II

117TH CONGRESS
1ST SESSION

S. 1256

To amend the Internal Revenue Code of 1986 to provide a tax credit for investors in start-up businesses, to provide a credit for wages paid by start-up businesses to their first employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2021

Mr. WYDEN (for himself, Ms. HASSAN, Mr. CARDIN, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit for investors in start-up businesses, to provide a credit for wages paid by start-up businesses to their first employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Providing Real Opportunities for Growth to Rising Entrepreneurs for Sustained Success (PROGRESS) Act’’.

SEC. 2. SMALL BUSINESS INVESTOR TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 45U. SMALL BUSINESS INVESTOR TAX CREDIT.

"(a) General Rule.—For purposes of section 38, the small business investor credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined for the taxable year for all qualified investments of the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The term 'credit amount' means, with respect to any qualified investment in a qualifying business entity, the lesser of—

"(A) 10 percent of the amount of the qualified investment determined under subsection (c)(3) for the taxable year, or

"(B) an amount equal to—

"(i) 50 percent of such qualified investment, reduced (but not below zero) by

"(ii) the amount of the credit determined under this section with respect to such qualified investment of the taxpayer for all preceding taxable years.

"(2) OVERALL DOLLAR LIMITATION.—

"(A) IN GENERAL.—The credit amount determined under paragraph (1) with respect to any qualified investment of a taxpayer in a qualifying business entity for any taxable year shall not exceed the lesser of—

"(i) $10,000 (as increased for the taxable year by the cost-of-living adjustment under subsection (e)(2)), or

"(ii) an amount equal to—

"(I) an amount equal to 5 times the amount under clause (i) for the taxable year, reduced (but not below zero) by

"(II) the amount of the credit determined under this section with respect to such qualified investment of the taxpayer for all preceding taxable years.

"(B) NO CREDIT AMOUNT BY REASON OF COST-OF-LIVING ADJUSTMENT AFTER OVERALL LIMIT FIRST REACHED.—No credit amount shall be determined under this section with respect to any qualified investment of a taxpayer in a qualifying business entity for any taxable year after the first taxable year for which the amount determined under subclause (II) of subparagraph (A)(ii) equals or exceeds the amount determined under subclause (I) of such subparagraph.

"(3) REDUCTION IN CREDIT AMOUNT WHERE LOAN RATE EXCEEDS PRIME RATE.—

"(A) IN GENERAL.—If—

"(i) the rate of interest (expressed as an annual percentage rate) on a qualified investment which is a qualifying loan, exceeds

"(ii) the bank prime rate as of the first day of the month in which the loan is entered into (or such other time as the Secretary may specify),

then each of the amounts determined under subparagraphs (A) and (B)(i) of paragraph (1) shall be reduced (but not below zero) by the amount which bears the same ratio to such amount as the number of full percentage points by which such rate of interest exceeds such bank prime rate bears to 25.

"(B) SPECIAL RULES WHERE QUALIFYING LOANS TREATED AS PART OF SINGLE INVEST-

MENT.—If 1 or more qualifying loans to which subparagraph (A) applies are treated as part of a single qualified investment under subsection (c)(1), then, for purposes of this subsection—

"(i) the credit amount under paragraph (1) for such single qualified investment shall be the sum of such credit amounts computed separately for each such qualifying loan and such credit amount computed for all other qualified investments treated as part of such single qualified investment, and

"(ii) the limitation under paragraph (2) shall be applied to such sum.

"(C) RULES RELATING TO INTEREST RATES.—

"(i) ANNUAL PERCENTAGE RATE.— The Secretary shall prescribe guidance or regulations for the calculation of the annual percentage rate of interest on a loan for purposes of subparagraph (A)(i), including rules which provide for—

"(I) the calculation of the annual percentage rate in cases where there is a variable rate of interest, "(II) the recalculation of the annual percentage rate where the terms of the loan are modified after the loan is entered into, and

"(III) the proper taking into account of lump sum payments, orientation and application fees, closing fees, invoice discounting fees and any other loan fees.

