

Amendment to the Amendment in the Nature of a Substitute to Subtitle G. Budget Reconciliation Legislative Recommendations Relating to Promoting Economic Security offered by Rep. Rice of South Carolina

The amendment would provide a Healthy Workplace Tax Credit – 50% payroll tax credit for COVID employee protection, workplace reconfiguration, and technology expenses.

AMENDMENT

OFFERED BY Mr. Rice

At the end of subtitle G, add the following:

1 **SEC. 9674. HEALTHY WORKPLACE TAX CREDIT.**

2 (a) IN GENERAL.—In the case of an employer, there
3 shall be allowed as a credit against applicable employment
4 taxes for each calendar quarter an amount equal to 50
5 percent of the sum of—

6 (1) the qualified employee protection expenses
7 paid or incurred by the employer during such cal-
8 endar quarter,

9 (2) the qualified workplace reconfiguration ex-
10 penses paid or incurred by the employer during such
11 calendar quarter, and

12 (3) the qualified workplace technology expenses
13 paid or incurred by the employer during such cal-
14 endar quarter.

15 (b) LIMITATIONS AND REFUNDABILITY.—

16 (1) OVERALL DOLLAR LIMITATION ON CRED-
17 IT.—

18 (A) IN GENERAL.—The amount of the
19 credit allowed under subsection (a) with respect

1 to any employer for any calendar quarter shall
2 not exceed the excess (if any) of—

3 (i) the applicable dollar limit with re-
4 spect to such employer for such calendar
5 quarter, over

6 (ii) the aggregate credits allowed
7 under subsection (a) with respect to such
8 employer for all preceding calendar quar-
9 ters.

10 (B) APPLICABLE DOLLAR LIMIT.—The
11 term “applicable dollar limit” means, with re-
12 spect to any employer for any calendar quarter,
13 the sum of—

14 (i) \$1,000, multiplied so much of the
15 average number of employees employed by
16 such employer during such calendar quar-
17 ter as does not exceed 500, plus

18 (ii) \$750, multiplied by so much of
19 such average number of employees as ex-
20 ceeds 500 but does not exceed 1,000, plus

21 (iii) \$500, multiplied by so much of
22 such average number of employees as ex-
23 ceeds 1,000.

24 (2) CREDIT LIMITED TO EMPLOYMENT
25 TAXES.—The credit allowed by subsection (a) with

1 respect to any calendar quarter shall not exceed the
2 applicable employment taxes (reduced by any credits
3 allowed against such taxes under sections 7001 and
4 7003 of the Families First Coronavirus Response
5 Act, section 2301 of the CARES Act, or any other
6 provision of this Act) on the wages paid with respect
7 to the employment of all the employees of the eligi-
8 ble employer for such calendar quarter.

9 (3) REFUNDABILITY OF EXCESS CREDIT.—

10 (A) IN GENERAL.—If the amount of the
11 credit under subsection (a) exceeds the limita-
12 tion of paragraph (2) for any calendar quarter,
13 such excess shall be treated as an overpayment
14 that shall be refunded under sections 6402(a)
15 and 6413(b) of the Internal Revenue Code of
16 1986.

17 (B) TREATMENT OF PAYMENTS.—For pur-
18 poses of section 1324 of title 31, United States
19 Code, any amounts due to the employer under
20 this paragraph shall be treated in the same
21 manner as a refund due from a credit provision
22 referred to in subsection (b)(2) of such section.

23 (c) QUALIFIED EMPLOYEE PROTECTION EX-
24 PENSES.—For purposes of this section, the term “quali-

1 fied employee protection expenses” means amounts paid
2 or incurred by the employer for—

3 (1) testing employees of the employer for
4 COVID-19 (including on a periodic basis),

5 (2) equipment to protect employees of the em-
6 ployer from contracting COVID-19, including masks,
7 gloves, and disinfectants, and

8 (3) cleaning products or services (whether pro-
9 vided by an employee of the taxpayer or a cleaning
10 service provider) related to preventing the spread of
11 COVID-19.

12 (d) QUALIFIED WORKPLACE RECONFIGURATION EX-
13 PENSES.—For purposes of this section—

14 (1) IN GENERAL.—The term “qualified work-
15 place reconfiguration expenses” means amounts paid
16 or incurred by the employer to design and recon-
17 figure retail space, work areas, break areas, or other
18 areas that employees or customers regularly use in
19 the ordinary course of the employer’s trade or busi-
20 ness if such design and reconfiguration—

21 (A) has a primary purpose of preventing
22 the spread of COVID-19,

23 (B) is with respect to an area that is lo-
24 cated in the United States and that is leased or
25 owned by the employer,

1 (C) is consistent with the purpose of the
2 property immediately before the reconfigura-
3 tion,

4 (D) is commensurate with the risks faced
5 by the employees or customers or is consistent
6 with recommendations made by the Centers for
7 Disease Control and Prevention or the Occupa-
8 tional Safety and Health Administration,

9 (E) is completed pursuant to a reconfig-
10 uration plan and no comparable reconfiguration
11 plan was in place before March 13, 2020, and

12 (F) is completed before January 1, 2022.

13 (2) REGULATIONS.—The Secretary shall pre-
14 scribe such regulations and other guidance as may
15 be necessary or appropriate to carry out the pur-
16 poses of this subsection, including guidance defining
17 primary purpose and reconfiguration plan.

