

110TH CONGRESS
2D SESSION

H. R. 6813

To amend the Internal Revenue Code of 1986 to clarify that wages paid to unauthorized aliens may not be deducted from gross income, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2008

Mr. KING of Iowa (for himself, Mr. BARTLETT of Maryland, Mr. BILBRAY, Mrs. BLACKBURN, Mrs. BOYDA of Kansas, Mr. BROUN of Georgia, Mr. BROWN of South Carolina, Mr. GOHMERT, Ms. GINNY BROWN-WAITE of Florida, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CALVERT, Mr. CARTER, Mrs. CUBIN, Mr. CULBERSON, Mr. DAVID DAVIS of Tennessee, Mr. DEAL of Georgia, Mr. DOOLITTLE, Mrs. DRAKE, Mr. DUNCAN, Mr. EVERETT, Ms. FALLIN, Mr. FEENEY, Mr. FORBES, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GALLEGLY, Mr. GINGREY, Mr. GOODE, Mr. GOODLATTE, Mr. ISSA, Mr. JONES of North Carolina, Mr. JORDAN of Ohio, Mr. KINGSTON, Mr. LATTA, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. MANZULLO, Mr. McCAUL of Texas, Mr. McCOTTER, Mr. GARY G. MILLER of California, Mr. MILLER of Florida, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. PITTS, Mr. POE, Mr. ROHRABACHER, Mr. ROSKAM, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SHULER, Mr. SMITH of Texas, Mr. TANCREDO, Mr. WALBERG, Mr. WELDON of Florida, and Mr. WESTMORELAND) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to clarify that wages paid to unauthorized aliens may not be deducted from gross income, 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 “New IDEA (Illegal
5 Deduction Elimination Act)”.

6 **SEC. 2. CLARIFICATION THAT WAGES PAID TO UNAUTHOR-**
7 **IZED ALIENS MAY NOT BE DEDUCTED FROM**
8 **GROSS INCOME.**

9 (a) IN GENERAL.—Subsection (c) of section 162 of
10 the Internal Revenue Code of 1986 (relating to illegal
11 bribes, kickbacks, and other payments) is amended by
12 adding at the end the following new paragraph:

13 “(4) WAGES PAID TO OR ON BEHALF OF UNAU-

14 THORIZED ALIENS.—

15 “(A) IN GENERAL.—No deduction shall be
16 allowed under subsection (a) for any wage paid
17 to or on behalf of an unauthorized alien, as de-
18 fined under section 274A(h)(3) of the Immigra-
19 tion and Nationality Act (8 U.S.C.
20 1324a(h)(3)).

21 “(B) WAGES.—For the purposes of this
22 paragraph, the term ‘wages’ means all remu-
23 nation for employment, including the cash
24 value of all remuneration (including benefits)
25 paid in any medium other than cash.

1 “(C) SAFE HARBOR.—If a person or other
2 entity is participating in the basic pilot program
3 described in section 403 of the Illegal Immigra-
4 tion Reform and Immigrant Responsibility Act
5 of 1996 (8 U.S.C. 1324a note) and obtains con-
6 firmation of identity and employment eligibility
7 in compliance with the terms and conditions of
8 the program with respect to the hiring (or re-
9 cruitment or referral) of an employee, subpara-
10 graph (A) shall not apply with respect to wages
11 paid to such employee.”.

12 (b) 6-YEAR LIMITATION ON ASSESSMENT AND COL-
13 LECTION.—Subsection (c) of section 6501 of such Code
14 (relating to exceptions) is amended by adding at the end
15 the following new paragraph:

16 “(11) DEDUCTION CLAIMED FOR WAGES PAID
17 TO UNAUTHORIZED ALIENS.—In the case of a return
18 of tax on which a deduction is shown in violation of
19 section 162(c)(4), any tax under chapter 1 may be
20 assessed, or a proceeding in court for the collection
21 of such tax may be begun without assessment, at
22 any time within 6 years after the return was filed.”.

23 (c) USE OF DOCUMENTATION FOR ENFORCEMENT
24 PURPOSES.—Section 274A of the Immigration and Na-
25 tionality Act (8 U.S.C. 1324a) is amended—

1 (1) in subparagraph (b)(5), by inserting “, sec-
2 tion 162(c)(4) of the Internal Revenue Code of
3 1986,” after “enforcement of this Act”;

4 (2) in subparagraph (d)(2)(F), by inserting “,
5 section 162(c)(4) of the Internal Revenue Code of
6 1986,” after “enforcement of this Act”; and

7 (3) in subparagraph (d)(2)(G), by inserting
8 “section 162(c)(4) of the Internal Revenue Code of
9 1986 or” after “or enforcement of”.

