

103D CONGRESS
1ST SESSION

S. 356

To amend the Internal Revenue Code of 1986 to replace the possession tax credit with a wage-based employment tax credit.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16 (legislative day, JANUARY 5), 1993

Mr. PRYOR 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 replace the possession tax credit with a wage-based employment tax credit.

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 “Possessions Wage
5 Credit Act of 1993”.

6 **SEC. 2. REPLACEMENT OF POSSESSION TAX CREDIT WITH**
7 **WAGE-BASED EMPLOYMENT CREDIT.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business related credits) is amended by
2 adding at the end the following new section:

3 **“SEC. 45A. POSSESSIONS EMPLOYMENT CREDIT.**

4 “(a) AMOUNT OF CREDIT.—For purposes of section
5 38, the amount of the possessions employment credit de-
6 termined under this section with respect to any eligible
7 employer for any taxable year is 40 percent of the quali-
8 fied possession wages paid or incurred during such taxable
9 year.

10 “(b) QUALIFIED POSSESSION WAGES.—For purposes
11 of this section, the term ‘qualified possession wages’
12 means any wages paid or incurred by an employer for
13 services performed by an employee while such employee
14 is a qualified possession employee to the extent such wages
15 do not exceed \$20,000.

16 “(c) QUALIFIED POSSESSION EMPLOYEE.—For pur-
17 poses of this section—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, the term ‘qualified posses-
20 sion employee’ means, with respect to any period,
21 any employee of an eligible employer if—

22 “(A) substantially all of the services per-
23 formed during such period by such employee for
24 such employer are performed within a posses-

1 sion of the United States in a trade or business
2 of the employer,

3 “(B) such employee is a bona fide resident
4 of such possession, and

5 “(C) such employee is subject to tax by
6 such possession on income from sources within
7 and without such possession.

8 “(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—
9 The term ‘qualified possession employee’ shall not
10 include—

11 “(A) any individual described in subpara-
12 graph (A), (B), or (C) of section 51(i)(1),

13 “(B) any 5-percent owner (as defined in
14 section 416(i)(1)(B)), and

15 “(C) any individual unless such individual
16 either—

17 “(i) is employed by the employer at
18 least 90 days, or

19 “(ii) has completed at least 120 hours
20 of services performed for the employer.

21 “(d) ELIGIBLE EMPLOYER.—For purposes of this
22 section—

23 “(1) IN GENERAL.—The term ‘eligible em-
24 ployer’ means a domestic corporation which—

1 “(A) elects the application of this section,
2 and

3 “(B) meets the conditions of both subpara-
4 graphs (A) and (B) of paragraph (2).

5 “(2) CONDITIONS WHICH MUST BE SATIS-
6 FIED.—The conditions referred to in paragraph (1)
7 are as follows:

8 “(A) 3-YEAR PERIOD.—If 80 percent or
9 more of the gross income of such domestic cor-
10 poration for the 3-year period immediately pre-
11 ceding the close of the taxable year (or for such
12 part of such period immediately preceding the
13 close of such taxable year as may be applicable)
14 was derived from sources within a possession of
15 the United States (determined without regard
16 to section 904(f)).

17 “(B) TRADE OR BUSINESS.—If 75 percent
18 or more of the gross income of such domestic
19 corporation for such period or such part thereof
20 was derived from the active conduct of a trade
21 or business within a possession of the United
22 States.

23 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—
24 For purposes of this section—

1 “(1) POSSESSION.—The term ‘possession of the
2 United States’ includes the Commonwealth of Puer-
3 to Rico and the Virgin Islands.

4 “(2) WAGES.—The term ‘wages’ has the same
5 meaning as when used in section 51, except that
6 paragraph (4) of section 51(c) shall not apply.

7 “(3) TREATMENT OF CERTAIN FOREIGN
8 TAXES.—For purposes of this title, any tax of a for-
9 eign country or possession of the United States
10 which is paid or accrued with respect to taxable in-
11 come of an eligible employer for any taxable year for
12 which an election is in effect under this section shall
13 not be treated as income, war profits, or excess prof-
14 its paid or accrued to a foreign country or posses-
15 sion of the United States. The preceding sentence
16 shall not apply to the extent such amounts exceed
17 the amount of the credit determined under sub-
18 section (a) for such taxable year.

19 “(4) CONTROLLED GROUPS.—

20 “(A) TREATED AS SINGLE EMPLOYER.—
21 All employers treated as a single employer
22 under subsection (a) or (b) of section 52 shall
23 be treated as a single employer for purposes of
24 this section.

1 “(B) PROPORTIONATE SHARE.—The credit
2 (if any) determined under this section with re-
3 spect to each employer described in subpara-
4 graph (A) shall be such employer’s propor-
5 tionate share of the wages giving rise to such
6 credit.

7 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
8 or deduction shall be allowable under any other pro-
9 vision of this title with respect to any wages taken
10 into account in computing the credit allowed by this
11 section.

12 “(6) CERTAIN OTHER RULES MADE APPLICA-
13 BLE.—Rules similar to the rules of section 51(k)
14 and subsections (c), (d), and (e) of section 52 shall
15 apply.

16 “(f) TRANSITION RULES.—For purposes of this sec-
17 tion—

18 “(1) IN GENERAL.—In the case of a taxpayer
19 for which a credit is allowed under section 936 for
20 its last taxable year ending before February 16,
21 1993, the credit determined under subsection (a) for
22 each of the 5 taxable years in the transition period
23 shall not be less than the lesser of—

24 “(A) the old section 936 amount, or

25 “(B) the adjusted wage credit.

