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116TH CONGRESS
1ST SESSION

H. R. 4964

To amend the Internal Revenue Code of 1986 to extend the employer credit for paid family and medical leave, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2019

Mr. KELLY of Pennsylvania introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on 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

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A BILL

To amend the Internal Revenue Code of 1986 to extend the employer credit for paid family and medical leave, 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 ''Paid Family Leave Pilot Extension Act''.

SEC. 2. EXTENSION OF EMPLOYER CREDIT FOR PAID FAMILY AND MEDICAL LEAVE.

(a) PROGRAM EXTENSION.—Section 45S(i) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2019'' and inserting ''December 31, 2022''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2019.

SEC. 3. EMPLOYER REQUIREMENTS FOR RATE OF PAYMENT.

(a) IN GENERAL.—Subsection (c) of section 45S of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1)(B), by inserting after the first sentence the following: ''For purposes of determining the rate of payment under the program, any family and medical leave which is paid by a State or local government or required by State or local law, determined as a percentage of the wages normally paid to such employee for services performed for the employer, shall be taken into account.'', and

(2) in paragraph (4)—

(A) by striking ''For purposes of this section, any'' and inserting ''Any'', and

(B) by striking ''amount of paid family and medical leave provided by the employer'' and inserting "wages taken into account under subsection (a)".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 13403 of Public Law 115–97.

SEC. 4. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—Section 45S of the Internal Revenue Code of 1986 is amended—

(1) in subsection (b)(1), by striking "credit allowed" and inserting "wages taken into account",

(2) in subsection (c), by striking paragraph (3) and inserting the following:

"(3) AGGREGATION RULE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all persons which are treated as a single employer under subsections (b) and (c) of section 414 shall be treated as a single employer.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any person who establishes to the satisfaction of the Secretary that such person has a substantial and legitimate business reason for failing to provide a written policy described in paragraph (1) or (2).

"(ii) SUBSTANTIAL AND LEGITIMATE BUSINESS REASON.—For purposes of clause (i), the term 'substantial and legitimate business reason' shall not include the operation of a separate line of business, the rate of wages or category of jobs for employees (or any similar basis), or the application of State or local laws relating to family and medical leave, but may include the grouping of employees of a common law employer.", and

(3) in subsection (d)(2), by inserting ", as determined on an annualized basis (pro-rata for part-time employees)," after "compensation".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 13403 of Public Law 115–97.

SEC. 5. GAO STUDY OF IMPACT OF TAX CREDIT TO PROMOTE ACCESS TO PAID FAMILY AND MEDICAL LEAVE.

(a) STUDY.—Not later than June 30, 2022, the Comptroller General of the United States, in consultation with the Secretary of the Treasury and the Secretary of Labor, shall—

(1) complete a study that—

(A) examines the effectiveness of the tax credit for paid family and medical leave authorized under section 45S of the Internal Revenue Code of 1986 in terms of—

(i) increasing access to paid family and medical leave among qualifying employees;

(ii) promoting the creation of new paid family and medical leave policies among eligible employers;

(iii) increasing the generosity of existing paid family and medical leave policies among eligible employers; and

(iv) incenting employee or employer behavior that might not otherwise have occurred in the absence of the credit;

(B) provides recommendations for ways to modify or enhance the tax credit to further promote access to paid family and medical leave for qualifying employees; and

(C) provides suggestions of alternative policies that Federal and State governments could implement to increase access to paid family and medical leave, particularly among qualifying employees; and

(2) prepare and submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives setting forth the conclusions of the study conducted under paragraph (1) in such a manner that the recommendations included in the report can inform future legislative action.

Such report shall also be made publicly available via the website of the Government Accountability Office.

(b) PROHIBITION.—In carrying out the requirements of this section, the Comptroller General of the United States may request qualitative and quantitative information from employers and employees claiming the credit under section 45S of the Internal Revenue Code of 1986, but nothing in this section shall be construed as mandating additional reporting requirements for such employers or employees beyond what is already required by law.

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