"(ii) BANK PRIME RATE.—For purposes of subparagraph (A)(ii), the term 'bank prime rate' means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.

"(4) SPECIAL RULES FOR PASS-THRU ENTITIES.—For purposes of this subsection, if a qualified investment in a qualifying business entity is made by a partnership, trust, S corporation, or other pass-thru entity, the limitations under this subsection shall apply at the entity level.

"(c) QUALIFIED INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified investment' means, with respect to any qualifying business entity, either of the following of the taxpayer:

"(A) The direct or indirect acquisition of stock, or a capital interest, in the entity at its original issue solely in exchange for cash.

"(B) A qualifying loan made to the entity.

If a taxpayer has or had more than 1 qualified investment in any qualifying business entity for the taxable year or any prior taxable year, all such investments shall be treated as a single qualified investment for purposes of applying this section.

"(2) EXCEPTION FOR INVESTMENTS MADE BY QUALIFIED ACTIVE INVESTORS AND RELATED PERSONS.—Such term shall not include any acquisition or loan made by a taxpayer who, immediately before the acquisition or loan, is a qualified active investor in the qualifying business entity or is related to any qualified active investor.

"(3) AMOUNT OF QUALIFIED INVESTMENT.—The amount of a taxpayer's qualified investment with respect to any qualifying business entity for any taxable year shall be the monthly average for months ending within the taxable year of—

"(A) the taxpayer's aggregate unadjusted bases in all stock or interests described in paragraph (1)(A) as of the close of each such month, and

"(B) the aggregate outstanding principal amount of all qualified loans described in paragraph (1)(B) as of the close of each such month.

"(4) SPECIAL RULES FOR TRANSFERS OF QUALIFYING LOANS.—

"(A) IN GENERAL.—If a taxpayer sells, exchanges, or otherwise transfers all or any portion of a qualifying loan which is a qualified investment in a qualifying business entity, such investment shall be treated as a qualified investment in the hands of the transferee (and not of the transferor) for periods after the transfer. This paragraph shall also apply to any subsequent transfer of such interest.

"(B) COORDINATION OF LIMITS.—In applying subsection (b) to any qualifying loan treated as a qualified investment of a transferee under this paragraph—

"(i) all credits determined under this section for any periods before the transfer with respect to the qualified investment of any prior holder of such investment shall be taken into account under paragraphs (1)(B)(ii) and (2)(A)(ii)(II) of such subsection in the same manner as if such credits were determined for the transferee for prior taxable years, and

"(ii) if only a portion of the qualified investment was transferred, the amount taken into account under such paragraphs by reason of clause (i) shall be ratably reduced to reflect only the portion so transferred.

"(d) QUALIFYING BUSINESS ENTITY.—For purposes of this section—

"(1) DEFINITION.—

"(A) IN GENERAL.—The term 'qualifying business entity' means, with respect to any qualified investment, any entity which is engaged in 1 or more trades or businesses and with respect to which—

"(i) the qualified active investor ownership requirements of paragraph (2) are met immediately before and after the qualified investment, "(ii) the wage requirements of paragraph (3) are met, and

"(iii) the certification requirements of paragraph (4) are met.

"(B) ENTITIES UNDER COMMON CONTROL.—For purposes of this section, all qualifying business entities treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single qualifying business entity.

"(2) QUALIFIED ACTIVE INVESTOR OWNERSHIP REQUIREMENTS.—The requirements of this paragraph are met with respect to any entity if qualified active investors own directly or indirectly—

"(A) in the case of a corporation, more than 50 percent (by vote and value) of the stock in the corporation, and

"(B) in the case of any other entity, more than 50 percent of the capital or profits interests in the entity.

"(3) WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any entity if the entity, during the taxable year of the entity preceding the taxable year in which the qualified investment is made—

"(i) employed at least 1 full-time employee, or employees constituting a full-time equivalent employee, in 1 or more trades or businesses of the entity, and

"(ii) paid W–2 wages to such employee or employees with respect to such employment.

