

111TH CONGRESS  
2D SESSION

# H. R. 4777

To amend the Internal Revenue Code of 1986 to provide an exemption for employer payroll taxes during 2010 for wages with respect to the employment of new hires and to provide a credit for retaining employees.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2010

Mr. OWENS introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an exemption for employer payroll taxes during 2010 for wages with respect to the employment of new hires and to provide a credit for retaining 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. PAYROLL TAX FORGIVENESS FOR HIRING UN-**  
4 **EMPLOYED WORKERS.**

5 (a) IN GENERAL.—Section 3111 is amended by add-  
6 ing at the end the following new subsection:

7 “(d) SPECIAL EXEMPTION FOR CERTAIN INDIVID-  
8 UALS HIRED IN 2010.—

1           “(1) IN GENERAL.—Subsection (a) shall not  
2       apply to wages paid by a qualified employer with re-  
3       spect to employment during the period beginning on  
4       the day after the date of the enactment of this sub-  
5       section and ending on December 31, 2010, of any  
6       qualified individual for services performed—

7           “(A) in a trade or business of such quali-  
8       fied employer, or

9           “(B) in the case of a qualified employer ex-  
10      empt from tax under section 501(a), in further-  
11      ance of the activities related to the purpose or  
12      function constituting the basis of the employer’s  
13      exemption under section 501.

14          “(2) QUALIFIED EMPLOYER.—For purposes of  
15      this subsection—

16          “(A) IN GENERAL.—The term ‘qualified  
17      employer’ means any employer other than the  
18      United States, any State, or any political sub-  
19      division thereof, or any instrumentality of the  
20      foregoing.

21          “(B) TREATMENT OF EMPLOYEES OF  
22      POST-SECONDARY EDUCATIONAL INSTITU-  
23      TIONS.—Notwithstanding subparagraph (A),  
24      the term ‘qualified employer’ includes any em-  
25      ployer which is a public institution of higher

1 education (as defined in section 101(b) of the  
2 Higher Education Act of 1965).

3 “(3) QUALIFIED INDIVIDUAL.—For purposes of  
4 this subsection, the term ‘qualified individual’ means  
5 any individual who—

6 “(A) begins employment with a qualified  
7 employer after February 3, 2010, and before  
8 January 1, 2011,

9 “(B) certifies by signed affidavit, under  
10 penalties of perjury, that such individual has  
11 not been employed for more than 40 hours dur-  
12 ing the 60-day period ending on the date such  
13 individual begins such employment,

14 “(C) is not employed by the qualified em-  
15 ployer to replace another employee of such em-  
16 ployer unless such other employee separated  
17 from employment voluntarily or for cause, and

18 “(D) is not an individual described in sec-  
19 tion 51(i)(1) (applied by substituting ‘qualified  
20 employer’ for ‘taxpayer’ each place it appears).

21 “(4) ELECTION.—A qualified employer may  
22 elect to have this subsection not apply. Such election  
23 shall be made in such manner as the Secretary may  
24 require.”.

1 (b) COORDINATION WITH WORK OPPORTUNITY  
2 CREDIT.—Section 51(c) is amended by adding at the end  
3 the following new paragraph:

4 “(5) COORDINATION WITH PAYROLL TAX FOR-  
5 GIVENESS.—The term ‘wages’ shall not include any  
6 amount paid or incurred to a qualified individual (as  
7 defined in section 3111(d)(3)) during the 1-year pe-  
8 riod beginning on the hiring date of such individual  
9 by a qualified employer (as defined in section  
10 3111(d)) unless such qualified employer makes an  
11 election not to have section 3111(d) apply.”.

12 (c) TRANSFERS TO FEDERAL OLD-AGE AND SUR-  
13 VIVORS INSURANCE TRUST FUND.—There are hereby ap-  
14 propriated to the Federal Old-Age and Survivors Trust  
15 Fund and the Federal Disability Insurance Trust Fund  
16 established under section 201 of the Social Security Act  
17 (42 U.S.C. 401) amounts equal to the reduction in reve-  
18 nues to the Treasury by reason of the amendments made  
19 by subsection (a). Amounts appropriated by the preceding  
20 sentence shall be transferred from the general fund at  
21 such times and in such manner as to replicate to the ex-  
22 tent possible the transfers which would have occurred to  
23 such Trust Fund had such amendments not been enacted.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to wages paid after the date of  
3 the enactment of this Act.

4 **SEC. 2. BUSINESS CREDIT FOR RETENTION OF CERTAIN**  
5 **NEWLY HIRED INDIVIDUALS IN 2010.**

6 (a) IN GENERAL.—In the case of any taxable year  
7 ending after the date of the enactment of this Act, the  
8 current year business credit determined under section  
9 38(b) of the Internal Revenue Code of 1986 for such tax-  
10 able year shall be increased by an amount equal to the  
11 product of—

12 (1) \$1,000, and

13 (2) the number of retained workers with respect  
14 to which subsection (b)(2) is first satisfied during  
15 such taxable year.

16 (b) LIMITATION.—The increase determined under  
17 subsection (a) with respect to any retained worker shall  
18 not exceed an amount equal to 4 percent of the wages (as  
19 defined in section 3401(a) of the Internal Revenue Code  
20 of 1986) with respect to such retained worker for the 52  
21 consecutive week period described in subsection (c)(2).

22 (c) RETAINED WORKER.—For purposes of this sec-  
23 tion, the term “retained worker” means any qualified indi-  
24 vidual (as defined in section 3111(d)(3) of the Internal  
25 Revenue Code of 1986)—

1           (1) who was employed by the taxpayer on any  
2           date during the taxable year,

3           (2) who was so employed by the taxpayer for a  
4           period of not less than 52 consecutive weeks, and

5           (3) whose wages for such employment during  
6           the last 26 weeks of such period equaled at least 80  
7           percent of such wages for the first 26 weeks of such  
8           period.

9           (d) LIMITATION ON CARRYBACKS.—No portion of the  
10          unused business credit under section 38 of the Internal  
11          Revenue Code of 1986 for any taxable year which is attrib-  
12          utable to the increase in the current year business credit  
13          under this section may be carried to a taxable year begin-  
14          ning before the date of the enactment of this section.

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