

117TH CONGRESS
1ST SESSION

H. R. 1453

To amend the Internal Revenue Code of 1986 to allow a credit to small employers with respect to each employee who is a military spouse and eligible to participate in a defined contribution plan of the employer.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2021

Mr. CROW (for himself, Mr. WENSTRUP, Mr. BACON, Mr. CARTER of Texas, Mr. CRIST, Mr. FITZPATRICK, Ms. HOULAHAN, Mr. KELLY of Pennsylvania, Mr. KELLY of Mississippi, Mr. PANETTA, Mr. PERLMUTTER, Mr. STEWART, Mr. TAYLOR, Ms. TITUS, Mrs. WAGNER, and Mrs. WALORSKI) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit to small employers with respect to each employee who is a military spouse and eligible to participate in a defined contribution plan of the employer.

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 “Military Spouses Re-
5 tirement Security Act”.

1 **SEC. 2. MILITARY SPOUSE RETIREMENT PLAN ELIGIBILITY**

2 **CREDIT FOR SMALL EMPLOYERS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 is amended by adding at the end the following new
6 section:

7 **“SEC. 45U. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**
8 **BILITY CREDIT FOR SMALL EMPLOYERS.**

9 “(a) IN GENERAL.—For purposes of section 38, in
10 the case of any eligible small employer, the military spouse
11 retirement plan eligibility credit determined under this
12 section for any taxable year is an amount equal to the
13 sum of—

14 “(1) \$250 with respect to each military spouse
15 who is an employee of such employer and who is eli-
16 gible to participate in an eligible defined contribu-
17 tion plan of such employer at any time during such
18 taxable year, plus

19 “(2) so much of the contributions made by such
20 employer to all such plans with respect to such em-
21 ployee during such taxable year as do not exceed
22 \$250.

23 “(b) LIMITATION.—An individual shall only be taken
24 into account as a military spouse under subsection (a) for
25 the taxable year which includes the date on which such
26 individual began participating in the eligible defined con-

1 tribution plan of the employer and the 2 succeeding tax-
2 able years.

3 “(c) ELIGIBLE SMALL EMPLOYER.—For purposes of
4 this section—

5 “(1) IN GENERAL.—The term ‘eligible small
6 employer’ means an eligible employer (as defined in
7 section 408(p)(2)(C)(i)(I)).

8 “(2) APPLICATION OF 2-YEAR GRACE PERIOD.—
9 A rule similar to the rule of section
10 408(p)(2)(C)(i)(II) shall apply for purposes of this
11 section.

12 “(d) MILITARY SPOUSE.—For purposes of this sec-
13 tion—

14 “(1) IN GENERAL.—The term ‘military spouse’
15 means, with respect to any employer, any individual
16 who is married (within the meaning of section 7703
17 as of the first date that the employee is employed by
18 the employer) to an individual who is a member of
19 the uniformed services (as defined in section
20 101(a)(5) of title 10, United States Code). For pur-
21 poses of this section, an employer may rely on an
22 employee’s certification that such employee’s spouse
23 is a member of the uniformed services if such certifi-
24 cation provides the name, rank, and service branch
25 of such spouse.

1 “(2) EXCLUSION OF HIGHLY COMPENSATED
2 EMPLOYEES.—With respect to any employer, the
3 term ‘military spouse’ shall not include any indi-
4 vidual if such individual is a highly compensated em-
5 ployee of such employer (within the meaning of sec-
6 tion 414(q)).

7 “(e) ELIGIBLE DEFINED CONTRIBUTION PLAN.—
8 For purposes of this section, the term ‘eligible defined con-
9 tribution plan’ means, with respect to any eligible small
10 employer, any defined contribution plan (as defined in sec-
11 tion 414(i)) of such employer if, under the terms of such
12 plan—

13 “(1) military spouses employed by such em-
14 ployer are eligible to participate in such plan not
15 later than the date which is 2 months after the date
16 on which such individual begins employment with
17 such employer, and

18 “(2) military spouses who are eligible to partici-
19 pate in such plan—

20 “(A) are immediately eligible to receive an
21 amount of employer contributions under such
22 plan which is not less than the amount of such
23 contributions that a similarly situated partici-
24 pant who is not a military spouse would be eli-

1 gible to receive under such plan after 2 years
2 of service, and

3 “(B) immediately have a nonforfeitable
4 right to the employee’s accrued benefit derived
5 from employer contributions under such plan.

6 “(f) AGGREGATION RULE.—All persons treated as a
7 single employer under subsection (b), (c), (m), or (o) of
8 section 414 shall be treated as one employer for purposes
9 of this section.”.

10 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
11 NESS CREDIT.—Section 38(b) of such Code is amended
12 by striking “plus” at the end of paragraph (32), by strik-
13 ing the period at the end of paragraph (33) and inserting
14 “, plus”, and by adding at the end the following new para-
15 graph:

16 “(34) in the case of an eligible small employer
17 (as defined in section 45U(c)), the military spouse
18 retirement plan eligibility credit determined under
19 section 45U(a).”.

20 (c) CLERICAL AMENDMENT.—The table of sections
21 for subpart D of part IV of subchapter A of chapter 1
22 of such Code is amended by adding at the end the fol-
23 lowing new item:

 “Sec. 45U. Military spouse retirement plan eligibility credit for small employ-
 ers.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

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