"(B) CERTAIN WAGES NOT TAKEN INTO ACCOUNT.—W–2 wages shall not be taken into account under subparagraph (A) if paid by an entity to an employee, and such employee shall not be taken into account under subparagraph (A)(i), during any period the employee is—

"(i) a qualified active investor, or

"(ii) an employee other than a qualified active investor who is a 5-percent owner (as defined in section 416(i)(1)(B)(i)) of the entity.

"(C) W–2 WAGES.—The term 'W–2 wages' means, with respect to any entity, the amounts described in paragraphs (3) and (8) of section 6051(a) paid by the entity with respect to employment of employees by the entity.

"(D) FULL-TIME EMPLOYEES AND EQUIVALENTS.—For purposes of this paragraph—

"(i) the term 'full-time employee' has the meaning given to such term by section 4980H(c)(4), and

"(ii) the determination of the number of employees constituting a full-time equivalent shall be made in the same manner as under section 4980H(c)(2)(E).

"(4) CERTIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any entity if the entity certifies, in such form and manner and at such time as the Secretary may prescribe, that, at the time of the qualified investment, the entity—

"(i) is engaged in 1 or more trades or businesses, and

"(ii) meets the requirements of paragraphs (2) and (3) to be treated as a qualifying business entity.

"(B) CERTIFICATION PROVIDED TO INVESTORS AND SECRETARY.—An entity shall—

"(i) provide the certification under subparagraph (A) to the person making the qualified investment at the time such investment is made, and

"(ii) include such certification, and the names, addresses, and taxpayer identification numbers of the entity's qualified active investors and the persons making the qualified investment, with its return of tax for the taxable year which includes the date of the qualified investment.

"(C) CERTIFICATION INCLUDED WITH RETURN CLAIMING CREDIT.—No credit shall be determined under subsection (a) with respect to any taxpayer making a qualified investment in a qualifying business entity unless the taxpayer includes the certification under subparagraph (A) with respect to the investment with its return of tax for any taxable year for which such credit is being claimed.

"(D) TIMELY FILED RETURN REQUIRED.—The requirements of subparagraph (B)(ii) or (C) shall be treated as met only if the return described in such subparagraph is filed on or before its due date (including extensions).

"(5) QUALIFIED ACTIVE INVESTOR.—

"(A) IN GENERAL.—The term 'qualified active investor' means, with respect to any entity, an individual who—

"(i) is a citizen or resident of the United States,

"(ii) materially participates (within the meaning of section 469(h)) in 1 or more trades or businesses of the entity,

"(iii) holds stock, or a capital or profits interest, in the entity, and

"(iv) meets the income requirements of subparagraph (B).

"(B) INCOME REQUIREMENTS.—The requirements of this subparagraph are met with respect to an individual if the average annual adjusted taxable income of the individual for the 3 taxable years of the individual immediately preceding the taxable year in which the qualified investment is made does not exceed the applicable amount.

"(C) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means, with respect to any taxable year in which a qualified investment is made—

“(i) in the case of an individual not described in clause (ii), $100,000 (as increased for the taxable year by the cost-of-living adjustment under subsection (e)(2)), and

“(ii) in the case of an individual who is a married individual filing a joint return or who is a head of household (as defined in section 2(b)) for the taxable year, an amount equal to 2 times the amount in effect under clause (i) for the taxable year.

“(D) RULES FOR DETERMINING AVERAGE TAXABLE INCOME.—For purposes of this paragraph—

“(i) a married individual filing a separate return of tax for any taxable year shall include the adjusted taxable income of their spouse in computing the individual’s average adjusted taxable income for any period unless the Secretary determines that the spouse’s information is not available to the individual, and

“(ii) the Secretary shall prescribe rules for the determination of average adjusted taxable income in cases where the individual had different filing statuses for the 3 taxable years described in subparagraph (B).

"(E) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income computed without regard to the deductions under sections 172 and 199A.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RELATED PERSONS.—A person shall be treated as related to another person if the person bears a relationship to such other person described in section 267(b), except that section 267(b) shall be applied by substituting '5 percent' for '50 percent' each place it appears.