1 “(2) OLD SECTION 936 AMOUNT.—For purposes
2 of paragraph (1)(A)—

3 “(A) IN GENERAL.—The term ‘old section
4 936 amount’ means, with respect to any taxable
5 year, the applicable percentage of the lesser
6 of—

7 “(i) the amount of the credit which
8 would have been determined under section
9 936 but for section 936(i), or

10 “(ii) 115 percent of the average
11 amount of the credit under section 936 of
12 the taxpayer and its predecessors for the
13 3-taxable-year period ending with the tax-
14 payer’s last taxable year ending before
15 February 16, 1993 (not taking into ac-
16 count years in which the taxpayer or any
17 predecessor was not in existence).

18 “(B) APPLICABLE PERCENTAGE.—For
19 purposes of subparagraph (A), the applicable
20 percentage shall be determined as follows:

“In the case of the following year in the transition period:	The percent- age is:
1st	100
2d	100
3d	75
4th	50
5th	25.

1 “(3) ADJUSTED WAGE CREDIT.—For purposes
2 of paragraph (1)(B)—

3 “(A) IN GENERAL.—The term ‘adjusted
4 wage credit’ means, with respect to any taxable
5 year, the amount determined under subsection
6 (a) by substituting the applicable percentage for
7 40 percent.

8 “(B) APPLICABLE PERCENTAGE.—For
9 purposes of subparagraph (A), the applicable
10 percentage shall be determined as follows:

“In the case of the following year in the transition period:	The percent- age is:
1st	100
2d	100
3d	85
4th	70
5th	55.

11 “(4) TREATMENT OF ADDITIONAL CREDIT.—If
12 an additional credit is allowed to a taxpayer for any
13 taxable year by reason of this subsection, then, for
14 purposes of this title—

15 “(A) an election under section 936 shall be
16 treated as in effect with respect to such tax-
17 payer for such taxable year, and

18 “(B) the excess of the credit allowed under
19 this section for such taxable year over the
20 amount of the credit which would have been al-
21 lowed without regard to this subsection shall be
22 treated as a credit allowed by section 936.

1 “(5) TRANSITION PERIOD.—For purposes of
2 this subsection, the term ‘transition period’ means
3 the 5-taxable-year period beginning with the taxable
4 year which includes February 16, 1993.”.

5 (b) TERMINATION OF SECTION 936 CREDIT.—

6 (1) IN GENERAL.—Section 936 of such Code is
7 amended by adding at the end the following new
8 subsection:

9 “(i) TERMINATION.—Except as provided in section
10 45A(f)(4), no credit shall be allowed under this section
11 for any taxable year ending on or after February 16,
12 1993.”.

13 (2) CONFORMING AMENDMENT.—Section 27(b)
14 of such Code is amended by adding at the end the
15 following new sentence: “Except as provided in sec-
16 tion 45A(f)(4), no credit shall be allowed under this
17 subsection for any taxable year ending on or after
18 February 16, 1993.”.

19 (c) CREDIT ALLOWED AS BUSINESS CREDIT.—

20 (1) IN GENERAL.—Section 38(b) of such Code
21 is amended by striking “plus” at the end of para-
22 graph (7), by striking the period at the end of para-
23 graph (8) and inserting “, plus”, and by adding at
24 the end the following new paragraph:

1 “(9) the possessions employment credit under
2 section 45A(a).”.

3 (2) TRANSITION.—Section 39(d) of such Code
4 is amended by adding at the end the following new
5 paragraph:

6 “(4) NO CARRYBACK OF POSSESSIONS EMPLOY-
7 MENT CREDIT.—No portion of the unused business
8 credit for any taxable year which is attributable to
9 the credit determined under section 45A may be car-
10 ried back to any taxable year ending before Feb-
11 ruary 16, 1993.”.

12 (d) CONFORMING AMENDMENTS.—

13 (1) Sections 243(b)(1)(B)(ii) and
14 1361(b)(2)(D) of such Code are each amended by
15 inserting “45A or” before “936”.

16 (2) Section 1504(b)(4) of such Code is amend-
17 ed by inserting “section 45A (relating to possessions
18 employment credit) or” before “section 936”.

19 (3) Clause (ii) of section 6091(b)(2)(B) of such
20 Code is amended by inserting “section 45A (relating
21 to possessions employment credit) or” before “sec-
22 tion 936”.

23 (4) The table of sections for subpart D of part
24 IV of subchapter A of chapter 1 of such Code is

1 amended by adding at the end the following new
2 item:

“Sec. 45A. Possessions employment credit.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending on or after
5 February 16, 1993.

6 **SEC. 3. EXTENSION AND MODIFICATION OF DEDUCTION OF**
7 **HEALTH INSURANCE COSTS OF SELF-EM-**
8 **PLOYED INDIVIDUALS.**

9 (a) 18-MONTH EXTENSION.—Paragraph (6) of sec-
10 tion 162(l) of the Internal Revenue Code of 1986 (relating
11 to special rules for health insurance costs of self-employed
12 individuals) is amended by striking “June 30, 1992” and
13 inserting “December 31, 1993”.

14 (b) INCREASE IN AMOUNT OF DEDUCTION.—Section
15 162(l)(1) of such Code is amended by striking “25 percent
16 of”.

17 (c) CONFORMING AMENDMENT.—Paragraph (2) of
18 section 110(a) of the Tax Extension Act of 1991 is hereby
19 repealed.

20 (d) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendments made by
22 this section shall apply to taxable years ending after
23 June 30, 1992.

1 (2) INCREASE.—The amendment made by sub-
2 section (b) shall apply to taxable years beginning
3 after December 31, 1992.

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