

109TH CONGRESS
1ST SESSION

H. R. 2296

To amend the Internal Revenue Code of 1986 to protect the financial stability of activated members of the Ready-Reserve and National Guard while serving abroad.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2005

Mrs. LOWEY introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to protect the financial stability of activated members of the Ready-Reserve and National Guard while serving abroad.

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 “Guard and Reserve
5 Financial Stability Act of 2005”.

6 **SEC. 2. READY RESERVE-NATIONAL GUARD EMPLOYEE**
7 **CREDIT AND READY RESERVE-NATIONAL**
8 **GUARD REPLACEMENT EMPLOYEE CREDIT.**

9 (a) READY RESERVE-NATIONAL GUARD CREDIT.—

1 (1) IN GENERAL.—Subpart D of part IV of
2 subchapter A of chapter 1 of the Internal Revenue
3 Code of 1986 (relating to business-related credits) is
4 amended by inserting after section 45I the following
5 new section:

6 **“SEC. 45J. READY RESERVE-NATIONAL GUARD EMPLOYEE**
7 **CREDIT.**

8 “(a) GENERAL RULE.—For purposes of section 38,
9 in the case of an eligible taxpayer, the Ready Reserve-Na-
10 tional Guard employee credit determined under this sec-
11 tion for any taxable year with respect to each Ready Re-
12 serve-National Guard employee of such taxpayer is an
13 amount equal to 50 percent of the lesser of—

14 “(1) the actual compensation amount with re-
15 spect to such employee for such taxable year, or

16 “(2) \$30,000.

17 “(b) DEFINITION OF ACTUAL COMPENSATION
18 AMOUNT.—For purposes of this section, the term ‘actual
19 compensation amount’ means the amount of compensation
20 paid or incurred by an eligible taxpayer with respect to
21 a Ready Reserve-National Guard employee on any day
22 when the employee was absent from employment for the
23 purpose of performing qualified active duty.

24 “(c) LIMITATIONS.—No credit shall be allowed with
25 respect to any day that a Ready Reserve-National Guard

1 employee who performs qualified active duty was not
2 scheduled to work (for reason other than to participate
3 in qualified active duty).

4 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
5 poses of this section—

6 “(1) ELIGIBLE TAXPAYER.—

7 “(A) IN GENERAL.—The term ‘eligible tax-
8 payer’ means a small business employer.

9 “(B) SMALL BUSINESS EMPLOYER.—

10 “(i) IN GENERAL.—The term ‘small
11 business employer’ means, with respect to
12 any taxable year, any employer who em-
13 ployed an average of 50 or fewer employees
14 on business days during such taxable year.

15 “(ii) CONTROLLED GROUPS.—For
16 purposes of clause (i), all persons treated
17 as a single employer under subsection (b),
18 (c), (m), or (o) of section 414 shall be
19 treated as a single employer.

20 “(2) QUALIFIED ACTIVE DUTY.—The term
21 ‘qualified active duty’ means—

22 “(A) active duty under an order or call for
23 a period in excess of 179 days or for an indefi-
24 nite period, other than the training duty speci-
25 fied in section 10147 of title 10, United States

1 Code (relating to training requirements for the
2 Ready Reserve), or section 502(a) of title 32,
3 United States Code (relating to required drills
4 and field exercises for the National Guard), in
5 connection with which an employee is entitled to
6 reemployment rights and other benefits or to a
7 leave of absence from employment under chap-
8 ter 43 of title 38, United States Code, and

9 “(B) hospitalization incident to such duty.

10 “(3) COMPENSATION.—The term ‘compensa-
11 tion’ means any remuneration for employment,
12 whether in cash or in kind, which is paid or incurred
13 by a taxpayer and which is deductible from the tax-
14 payer’s gross income under section 162(a)(1).

15 “(4) READY RESERVE-NATIONAL GUARD EM-
16 PLOYEE.—The term ‘Ready Reserve-National Guard
17 employee’ means an employee who is a member of
18 the Ready Reserve of a reserve component of an
19 Armed Force of the United States as described in
20 sections 10142 and 10101 of title 10, United States
21 Code.

22 “(5) CERTAIN RULES TO APPLY.—Rules similar
23 to the rules of section 52 shall apply.

24 “(e) TERMINATION.—This section shall not apply to
25 any amount paid or incurred after December 31, 2006.”.

1 (2) CREDIT TO BE PART OF GENERAL BUSI-
2 NESS CREDIT.—Subsection (b) of section 38 of the
3 Internal Revenue Code of 1986 (relating to general
4 business credit) is amended by striking “plus” at the
5 end of paragraph (18), by striking the period at the
6 end of paragraph (19) and inserting “, plus”, and
7 by adding at the end the following:

8 “(20) the Ready Reserve-National Guard em-
9 ployee credit determined under section 45J(a).”.

10 (3) DENIAL OF DOUBLE BENEFIT.—Section
11 280C(a) of the Internal Revenue Code of 1986 (re-
12 lating to rule for employment credits) is amended by
13 inserting “45J(a),” after “45A(a),”.

