

115TH CONGRESS
1ST SESSION

H. R. 176

To amend the Internal Revenue Code of 1986 to clarify that wages paid to unauthorized aliens may not be deducted from gross income, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2017

Mr. KING of Iowa (for himself, Mr. DUNCAN of South Carolina, Mr. GOSAR, Mr. GOHMERT, Mr. JONES, Mr. SMITH of Texas, Mr. BROOKS of Alabama, and Mr. BARLETTA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to clarify that wages paid to unauthorized aliens may not be deducted from gross income, 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—

5 (1) the “New IDEA Act”; or

1 (2) the “New Illegal Deduction Elimination
2 Act”.

3 **SEC. 2. CLARIFICATION THAT WAGES PAID TO UNAUTHOR-**
4 **IZED ALIENS MAY NOT BE DEDUCTED FROM**
5 **GROSS INCOME.**

6 (a) IN GENERAL.—Subsection (c) of section 162 of
7 the Internal Revenue Code of 1986 (relating to illegal
8 bribes, kickbacks, and other payments) is amended by
9 adding at the end the following new paragraph:

10 “(4) WAGES PAID TO OR ON BEHALF OF UNAU-
11 THORIZED ALIENS.—

12 “(A) IN GENERAL.—No deduction shall be
13 allowed under subsection (a) for any wage paid
14 to or on behalf of an unauthorized alien, as de-
15 fined under section 274A(h)(3) of the Immigra-
16 tion and Nationality Act (8 U.S.C.
17 1324a(h)(3)).

18 “(B) WAGES.—For the purposes of this
19 paragraph, the term ‘wages’ means all remu-
20 neration for employment, including the cash
21 value of all remuneration (including benefits)
22 paid in any medium other than cash.

23 “(C) SAFE HARBOR.—If a person or other
24 entity is participating in the E-Verify Program
25 described in section 403(a) of the Illegal Immi-

1 gration Reform and Immigrant Responsibility
2 Act of 1996 (8 U.S.C. 1324a note) and obtains
3 confirmation of identity and employment eligi-
4 bility in compliance with the terms and condi-
5 tions of the program with respect to the hiring
6 (or recruitment or referral) of an employee,
7 subparagraph (A) shall not apply with respect
8 to wages paid to such employee.

9 “(D) BURDEN OF PROOF.—In the case of
10 any examination of a return in connection with
11 a deduction under this section by reason of this
12 paragraph, the Secretary shall bear the burden
13 of proving that wages were paid to or on behalf
14 of an unauthorized alien.

15 “(E) LIMITATION ON TAXPAYER AUDIT.—
16 The Secretary may not commence an audit or
17 other investigation of a taxpayer solely on the
18 basis of a deduction taken under this section by
19 reason of this paragraph.”.

20 (b) SIX-YEAR LIMITATION ON ASSESSMENT AND
21 COLLECTION.—Subsection (c) of section 6501 of the In-
22 ternal Revenue Code of 1986 (relating to exceptions) is
23 amended by adding at the end the following new para-
24 graph:

1 “(12) DEDUCTION CLAIMED FOR WAGES PAID
2 TO UNAUTHORIZED ALIENS.—In the case of a return
3 of tax on which a deduction is shown in violation of
4 section 162(c)(4), any tax under chapter 1 may be
5 assessed, or a proceeding in court for the collection
6 of such tax may be begun without assessment, at
7 any time within 6 years after the return was filed.”.

8 (c) USE OF DOCUMENTATION FOR ENFORCEMENT
9 PURPOSES.—Section 274A of the Immigration and Na-
10 tionality Act (8 U.S.C. 1324a) is amended—

11 (1) in subparagraph (b)(5), by inserting “, sec-
12 tion 162(c)(4) of the Internal Revenue Code of
13 1986,” after “enforcement of this Act”;

14 (2) in subparagraph (d)(2)(F), by inserting “,
15 section 162(c)(4) of the Internal Revenue Code of
16 1986,” after “enforcement of this Act”; and

17 (3) in subparagraph (d)(2)(G), by inserting
18 “section 162(c)(4) of the Internal Revenue Code of
19 1986 or” after “or enforcement of”.

20 (d) AVAILABILITY OF INFORMATION.—

21 (1) IN GENERAL.—The Commissioner of Social
22 Security, the Secretary of the Department of Home-
23 land Security, and the Secretary of the Treasury,
24 shall jointly establish a program to share informa-
25 tion among such agencies that may or could lead to

1 the identification of unauthorized aliens (as defined
2 under section 274A(h)(3) of the Immigration and
3 Nationality Act), including any no-match letter, any
4 information in the earnings suspense file, and any
5 information in the investigation and enforcement of
6 section 162(c)(4) of the Internal Revenue Code of
7 1986.