"(2) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning after 2022, the $10,000 amount under subsection (b)(2)(A)(i) and the $100,000 amount under subsection (d)(5)(C)(i) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2021' for '2016' in subparagraph (A)(ii) thereof.

If any increase in such $10,000 amount is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100 and if any increase in such $100,000 amount is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

"(3) RULES RELATING TO ENTITIES.—

"(A) SOLE PROPRIETORSHIPS.—If a taxpayer carries on 1 or more trades or businesses as sole proprietorships, all such trades or businesses shall be treated as a single entity for purposes of applying this section.

"(B) APPLICATION TO DISREGARDED ENTITIES.—In the case of any entity with a single owner which is disregarded as an entity separate from its owner for purposes of this title, this section shall be applied in the same manner as if such entity were a corporation.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the provisions of this section.".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking ‘‘plus’’ at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ‘‘, plus’’, and by adding at the end the following new paragraph:

‘‘(34) the small business investor credit determined under section 45U(a).’’.

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Section 38(c)(4)(B) of such Code is amended by redesignating clauses (x), (xi), and (xii) as clauses (xi), (xii), and (xiii), respectively, and by inserting after clause (ix) the following new clause:

‘‘(x) the credit determined under section 45U,’’.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

‘‘Sec. 45U. Small business investor tax credit.’’.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified investments made in taxable years beginning after December 31, 2021.

SEC. 3. FIRST EMPLOYEE BUSINESS WAGE CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by section 2, is amended by adding at the end the following new section:

"SEC. 45V. FIRST EMPLOYEE BUSINESS WAGE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, in the case of a qualifying business entity, the first employee business wage credit determined under this section for any taxable year is an amount equal to 25 percent of the qualified wages of the entity for the taxable year.

"(b) DOLLAR LIMITATIONS.—

"(1) IN GENERAL.—The amount of the credit determined under subsection (a) with respect to any qualifying business entity for any taxable year shall not exceed the lesser of—

"(A) $10,000 (as increased for the taxable year by the cost-of-living adjustment under subsection (f)), or

"(B) the excess (if any) of—

"(i) an amount equal to 4 times the amount under subparagraph (A) for the taxable year, over

"(ii) the amount of the credit determined under this section with respect to such entity for all preceding taxable years.

"(2) NO CREDIT BY REASON OF COST-OF-LIVING ADJUSTMENT AFTER OVERALL LIMIT FIRST REACHED.—No credit shall be determined under this section with respect to any qualifying business entity for any taxable year after the first taxable year for which the amount determined under clause (ii) of paragraph (1)(B) equals or exceeds the amount determined under clause (i) of such paragraph.

"(3) PASS-THRU ENTITIES.—If a qualifying business entity is a partnership, trust, S corporation, or other pass-thru entity, the limitations under this subsection shall apply at the entity level.

"(c) QUALIFIED WAGES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified wages' means, with respect to any qualifying business entity, the amount of W–2 wages paid or incurred during any eligible taxable year to employees for services performed in connection with a trade or business of the entity.

"(2) EXCEPTION FOR QUALIFIED ACTIVE INVESTORS AND 5-PERCENT OWNER-EMPLOYEES.—W–2 wages shall not be taken into account under paragraph (1) if paid by an entity to an employee, and such employee shall not be taken into account under paragraph (3)(A), during any period the employee is—

"(A) a qualified active investor, or

"(B) an employee other than a qualified active investor who is a 5-percent owner (as defined in section 416(i)(1)(B)(i)) of the entity.

"(3) ELIGIBLE TAXABLE YEAR.—

"(A) IN GENERAL.—The term 'eligible taxable year' means any taxable year of a qualifying business entity—

"(i) which occurs during the period—

"(I) beginning with the first taxable year of the entity in which the entity employed at least 1 full-time employee (or employees constituting a full-time equivalent employee) in 1 or more trades or businesses of the entity during the taxable year and paid W–2 wages to such employee or employees with respect to such employment, and

"(II) ending with the last taxable year for which a credit may be determined for the entity under this section by reason of the limitation under subsection (b)(2), and

"(ii) in the case of a taxable year other than the first taxable year described in clause (i)(I), with respect to which the entity meets the employment and wage requirements of such clause.

