

115TH CONGRESS
2D SESSION

S. 3410

To amend the Internal Revenue Code of 1986 to impose a tax on employers whose employees receive certain Federal benefits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 5, 2018

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to impose a tax on employers whose employees receive certain Federal benefits, 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 the “Stop Bad Employers
5 by Zeroing Out Subsidies Act”.

6 **SEC. 2. TAX ON EMPLOYERS WITH EMPLOYEES RECEIVING**
7 **CERTAIN FEDERAL BENEFITS.**

8 (a) IN GENERAL.—The Internal Revenue Code of
9 1986 is amended by inserting after chapter 36 the fol-
10 lowing new chapter:

1 **“CHAPTER 37—EMPLOYERS WITH EM-**
2 **PLOYEES RECEIVING CERTAIN FED-**
3 **ERAL BENEFITS**

4 **“SEC. 4501. EMPLOYERS WITH EMPLOYEES RECEIVING**
5 **CERTAIN FEDERAL BENEFITS.**

6 “(a) IMPOSITION OF CORPORATE WELFARE TAX.—
7 There is hereby imposed on each large employer a tax
8 equal to 100 percent of the qualified employee benefits
9 with respect to such employer for the taxable year.

10 “(b) LARGE EMPLOYER.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the term ‘large employer’ means, with respect
13 to a calendar year, an employer who employed an
14 average of at least 500 employees on business days
15 during the preceding calendar year.

16 “(2) RULES FOR DETERMINING EMPLOYER
17 SIZE.—For purposes of this subsection:

18 “(A) APPLICATION OF AGGREGATION RULE
19 FOR EMPLOYERS.—All persons treated as a sin-
20 gle employer under subsection (b), (c), (m), or
21 (o) of section 414 of the Internal Revenue Code
22 of 1986 shall be treated as 1 employer.

23 “(B) EMPLOYERS NOT IN EXISTENCE IN
24 PRECEDING YEAR.—In the case of an employer
25 which was not in existence throughout the pre-

1 ceding calendar year, the determination of
2 whether such employer is a large employer shall
3 be based on the average number of employees
4 that it is reasonably expected such employer
5 will employ on business days in the current cal-
6 endar year.

7 “(C) PREDECESSORS.—Any reference in
8 this subsection to an employer shall include a
9 reference to any predecessor of such employer.

10 “(c) QUALIFIED EMPLOYEE BENEFITS.—For pur-
11 poses of this section:

12 “(1) IN GENERAL.—The term ‘qualified em-
13 ployee benefits’ means, with respect to a person for
14 a taxable year, the sum of the qualified Federal ben-
15 efits received by individuals who are employees of
16 such person for such taxable year.

17 “(2) QUALIFIED FEDERAL BENEFITS.—The
18 term ‘qualified Federal benefits’ means, with respect
19 to an individual, the following:

20 “(A) The dollar value of supplemental nu-
21 trition assistance for which the household (as
22 defined in section 3(m) of the Food and Nutri-
23 tion Act of 2008) that includes such individual
24 is eligible.

1 “(B) The dollar value of meals that such
2 individual or dependents of such individual are
3 eligible for under the school lunch program
4 under the Richard B. Russell National School
5 Lunch Act and the school breakfast program
6 under section 4 of the Child Nutrition Act of
7 1966.

8 “(C) The aggregate amount of the monthly
9 assistance payments for rental of a dwelling
10 unit that the household of such individual is a
11 member of is eligible to have made on its behalf
12 pursuant to section 8 of the United States
13 Housing Act of 1937.

14 “(D) The amount of payments made under
15 section 1903 of the Social Security Act with re-
16 spect to expenditures made by a State under a
17 State Medicaid plan under title XIX of such
18 Act (or a waiver of such plan) for medical as-
19 sistance for such individual or for dependents of
20 such individual.

21 “(d) EMPLOYEE.—For purposes of this section, the
22 term ‘employee’ means—

23 “(1) any full-time or part-time employee,

24 “(2) any individual who is a full-time or part-
25 time independent contractor (including any employee

1 of such independent contractor) and provides serv-
2 ices to the employer, unless—

3 “(A) the individual is free from control and
4 direction in connection with the performance of
5 the service, both under the contract for the per-
6 formance of service and in fact,

7 “(B) the service is performed outside the
8 usual course of the business of the employer,
9 and

10 “(C) the individual is customarily engaged
11 in an independently established trade, occupa-
12 tion, profession, or business of the same nature
13 as that involved in the service performed, and

14 “(3) any individual who is a full-time or part-
15 time joint employee, provided that the employer pos-
16 sess, reserves, or exercises sufficient direct or indi-
17 rect control over the essential terms and conditions
18 of employment of such employee.

19 “(e) REGULATIONS.—The Secretary, in consultation
20 with the Secretary of Agriculture, the Secretary of Hous-
21 ing and Urban Development, and the Administrator of the
22 Centers for Medicare and Medicaid Services, shall pre-
23 scribe such regulations as may be necessary or appropriate
24 to carry out this chapter.”.

1 (b) CLERICAL AMENDMENTS.—The table of chapters
 2 for subtitle D of such Code is amended by inserting after
 3 the item relating to chapter 36 the following new item:

“CHAPTER 37—EMPLOYERS WITH EMPLOYEES RECEIVING CERTAIN
 FEDERAL BENEFITS”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this Act apply with respect to taxable years beginning
 6 after December 31, 2018.

7 **SEC. 3. UNLAWFUL EMPLOYMENT PRACTICES RELATED TO**
 8 **FEDERAL BENEFITS OF APPLICANTS.**

9 (a) IN GENERAL.—It shall be an unlawful employ-
 10 ment practice for any large employer (as defined in section
 11 4501(b) of the Internal Revenue Code of 1986) to make
 12 inquiries of an applicant for employment, or otherwise
 13 seek information about such an applicant (including
 14 through the use of any form or application), relating to
 15 whether such applicant receives Federal benefits.

16 (b) ENFORCEMENT.—A violation of subsection (a)
 17 shall be treated as, and enforced by the Secretary of Labor
 18 in the same manner as, a violation of section 6 of the Fair
 19 Labor Standards Act of 1938 (29 U.S.C. 206), except that
 20 for purposes of section 15(b) of such Act (29 U.S.C.
 21 215(b)), the employer shall be liable to the individual al-
 22 leging the violation for any lost wages due the individual
 23 and an additional equal amount of liquidated damages.

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