

112TH CONGRESS
1ST SESSION

H. R. 3460

To amend the Internal Revenue Code of 1986 to allow temporarily a reduced rate of tax with respect to repatriated foreign earnings.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2011

Ms. BERKLEY (for herself, Mr. MORAN, and Mr. POLIS) 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 temporarily a reduced rate of tax with respect to repatriated foreign earnings.

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 “American Jobs First
5 Act of 2011”.

1 **SEC. 2. EXTENSION AND MODIFICATION OF DIVIDENDS RE-**
2 **CEIVED DEDUCTION FOR CERTAIN REPATRI-**
3 **ATED FOREIGN EARNINGS.**

4 (a) IN GENERAL.—Section 965 of such Code is
5 amended by adding at the end the following new sub-
6 section:

7 “(g) TEMPORARY EXTENSION AND MODIFICATION.—

8 “(1) IN GENERAL.—In the case of an election
9 under this subsection, subsection (f)(1) shall be ap-
10 plied by substituting ‘the date of the enactment of
11 subsection (g)’ for ‘the date of the enactment of this
12 section’.

13 “(2) PERCENTAGE DEDUCTIBLE.—

14 “(A) IN GENERAL.—In the case of an elec-
15 tion under this subsection, subsection (a)(1)
16 shall be applied by substituting ‘the applicable
17 percentage’ for ‘85 percent’.

18 “(B) APPLICABLE PERCENTAGE.—For
19 purposes of this section, the applicable percent-
20 age is 29 percent, increased by the number of
21 percentage points determined with respect to
22 the taxpayer under subparagraph (C).

23 “(C) INCREASED DEDUCTION FOR PAY-
24 ROLL EXPANSION.—

25 “(i) IN GENERAL.—For purposes of
26 subparagraph (B), the number of percent-

1 age points determined with respect to a
2 taxpayer under this subparagraph shall
3 be—

4 “(I) so much of the percentage
5 increase, if any, in the taxpayer’s
6 qualified payroll for all quarters end-
7 ing during the taxable year as com-
8 pared to the qualified payroll for the
9 same quarters during the taxpayer’s
10 taxable year ending during 2010 as
11 does not exceed 14 percent, multiplied
12 by

13 “(II) 4.

14 “(ii) QUALIFIED PAYROLL.—For pur-
15 poses of this subparagraph, the term
16 ‘qualified payroll’ means the amount of all
17 wages (within the meaning of section
18 3121(a)) paid or incurred by the taxpayer
19 to the employees of such taxpayer, except
20 that, with respect to each such employee,
21 such wages shall be taken into account
22 only to the extent that such wages do not
23 exceed the contribution and benefit base as
24 determined under section 230 of the Social
25 Security Act.

1 “(iii) RAILWAY LABOR.—In the case
2 of remuneration subject to the tax imposed
3 by section 3221(a), clause (ii) shall be ap-
4 plied by substituting ‘all compensation
5 (within the meaning of section 3231(e))’
6 for ‘all wages (within the meaning of sec-
7 tion 3121(a))’.

8 “(iv) SPECIAL RULE FOR CONVERTED
9 EMPLOYEES.—For purposes of this sub-
10 paragraph—

11 “(I) IN GENERAL.—The wages of
12 any specified individual shall not be
13 taken into account.

14 “(II) SPECIFIED INDIVIDUAL.—
15 Except as provided by the Secretary,
16 the term ‘specified individual’ means
17 any individual who, during the 2-year
18 period ending on the date of the en-
19 actment of this subsection, performed
20 services directly or indirectly for the
21 taxpayer and was treated for purposes
22 of employment taxes as not an em-
23 ployee with respect to the performance
24 of such services.

25 “(3) SPECIAL RULES.—

1 “(A) RECAPTURE IN CASE OF PAYROLL
2 DECREASE DURING RECAPTURE PERIOD.—The
3 Secretary shall, by regulations, provide for re-
4 capturing any portion of the benefit under any
5 deduction allowable by this subsection, and at-
6 tributable to paragraph (2)(C), to the extent—

7 “(i) the taxpayer’s qualified payroll
8 for all quarters ending during the taxable
9 year for which the such deduction was al-
10 lowed, exceeds

11 “(ii) the taxpayer’s qualified payroll
12 for all quarters ending during either of the
13 2 taxable years following the taxable year
14 with respect to which such deduction was
15 allowed.

16 “(B) CONTROLLED GROUPS.—All employ-
17 ers treated as a single employer under section
18 (a) or (b) of section 52 shall be treated as a
19 single employer for purposes of this sub-
20 section.”.

21 (b) CONFORMING AMENDMENT.—

22 (1) Subsection (b) of section 965 of such Code
23 is amended by striking paragraph (4).

1 (2) Section 965 of such Code is amended by
2 striking “June 30, 2003” each place it occurs and
3 inserting “June 30, 2010”.

4 (3) Subparagraph (B) of section 965(b)(3) of
5 such Code is amended by striking “October 3,
6 2004” and inserting “October 1, 2011”.

7 (c) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to taxable years ending on or after
9 the date of the enactment of this Act

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