

116TH CONGRESS  
2D SESSION

# H. R. 8083

To establish a temporary tax credit for maintaining retirement benefits during the COVID-19 pandemic.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 21, 2020

Mr. SCHNEIDER (for himself and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To establish a temporary tax credit for maintaining retirement benefits during the COVID-19 pandemic.

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 “Preserving Employee  
5 Retirement Savings Act of 2020”.

6 **SEC. 2. TEMPORARY CREDIT FOR MAINTAINING RETIRE-**  
7 **MENT BENEFITS DURING PANDEMIC.**

8 (a) IN GENERAL.—In the case of an eligible em-  
9 ployer, there shall be allowed as a credit against the tax  
10 imposed by chapter 1 of the Internal Revenue Code of

1 1986 an amount equal to 20 percent of the qualified re-  
2 tirement contributions by the employer for the taxable  
3 year.

4 (b) LIMITATION.—The amount of credit allowed to  
5 the taxpayer under subsection (a) for any taxable year  
6 shall not exceed \$100,000.

7 (c) QUALIFIED RETIREMENT CONTRIBUTIONS.—For  
8 purposes of this section—

9 (1) IN GENERAL.—The term “qualified retire-  
10 ment contribution” means, with respect to any tax-  
11 able year, any employer contribution (other than an  
12 elective deferral (as defined in section 402(g)(3) of  
13 such Code) to an applicable retirement plan on be-  
14 half of an employee other than a highly compensated  
15 employee (as defined in section 414(q) of such  
16 Code)).

17 (2) DETERMINING CONTRIBUTION TO DEFINED  
18 BENEFIT PLAN.—In the case of a defined benefit  
19 plan (as defined in section 414(j) of such Code), the  
20 amount treated as an employer contribution under  
21 paragraph (1) shall be the amount described with re-  
22 spect to the plan in section 430(b)(1)(A)(i),  
23 431(b)(2)(A), or 433(b)(2)(A) of such Code, as the  
24 case may be, or in the case of a CSEC plan that  
25 uses a spread gain funding method (as defined in

1 section 433(j)(5)(D)) of such Code), the amount de-  
2 scribed in 433(j)(1)(B) of such Code.

3 (3) COORDINATION WITH OTHER ASSIST-  
4 ANCE.—Such term shall not include any amount  
5 taken into account in determining any loan amount  
6 forgiven under section 1106 or 1109(d)(1)(D) of the  
7 Coronavirus Aid, Relief, and Economic Security Act.

8 (4) APPLICABLE RETIREMENT PLAN.—

9 (A) IN GENERAL.—For purposes of this  
10 section, the term “applicable retirement plan”  
11 means any plan, annuity contract, pension, or  
12 account described in clause (i), (ii), (iv), (v), or  
13 (vi) of section 219(g)(5)(A) of such Code (other  
14 than a governmental plan (within the meaning  
15 of section 414(d))).

16 (B) PLANS WITH CONTRIBUTION LEVEL  
17 REDUCTION NOT ELIGIBLE.—Such term shall  
18 not include any plan, annuity contract, pension,  
19 or account which for any plan year which in-  
20 cludes the taxable year—

21 (i) is amended after December 31,  
22 2019, to reduce allocations or benefit ac-  
23 cruals; or

24 (ii) in any case in which the employer  
25 has discretion over allocations, has a rate

1 of contribution for any class of employees  
2 that includes an employee who is not a  
3 highly compensated employee which is less  
4 than the greater of—

5 (I) the rate of contribution for  
6 such class for the last plan year end-  
7 ing before January 1, 2019; or

8 (II) the rate of contribution for  
9 such class for the last plan year end-  
10 ing before January 1, 2020.

11 For purposes of the preceding sentence, the  
12 rate of contribution shall be expressed as a per-  
13 centage of compensation (as defined for the  
14 plan year for which such rate is being deter-  
15 mined).

16 (d) OTHER DEFINITIONS AND SPECIAL RULES.—For  
17 purposes of this section—

18 (1) ELIGIBLE EMPLOYER.—

19 (A) IN GENERAL.—The term “eligible em-  
20 ployer” means any employer—

21 (i) that has a temporary substantial  
22 business hardship (within the meaning of  
23 section 412(c)(2) of such Code) for the  
24 taxable year; and

1 (ii) in the case of employer that is not  
2 a tax-exempt or cooperative organization,  
3 the gross receipts (within the meaning of  
4 section 448(c) of the Internal Revenue  
5 Code of 1986) of which during the pre-  
6 ceding taxable year were not more than  
7 \$41,500,000.

8 (B) PRE-GUIDANCE DETERMINATION OF  
9 HARDSHIP.—In the case of any determination  
10 of the credit under subsection (a) prior to the  
11 issuance of guidance by the Secretary of the  
12 Treasury as to what constitutes a temporary  
13 substantial business hardship under subpara-  
14 graph (A), the taxpayer may rely on a reason-  
15 able good faith determination of whether such  
16 a hardship exists.

17 (2) TAX-EXEMPT OR COOPERATIVE ORGANIZA-  
18 TION.—The term “tax exempt or cooperative organi-  
19 zation” means—

20 (A) any organization exempt from tax  
21 under chapter 1 of the Internal Revenue Code  
22 of 1986;

23 (B) any organization to which subchapter  
24 T of chapter 1 of such Code applies; or

1 (C) any organization described in section  
2 1381(a)(2)(C) of such Code.

3 (3) RECAPTURE.—In the case of an employer  
4 allowed a credit under this section for a taxable year  
5 with respect to an applicable retirement plan, if such  
6 plan fails to meet the requirements of subsection  
7 (c)(4)(B) for the following taxable year, then the tax  
8 of the taxpayer under chapter 1 of such Code for  
9 such following taxable year shall be increased by an  
10 amount equal to the amount of the credit so allowed.

11 (4) AGGREGATION RULES.—All employees who  
12 are treated as employed by a single employer under  
13 subsections (b), (c), (m), and (o) of section 414 of  
14 such Code shall be treated as employed by a single  
15 employer for purposes of this section. In the case of  
16 a plan maintained by more than one employer, each  
17 such employer shall be treated separately for pur-  
18 poses of this section.

19 (5) THIRD-PARTY PAYORS.—Any credit allowed  
20 under this section shall be treated as a credit de-  
21 scribed in section 3511(d)(2) of such Code.

22 (e) CREDIT REFUNDABLE FOR TAX-EXEMPT AND  
23 COOPERATIVE EMPLOYERS.—In the case of an employer  
24 that is a tax exempt or cooperative organization, the credit  
25 allowed under this section shall be treated as a credit al-

1 lowed under subpart C of part IV of subchapter A of chap-  
2 ter 1 of such Code. Section 512(c)(12)(A) of such Code  
3 shall be applied without taking into account any such cred-  
4 it as income.

5 (f) APPLICATION OF SECTION.—This section shall  
6 apply to the taxable year of any taxpayer that includes  
7 June 30, 2020, and such taxpayer’s first succeeding tax-  
8 able year.

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