To provide a payroll tax credit to employers for employee bonuses.

IN THE HOUSE OF REPRESENTATIVES

Mr. HUIZENGA introduced the following bill; which was referred to the Committee on

A BILL

To provide a payroll tax credit to employers for employee bonuses.

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 “Patriot Bonus Tax
5 Credit Act of 2020”.
6 SEC. 2. PAYROLL TAX CREDIT TO EMPLOYERS FOR EM-
7 PLOYEE BONUSES.
8 (a) In General.—In the case of an employer, there
9 shall be allowed as a credit against applicable employment
taxes for each calendar quarter an amount equal to 50 percent of the qualified bonuses with respect to each employee of such employer for such calendar quarter.

(b) LIMITATIONS AND REFUNDABILITY.—

(1) BONUSES TAKEN INTO ACCOUNT.—The amount of qualified bonuses with respect to any employee which may be taken into account under subsection (a) by the employer for all calendar quarters shall not exceed $25,000.

(2) CREDIT LIMITED TO EMPLOYMENT TAXES.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the applicable employment taxes (reduced by any credits allowed under subsections (e) and (f) of section 3111 of the Internal Revenue Code of 1986, sections 7001 and 7003 of the Families First Coronavirus Response Act, and section 2301 of the CARES Act) on the wages paid with respect to the employment of all the employees of the employer for such calendar quarter.

(3) REFUNDABILITY OF EXCESS CREDIT.—

(A) IN GENERAL.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be treated as an overpayment
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that shall be refunded under sections 6402(a) and 6413(b) of the Internal Revenue Code of 1986.

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

(c) DEFINITIONS.—For purposes of this section—

(1) APPLICABLE EMPLOYMENT TAXES.—The term “applicable employment taxes” means the following:

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

(B) So much of the taxes imposed under section 3221(a) of such Code as are attributable to the rate in effect under section 3111(a) of such Code.

(2) QUALIFIED BONUS.—The term “qualified bonus” means any wages paid by an employer to an employee for any period with respect to a period for which such employee is providing services to such employer. Such term shall not include any wages except to the extent that such wages are in excess of
the wages which would ordinarily be paid to such employee. Wages not ordinarily paid to an employee include amounts paid by the employer in excess of the necessary and customary amounts paid to the employee under normal business circumstances. Such amounts include, but are not limited to, extraordinary payments for overtime or hazardous pay, supplemental payments or allowances given to the employee whether for the convenience of the employer or otherwise, sequestration payments to retain staff at essential facilities, or other payments for services rendered which the employee would not be accustomed to receiving absent the extraordinary business and economic conditions existing during the applicable period.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(4) WAGES.—The term “wages” means wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) and compensation (as defined in section 3231(e) of such Code).

(5) OTHER TERMS.—Any term used in this section which is also used in chapter 21 or 22 of the
Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

(d) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of sections 51(i)(1) and 280C(a) of the Internal Revenue Code of 1986 shall apply.

(e) CERTAIN GOVERNMENTAL EMPLOYERS.—This credit shall not apply to the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing.

(f) ELECTION NOT TO HAVE SECTION APPLY.—This section shall not apply with respect to any employer for any calendar quarter if such employer elects (at such time and in such manner as the Secretary may prescribe) not to have this section apply.

(g) THIRD PARTY PAYORS.—Any credit allowed under this section shall be treated as a credit described in section 3511(d)(2) of such Code.

(h) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security
Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

(i) Treatment of Deposits.—The Secretary shall waive any penalty under section 6656 of the Internal Revenue Code of 1986 for any failure to make a deposit of any applicable employment taxes if the Secretary determines that such failure was due to the reasonable anticipation of the credit allowed under this section.

(j) Regulations and Guidance.—The Secretary shall issue such forms, instructions, regulations, and guidance as are necessary—

(1) to allow the advance payment of the credit under subsection (a), subject to the limitations provided in this section, based on such information as the Secretary shall require,

(2) to provide for the reconciliation of such advance payment with the amount advanced at the
time of filing the return of tax for the applicable calendar quarter or taxable year, and

(3) with respect to the application of the credit under subsection (a) to third party payors (including professional employer organizations, certified professional employer organizations, or agents under section 3504 of the Internal Revenue Code of 1986).

(k) APPLICATION.—This section shall only apply to qualified bonuses paid after March 12, 2020, and before January 1, 2021.