18 (e) QUALIFIED WORKPLACE TECHNOLOGY EX-
19 PENSES.—For purposes of this section—

20 (1) IN GENERAL.—The term “qualified work-
21 place technology expenses” means amounts paid or
22 incurred by the employer for technology systems
23 that employees or customers use in the ordinary
24 course of the employer’s trade or business if such
25 technology system—

1 (A) has a primary purpose of preventing
2 the spread of COVID-19,

3 (B) is used for limiting physical contact
4 between customers and employees in the United
5 States,

6 (C) is commensurate with the risks faced
7 by the employees or customers or is consistent
8 with recommendations made by the Centers for
9 Disease Control and Prevention or the Occupa-
10 tional Safety and Health Administration,

11 (D) is acquired by the taxpayer after De-
12 cember 31, 2020, and is not acquired pursuant
13 to a written binding contract entered into be-
14 fore March 13, 2020, and

15 (E) is placed in service by the taxpayer be-
16 fore January 1, 2022.

17 (2) TECHNOLOGY SYSTEMS.—The term “tech-
18 nology systems” means computer software (as de-
19 fined in section 167(f)(1)) and qualified techno-
20 logical equipment (as defined in section 168(i)(2)).

21 (3) REGULATIONS.—The Secretary shall pre-
22 scribe such regulations and other guidance as may
23 be necessary or appropriate to carry out the pur-
24 poses of this subsection, including guidance defining
25 primary purpose.

1 (f) OTHER DEFINITIONS.—For purposes of this sec-
2 tion—

3 (1) APPLICABLE EMPLOYMENT TAXES.—The
4 term “applicable employment taxes” means the fol-
5 lowing:

6 (A) The taxes imposed under section
7 3111(b) of the Internal Revenue Code of 1986.

8 (B) So much of the taxes imposed under
9 section 3221(a) of such Code as are attrib-
10 utable to the rate in effect under section
11 3111(b) of such Code.

12 (2) COVID-19.—Except where the context
13 clearly indicates otherwise, any reference in this sec-
14 tion to COVID-19 shall be treated as including a
15 reference to the virus which causes COVID-19.

16 (3) SECRETARY.—The term “Secretary” means
17 the Secretary of the Treasury or the Secretary’s del-
18 egate.

19 (4) OTHER TERMS.—Any term used in this sec-
20 tion (other than subsection (b)(1)(B)) which is also
21 used in chapter 21 or 22 of the Internal Revenue
22 Code of 1986 shall have the same meaning as when
23 used in such chapter.

24 (g) CERTAIN GOVERNMENTAL EMPLOYERS.—This
25 credit shall not apply to the Government of the United

1 States, the government of any State or political subdivi-
2 sion thereof, or any agency or instrumentality of any of
3 the foregoing.

4 (h) SPECIAL RULES.—

5 (1) AGGREGATION RULE.—All persons treated
6 as a single employer under subsection (a) or (b) of
7 section 52 of the Internal Revenue Code of 1986, or
8 subsection (m) or (o) of section 414 of such Code,
9 shall be treated as one employer for purposes of this
10 section.

11 (2) DENIAL OF DOUBLE BENEFIT.—

12 (A) IN GENERAL.—Rules similar to the
13 rules of paragraphs (1) and (2) of section
14 280C(b) shall apply for purposes of this section.

15 (B) EXPENSES NOT TAKEN INTO ACCOUNT
16 MORE THAN ONCE.—Any qualified workplace
17 reconfiguration expense or qualified workplace
18 technology expense shall not be treated as a
19 qualified employee protection expense and any
20 qualified workplace technology expense shall not
21 be treated as a qualified workplace reconfigura-
22 tion expense.

23 (3) THIRD-PARTY PAYORS.—Any credit allowed
24 under this section shall be treated as a credit de-
25 scribed in section 3511(d)(2) of such Code.

1 (4) ELECTION NOT TO HAVE SECTION APPLY.—

2 This section shall not apply with respect to any eligi-
3 ble employer for any calendar quarter if such em-
4 ployer elects (at such time and in such manner as
5 the Secretary may prescribe) not to have this section
6 apply.

7 (i) TREATMENT OF DEPOSITS.—The Secretary shall
8 waive any penalty under section 6656 of the Internal Rev-
9 enue Code of 1986 for any failure to make a deposit of
10 any applicable employment taxes if the Secretary deter-
11 mines that such failure was due to the reasonable anticipa-
12 tion of the credit allowed under this section.

13 (j) REGULATIONS AND GUIDANCE.—The Secretary
14 shall prescribe such regulations and other guidance as
15 may be necessary or appropriate to carry out the purposes
16 of this section, including—

17 (1) with respect to the application of the credit
18 under subsection (a) to third-party payors (including
19 professional employer organizations, certified profes-
20 sional employer organizations, or agents under sec-
21 tion 3504 of the Internal Revenue Code of 1986),
22 regulations or other guidance allowing such payors
23 to submit documentation necessary to substantiate
24 the amount of the credit allowed under subsection
25 (a), and

1 (2) regulations or other guidance to prevent
2 abusive transactions.

3 (k) APPLICATION.—This section shall only apply to
4 amounts paid or incurred after December 31, 2020, and
5 before January 1, 2022.