14 (4) CONFORMING AMENDMENT.—The table of
15 sections for subpart D of part IV of subchapter A
16 of chapter 1 of the Internal Revenue Code of 1986
17 is amended by inserting after the item relating to
18 section 45I the following:

“Sec. 45J. Ready Reserve-National Guard employee credit.”.

19 (5) EFFECTIVE DATE.—The amendments made
20 by this subsection shall apply to amounts paid or in-
21 curred after September 30, 2004, in taxable years
22 ending after such date.

23 (b) READY RESERVE-NATIONAL GUARD REPLACE-
24 MENT EMPLOYEE CREDIT.—

1 (1) IN GENERAL.—Paragraph (1) of section
2 51(d) of the Internal Revenue Code of 1986 (relat-
3 ing to members of targeted groups) is amended by
4 striking “or” at the end of subparagraph (G), by
5 striking the period at the end of subparagraph (H)
6 and inserting “, or” and by adding at the end the
7 following new subparagraph:

8 “(I) a qualified replacement employee.”.

9 (2) QUALIFIED REPLACEMENT EMPLOYEE.—
10 Section 51(d) of the Internal Revenue Code of 1986
11 is amended by redesignating paragraphs (10), (11),
12 and (12) as paragraphs (11), (12), and (13), respec-
13 tively, and by inserting after paragraph (9) the fol-
14 lowing new paragraph:

15 “(10) QUALIFIED REPLACEMENT EMPLOYEE.—

16 “(A) IN GENERAL.—The term ‘qualified
17 replacement employee’ means an individual who
18 is certified by the designated local agency as
19 being hired by an eligible taxpayer to replace a
20 Ready Reserve-National Guard employee of
21 such taxpayer, but only with respect to the pe-
22 riod during which such Ready Reserve-National
23 Guard employee participates in qualified active
24 duty, including time spent in travel status.

1 “(B) GENERAL DEFINITIONS AND SPECIAL
2 RULES.—For purposes of this paragraph—

3 “(i) ELIGIBLE TAXPAYER.—The term
4 ‘eligible taxpayer’ means a small business
5 employer.

6 “(ii) SMALL BUSINESS EMPLOYER.—

7 “(I) IN GENERAL.—The term
8 ‘small business employer’ means, with
9 respect to any taxable year, any em-
10 ployer who employed an average of 50
11 or fewer employees on business days
12 during such taxable year.

13 “(II) CONTROLLED GROUPS.—

14 For purposes of subclause (I), all per-
15 sons treated as a single employer
16 under subsection (b), (c), (m), or (o)
17 of section 414 shall be treated as a
18 single employer.

19 “(iii) READY RESERVE-NATIONAL
20 GUARD EMPLOYEE.—The term ‘Ready Re-
21 serve-National Guard employee’ has the
22 meaning given such term by section
23 45J(d)(3).

1 “(iv) QUALIFIED ACTIVE DUTY.—The
2 term ‘qualified active duty’ has the mean-
3 ing given such term by section 45J(d)(1).

4 “(C) DISALLOWANCE FOR FAILURE TO
5 COMPLY WITH EMPLOYMENT OR REEMPLOY-
6 MENT RIGHTS OF MEMBERS OF THE RESERVE
7 COMPONENTS OF THE ARMED FORCES OF THE
8 UNITED STATES.—No credit shall be allowed
9 under subsection (a) by reason of paragraph
10 (1)(I) to a taxpayer for—

11 “(i) any taxable year, beginning after
12 the date of the enactment of this section,
13 in which the taxpayer is under a final
14 order, judgment, or other process issued or
15 required by a district court of the United
16 States under section 4323 of title 38 of the
17 United States Code with respect to a viola-
18 tion of chapter 43 of such title, and

19 “(ii) the 2 succeeding taxable years.”.

20 (3) EXTENSION OF CREDIT WITH RESPECT TO
21 QUALIFIED REPLACEMENT EMPLOYEES.—Subpara-
22 graph (B) of section 51(c)(4) of such Code (relating
23 to termination) is amended by inserting “(December
24 31, 2006, in the case of amounts paid or incurred

1 to an individual who is a qualified replacement em-
2 ployee)” after “2005”.

3 (4) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to amounts paid or in-
5 curred to an individual who begins work for the em-
6 ployer after September 30, 2004.

7 (c) STUDY BY GAO.—

8 (1) IN GENERAL.—The Comptroller General of
9 the United States shall study the following:

10 (A) What, if any, problems exist in recruit-
11 ing individuals for a reserve component of an
12 Armed Force of the United States.

13 (B) Whether the credit allowed under sec-
14 tion 45J of the Internal Revenue Code of 1986
15 (as added by this section) is an effective incen-
16 tive for the hiring and retention of employees
17 who are individuals described in subparagraph
18 (A) and whether there exists any compliance
19 problems in the administration of such credit.

20 (2) REPORT.—The Comptroller General of the
21 United States shall report on the results of the
22 study required under paragraph (1) to the Com-
23 mittee on Finance of the Senate and the Committee

- 1 on Ways and Means of the House of Representatives
- 2 before December 1, 2005.

○