

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

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.

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 “Paid Family Leave
5 Pilot Extension Act”.

1 **SEC. 2. EXTENSION OF EMPLOYER CREDIT FOR PAID FAM-**
 2 **ILY AND MEDICAL LEAVE.**

3 (a) PROGRAM EXTENSION.—Section 45S(i) of the In-
 4 ternal Revenue Code of 1986 is amended by striking “De-
 5 cember 31, 2019” and inserting “December 31, 2022”.

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

9 **SEC. 3. EMPLOYER REQUIREMENTS FOR RATE OF PAY-**
 10 **MENT.**

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

13 (1) in paragraph (1)(B), by inserting after the
 14 first sentence the following: “For purposes of deter-
 15 mining the rate of payment under the program, any
 16 family and medical leave which is paid by a State or
 17 local government or required by State or local law,
 18 determined as a percentage of the wages normally
 19 paid to such employee for services performed for the
 20 employer, shall be taken into account.”, and

21 (2) in paragraph (4)—

22 (A) by striking “For purposes of this sec-
 23 tion, any” and inserting “Any”, and

24 (B) by striking “amount of paid family
 25 and medical leave provided by the employer”

1 and inserting “wages taken into account under
2 subsection (a)”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall take effect as if included in section
5 13403 of Public Law 115–97.

6 **SEC. 4. TECHNICAL CORRECTIONS.**

7 (a) **IN GENERAL.**—Section 45S of the Internal Rev-
8 enue Code of 1986 is amended—

9 (1) in subsection (b)(1), by striking “credit al-
10 lowed” and inserting “wages taken into account”,

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

13 “(3) **AGGREGATION RULE.**—

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

19 “(B) **EXCEPTION.**—

20 “(i) **IN GENERAL.**—Subparagraph (A)
21 shall not apply to any person who estab-
22 lishes to the satisfaction of the Secretary
23 that such person has a substantial and le-
24 gitimate business reason for failing to pro-

vide 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

1 with the Secretary of the Treasury and the Secretary of
2 Labor, shall—

3 (1) complete a study that—

4 (A) examines the effectiveness of the tax
5 credit for paid family and medical leave author-
6 ized under section 45S of the Internal Revenue
7 Code of 1986 in terms of—

8 (i) increasing access to paid family
9 and medical leave among qualifying em-
10 ployees;

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

14 (iii) increasing the generosity of exist-
15 ing paid family and medical leave policies
16 among eligible employers; and

17 (iv) incenting employee or employer
18 behavior that might not otherwise have oc-
19 curred in the absence of the credit;

20 (B) provides recommendations for ways to
21 modify or enhance the tax credit to further pro-
22 mote access to paid family and medical leave
23 for qualifying employees; and

24 (C) provides suggestions of alternative
25 policies that Federal and State governments

1 could implement to increase access to paid fam-
2 ily and medical leave, particularly among quali-
3 fying employees; and

4 (2) prepare and submit a report to the Com-
5 mittee on Finance of the Senate and the Committee
6 on Ways and Means of the House of Representatives
7 setting forth the conclusions of the study conducted
8 under paragraph (1) in such a manner that the rec-
9 ommendations included in the report can inform fu-
10 ture legislative action.

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

13 (b) PROHIBITION.—In carrying out the requirements
14 of this section, the Comptroller General of the United
15 States may request qualitative and quantitative informa-
16 tion from employers and employees claiming the credit
17 under section 45S of the Internal Revenue Code of 1986,
18 but nothing in this section shall be construed as man-
19 dating additional reporting requirements for such employ-
20 ers or employees beyond what is already required by law.

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