Such term shall not include any taxable year during such a period if the first taxable year described in clause (i)(I) of the entity (or any predecessor) begins before January 1, 2020.

"(B) W–2 WAGES; FULL-TIME EMPLOYEES.—For purposes of this subsection, W–2 wages, full-time employees, and full-time employee equivalents shall be determined in the same manner as under section 45U.

"(d) QUALIFYING BUSINESS ENTITY.—For purposes of this section—

"(1) QUALIFYING BUSINESS ENTITY DEFINED.—

"(A) IN GENERAL.—The term 'qualifying business entity' means, with respect to any taxable year for which a credit under this section is being determined, any entity—

"(i) which is engaged in 1 or more trades or businesses,

"(ii) with respect to which the qualified active investor ownership requirements of paragraph (2) of section 45U(d) are met as of the close of such taxable year (rather than immediately before and after the qualified investment), and

"(iii) with respect to which the certification requirements of paragraph (2) are met.

"(B) ENTITIES UNDER COMMON CONTROL.—For purposes of this section—

"(i) IN GENERAL.—All qualifying business entities treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single qualifying business entity.

"(ii) ALLOCATION OF CREDIT.—Except as provided in regulations, the credit under this section shall be allocated among the entities comprising the single entity described in clause (i) in proportion to the qualified wages of each such entity taken into account under subsection (a).

"(2) CERTIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any entity for any taxable year described in paragraph

(1) if the entity certifies, in such form and manner and at such time as the Secretary may prescribe, that the entity meets the requirements described in clauses (i) and (ii) of paragraph (1)(A).

"(B) CERTIFICATION PROVIDED TO SECRETARY.—An entity shall include the certification under subparagraph (A), and the names, addresses, and taxpayer identification numbers of the entity's qualified active investors (and employees who are 5-percent owners described in subsection (c)(2)(B)), with its return of tax for the taxable year to which the certification relates. The requirement of this subparagraph is met only if such return is filed before its due date (including extensions).

"(3) QUALIFIED ACTIVE INVESTOR.—For purposes of this section (including applying the requirements of paragraph (2) of section 45U(d) for purposes of paragraph (1)(A)(ii)), the term 'qualified active investor' has the same meaning given such term by section 45U(d)(5), except that such section shall be applied separately for each taxable year described in paragraph (1) (rather than the taxable year of the qualified investment).

"(e) ELECTION TO APPLY CREDIT AGAINST PAYROLL TAXES.—

"(1) IN GENERAL.—At the election of a qualifying business entity, section 3111(g) shall apply to the payroll tax credit portion of the credit otherwise determined under subsection (a) for the taxable year and such portion shall not be treated (other than for purposes of section 280C) as a credit determined under subsection (a).

"(2) PAYROLL TAX CREDIT PORTION.—For purposes of this subsection, the payroll tax credit portion of the credit determined under subsection (a) with respect to any qualifying business entity for any taxable year is the least of—

"(A) the amount specified in the election made under this subsection,

"(B) the credit determined under subsection (a) for the taxable year (determined before the application of this subsection), or

"(C) in the case of a qualifying business entity other than a partnership, estate, S corporation or other pass-thru entity, the amount of the business credit carryforward under section 39 carried from the taxable year (determined before the application of this subsection to the taxable year).

"(3) ELECTION.—

"(A) IN GENERAL.—Any election under this subsection for any taxable year—

"(i) shall specify the amount of the credit to which such election applies,

"(ii) shall be made on or before the due date (including extensions) of the return for the taxable year, and

"(iii) may be revoked only with the consent of the Secretary.

"(B) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership, estate, S corporation, or other pass-thru entity, the election made under this subsection shall be made at the entity level.

