Ready Reserve), or

13 “(ii) section 502(a) of title 32, United
14 States Code (relating to required drills and
15 field exercises for the National Guard), in
16 connection with which an employee is enti-
17 tled to reemployment rights and other ben-
18 efits or to a leave of absence from employ-
19 ment under chapter 43 of title 38, United
20 States Code, and

21 “(B) hospitalization incident to such active
22 duty.

23 “(3) QUALIFIED REPLACEMENT EMPLOYEE.—
24 The term ‘qualified replacement employee’ means
25 any employee who is hired by the taxpayer to replace

1 a Ready Reserve-National Guard employee during a
2 period of qualified active duty.”.

3 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
4 of section 280C of such Code (relating to certain expenses
5 for which credits are allowable) is amended by inserting
6 “45N(a),” after “45A(a),”

7 (c) CREDIT TO BE PART OF GENERAL BUSINESS
8 CREDIT.—Subsection (b) of section 38 of such Code (re-
9 lating to general business credit) is amended by striking
10 “and” at the end of paragraph (29), by striking the period
11 at the end of paragraph (30) and inserting “, and”, and
12 by inserting after paragraph (30) the following new para-
13 graph:

14 “(31) in the case of an employer, the employer
15 Ready Reserve-National Guard employee credit de-
16 termined under section 45N(a).”.

17 (d) CONFORMING AMENDMENT.—The table of sec-
18 tions for subpart D of part IV of subchapter A of chapter
19 1 of such Code is amended by inserting after the item
20 relating to section 45M the following new item:

“Sec. 45N. Employer credit for compensation paid to employees while serving
on active duty as members of Ready Reserve or the National
Guard and for compensation paid to temporary replacement
employees.”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to periods of qualified active duty
23 (as defined in section 45N(d) of the Internal Revenue

1 Code of 1986, as added by this section) in taxable years
2 beginning after December 31, 2005.

3 (f) INFORMATION ON MILITARY PAY AND ALLOW-
4 ANCES.—The Secretary concerned (as defined in section
5 101 of title 10, United States Code) shall provide to em-
6 ployers and the Secretary of the Treasury such informa-
7 tion as is necessary to determine the proper amount of
8 credit allowable to employers under such section 45N.

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