10 (d) AVAILABILITY OF INFORMATION.—

11 (1) IN GENERAL.—The Commissioner of Social
12 Security, the Secretary of the Department of Home-
13 land Security, and the Secretary of the Treasury,
14 shall jointly establish a program to share informa-
15 tion among such agencies that may or could lead to
16 the identification of unauthorized aliens (as defined
17 under section 274A(h)(3) of the Immigration and
18 Nationality Act), including any no-match letter, any
19 information in the earnings suspense file, and any
20 information in the investigation and enforcement of
21 section 162(c)(4) of the Internal Revenue Code of
22 1986.

23 (2) DISCLOSURE BY SECRETARY OF THE
24 TREASURY.—

1 (A) IN GENERAL.—Subsection (i) of sec-
2 tion 6103 of the Internal Revenue Code of 1986
3 is amended by adding at the end the following
4 new paragraph:

5 “(9) PAYMENT OF WAGES TO UNAUTHORIZED
6 ALIENS.—Upon request from the Commissioner of
7 the Social Security Administration or the Secretary
8 of the Department of Homeland Security, the Sec-
9 retary shall disclose to officers and employees of
10 such Administration or Department—

11 “(A) taxpayer identity information of em-
12 ployers who paid wages with respect to which a
13 deduction was not allowed by reason of section
14 162(c)(4), and

15 “(B) taxpayer identity information of indi-
16 viduals to whom such wages were paid,
17 for purposes of carrying out any enforcement activi-
18 ties of such Administration or Department with re-
19 spect to such employers or individuals.”.

20 (B) RECORD KEEPING.—Paragraph (4) of
21 section 6103(p) of such Code is amended—

22 (i) by striking “(5), or (7)” in the
23 matter preceding subparagraph (A) and in-
24 serting “(5), (7), or (9)”, and

1 (ii) by striking “(5) or (7)” in sub-
2 paragraph (F)(ii) and inserting “(5), (7),
3 or (9)”.

4 (e) EFFECTIVE DATE.—

5 (1) Except as provided in paragraph (2), this
6 Act and the amendments made by this Act shall
7 take effect on the date of the enactment of this Act.

8 (2) The amendments made by subsections (a)
9 and (b) shall apply to taxable years beginning after
10 December 31, 2007.

11 **SEC. 3. MODIFICATION OF BASIC PILOT PROGRAM FOR EM-**
12 **PLOYMENT ELIGIBILITY VERIFICATION.**

13 (a) MAKING PERMANENT.—Subsection (b) of section
14 401 of the Illegal Immigration Reform and Immigrant Re-
15 sponsibility Act of 1996 (8 U.S.C.1324a note) is amended
16 by striking the last sentence.

17 (b) APPLICATION TO CURRENT EMPLOYEES.—

18 (1) VOLUNTARY ELECTION.—The first sentence
19 of section 402(a) of such Act is amended to read as
20 follows: “Any person or other entity that conducts
21 any hiring (or recruitment or referral) in a State or
22 employs any individuals in a State may elect to par-
23 ticipate in a pilot program.”.

24 (2) BENEFIT OF REBUTTABLE PRESUMP-
25 TION.—Paragraph (1) of section 402(b) of such Act

1 is amended by adding at the end the following: “If
2 a person or other entity is participating in a pilot
3 program and obtains confirmation of identity and
4 employment eligibility in compliance with the terms
5 and conditions of the program with respect to indi-
6 viduals employed by the person or entity, the person
7 or entity has established a rebuttable presumption
8 that the person or entity has not violated section
9 274A(a)(2) with respect to such individuals.”.

10 (3) SCOPE OF ELECTION.—Subparagraph (A)
11 of section 402(e)(2) of such Act is amended to read
12 as follows:

13 “(A) IN GENERAL.—Any electing person or
14 other entity may provide that the election under
15 subsection (a) shall apply (during the period in
16 which the election is in effect)—

17 “(i) to all its hiring (and all recruit-
18 ment or referral);

19 “(ii) to all its hiring (and all recruit-
20 ment or referral and all individuals em-
21 ployed by the person or entity);

22 “(iii) to all its hiring (and all recruit-
23 ment or referral) in one or more States or
24 one or more places of hiring (or recruit-
25 ment or referral, as the case may be); or

1 “(iv) to all its hiring (and all recruit-
2 ment or referral and all individuals em-
3 ployed by the person or entity) in one or
4 more States or one or more place of hiring
5 (or recruitment or referral or employment,
6 as the case may be).”.

7 (4) PROCEDURES FOR PARTICIPANTS IN BASIC
8 PILOT PROGRAM.—Subsection (a) of section 403 of
9 such Act is amended—

10 (A) in the matter preceding paragraph (1),
11 by inserting “or continued employment in the
12 United States” after “United States”; and

13 (B) in paragraph (3)—

14 (i) in subparagraph (A), by striking
15 all that follows “(as specified by the Attor-
16 ney General)” and inserting “after the
17 date of the hiring, or recruitment or refer-
18 ral, in the case of inquiries made pursuant
19 to a hiring, recruitment or referral (and
20 not of previously hired individuals).”; and

21 (ii) in subparagraph (B), by striking
22 “such 3 working days” and inserting “the
23 specified period”.

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