"(f) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning after 2022, the $10,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2021' for '2016' in subparagraph (A)(ii) thereof.

If any increase in such amount is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.

"(g) OTHER RULES.—For purposes of this section—

"(1) RULES RELATING TO ENTITIES.—Rules similar to the rules of section 45U(e)(3) shall apply.

"(2) ELECTION NOT TO HAVE CREDIT APPLY.—

"(A) IN GENERAL.—A taxpayer may elect not to have this section apply for any taxable year.

"(B) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (3) of section 51(j) shall apply for purposes of this paragraph.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carrying out the provisions of this section, including regulations—

"(1) preventing the avoidance of the limitations under this section in cases in which there is a successor or new qualified business entity with respect to the same trade or business for which a predecessor qualified business entity already claimed the credit under this section,

"(2) to minimize compliance and recordkeeping burdens under the provisions of this section, and

"(3) for recapturing the benefit of credits determined under section 3111(g) in cases where there is a recapture or a subsequent adjustment to the payroll tax credit portion of the credit determined under subsection (a), including requiring amended income tax returns in the cases where there is such an adjustment.".

(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code, as amended by section 2, is amended by striking "plus" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", plus", and by adding at the end the following new paragraph:

"(35) the first employee business wage credit determined under section 45V(a).".

(3) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Section 38(c)(4)(B) of such Code, as amended by section 2, is amended by redesignating clauses (xi), (xii), and (xiii) as clauses (xii),

(xiii), and (xiv), respectively, and by inserting after clause (x) the following new clause:

"(xi) the credit determined under section 45V,".

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code, as amended by section 2, is amended by adding at the end the following new item:

"Sec. 45V. First employee business wage credit.".

(b) PAYROLL TAX CREDIT.—Section 3111 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(g) CREDIT FOR FIRST EMPLOYEE BUSINESS WAGE EXPENSES.—

"(1) IN GENERAL.—In the case of a taxpayer who has made an election under section 45V(e) for a taxable year, there shall be allowed as a credit against the tax imposed by subsection (a) for the first calendar quarter which begins after the date on which the taxpayer files the return for the taxable year an amount equal to the payroll tax credit portion determined under section 45V(e)(2).

"(2) LIMITATION.—The credit allowed by paragraph (1) shall not exceed the tax imposed by subsection (a) for any calendar quarter on the wages paid with respect to the employment of all individuals in the employ of the employer.

"(3) CARRYOVER OF UNUSED CREDIT.—If the amount of the credit under paragraph (1) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be carried to the succeeding calendar quarter and allowed as a credit under paragraph (1) for such quarter.

"(4) DEDUCTION ALLOWED FOR CREDITED AMOUNTS.—Notwithstanding section 280C(a), the credit allowed under paragraph (1) shall not be taken into account for purposes of determining the amount of any deduction allowed under chapter 1 for taxes imposed under subsection (a).".

(c) COORDINATION WITH DEDUCTIONS AND OTHER CREDITS.—

(1) DEDUCTIONS.—Section 280C(a) of the Internal Revenue Code of 1986 is amended by inserting "45V(a)," after "45S(a),".

(2) OTHER CREDITS.—

(A) Section 41(b)(2)(D) of such Code is amended by adding at the end the following:

"(iv) EXCLUSION FOR WAGES TO WHICH FIRST EMPLOYEE WAGE CREDIT APPLIES.—The term 'wages' shall not include any amount taken into account in determining the credit under section 45V.''.

(B) Section 45A(b)(1) of such Code is amended by adding at the end the following:

''(C) COORDINATION WITH FIRST EMPLOYEE WAGE CREDIT.—The term 'qualified wages' shall not include wages if any portion of such wages is taken into account in determining the credit under section 45V.''.

(C) Section 1396(c)(3) of such Code is amended—

(i) by striking ''section 51'' each place it appears and inserting ''section 45V or 51'', and

(ii) by inserting ''AND FIRST EMPLOYEE WAGE'' after ''OPPORTUNITY'' in the heading thereof.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2021.

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