8 (2) DISCLOSURE BY SECRETARY OF THE
9 TREASURY.—

10 (A) IN GENERAL.—Subsection (i) of sec-
11 tion 6103 of the Internal Revenue Code of 1986
12 is amended by adding at the end the following
13 new paragraph:

14 “(9) PAYMENT OF WAGES TO UNAUTHORIZED
15 ALIENS.—Upon request from the Commissioner of
16 the Social Security Administration or the Secretary
17 of the Department of Homeland Security, the Sec-
18 retary shall disclose to officers and employees of
19 such Administration or Department—

20 “(A) taxpayer identity information of em-
21 ployers who paid wages with respect to which a
22 deduction was not allowed by reason of section
23 162(c)(4), and

24 “(B) taxpayer identity information of indi-
25 viduals to whom such wages were paid,

1 for purposes of carrying out any enforcement activi-
2 ties of such Administration or Department with re-
3 spect to such employers or individuals.”.

4 (B) RECORDKEEPING.—Paragraph (4) of
5 section 6103(p) of such Code is amended—

6 (i) by striking “(5), or (7)” in the
7 matter preceding subparagraph (A) and in-
8 serting “(5), (7), or (9)”, and

9 (ii) by striking “(5) or (7)” in sub-
10 paragraph (F)(ii) and inserting “(5), (7),
11 or (9)”.

12 (e) EFFECTIVE DATE.—

13 (1) Except as provided in paragraph (2), this
14 Act and the amendments made by this Act shall
15 take effect on the date of the enactment of this Act.

16 (2) The amendments made by subsections (a)
17 and (b) shall apply to taxable years beginning after
18 December 31, 2017.

19 **SEC. 3. MODIFICATION OF E-VERIFY PROGRAM.**

20 (a) MAKING PERMANENT.—Subsection (b) of section
21 401 of the Illegal Immigration Reform and Immigrant Re-
22 sponsibility Act of 1996 (8 U.S.C. 1324a note) is amended
23 by striking the last sentence.

24 (b) APPLICATION TO CURRENT EMPLOYEES.—

1 (1) VOLUNTARY ELECTION.—The first sentence
2 of section 402(a) of such Act is amended to read as
3 follows: “Any person or other entity that conducts
4 any hiring (or recruitment or referral) in a State or
5 employs any individuals in a State may elect to par-
6 ticipate in the E-Verify Program.”.

7 (2) BENEFIT OF REBUTTABLE PRESUMP-
8 TION.—Paragraph (1) of section 402(b) of such Act
9 is amended by adding at the end the following: “If
10 a person or other entity is participating in the E-
11 Verify Program and obtains confirmation of identity
12 and employment eligibility in compliance with the
13 terms and conditions of the program with respect to
14 individuals employed by the person or entity, the
15 person or entity has established a rebuttable pre-
16 sumption that the person or entity has not violated
17 section 274A(a)(2) with respect to such individ-
18 uals.”.

19 (3) SCOPE OF ELECTION.—Subparagraph (A)
20 of section 402(e)(2) of such Act is amended to read
21 as follows:

22 “(A) IN GENERAL.—Any electing person or
23 other entity may provide that the election under
24 subsection (a) shall apply (during the period in
25 which the election is in effect)—

1 “(i) to all its hiring (and all recruit-
2 ment or referral);

3 “(ii) to all its hiring (and all recruit-
4 ment or referral and all individuals em-
5 ployed by the person or entity);

6 “(iii) to all its hiring (and all recruit-
7 ment or referral) in one or more States or
8 one or more places of hiring (or recruit-
9 ment or referral, as the case may be); or

10 “(iv) to all its hiring (and all recruit-
11 ment or referral and all individuals em-
12 ployed by the person or entity) in one or
13 more States or one or more place of hiring
14 (or recruitment or referral or employment,
15 as the case may be).”.

16 (4) PROCEDURES FOR PARTICIPANTS IN E-
17 VERIFY PROGRAM.—Subsection (a) of section 403 of
18 such Act is amended—

19 (A) in the matter preceding paragraph (1),
20 by inserting “or continued employment in the
21 United States” after “United States”; and

22 (B) in paragraph (3)—

23 (i) in subparagraph (A), by striking
24 all that follows “(as specified by the Sec-
25 retary of Homeland Security)” and insert-

1 ing “after the date of the hiring, or re-
2 cruitment or referral, in the case of inquir-
3 ies made pursuant to a hiring, recruitment
4 or referral (and not of previously hired in-
5 dividuals).”; and

6 (ii) in subparagraph (B), by striking
7 “such 3 working days” and inserting “the
8 specified period”.

9 (c) APPLICATION TO JOB APPLICANTS.—Section
10 402(c)(2) of such Act is amended by adding at the end
11 the following:

12 “(C) JOB OFFER MAY BE MADE CONDI-
13 TIONAL ON FINAL CONFIRMATION BY E-
14 VERIFY.—A person or other entity that elects to
15 participate in the E-Verify Program may offer
16 a prospective employee an employment position
17 conditioned on final verification of the identity
18 and employment eligibility of the employee
19 using the employment eligibility confirmation
20 system established under section 404.”.

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