

111TH CONGRESS  
1ST SESSION

# H. R. 3580

To amend the Internal Revenue Code of 1986 to clarify that wages paid to unauthorized aliens may not be deducted from gross income, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2009

Mr. KING of Iowa (for himself, Mr. BILBRAY, Mrs. BLACKBURN, Mr. CULBERSON, Mr. ROHRABACHER, Mr. BURTON of Indiana, Mr. PITTS, Mr. GARY G. MILLER of California, Mr. LATTA, Mrs. MYRICK, Mr. BRADY of Texas, Mr. LINDER, Mr. FRANKS of Arizona, Mr. POE of Texas, Ms. FOXX, Mr. GINGREY of Georgia, Mr. BARTLETT, Mr. BROWN of Georgia, Mr. MARCHANT, Mr. WAMP, and Mr. ROYCE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary and 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 clarify that wages paid to unauthorized aliens may not be deducted from gross income, 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 “New IDEA (Illegal  
5 Deduction Elimination Act)”.

1 **SEC. 2. CLARIFICATION THAT WAGES PAID TO UNAUTHOR-**  
2 **IZED ALIENS MAY NOT BE DEDUCTED FROM**  
3 **GROSS INCOME.**

4 (a) IN GENERAL.—Subsection (c) of section 162 of  
5 the Internal Revenue Code of 1986 (relating to illegal  
6 bribes, kickbacks, and other payments) is amended by  
7 adding at the end the following new paragraph:

8 “(4) WAGES PAID TO OR ON BEHALF OF UNAU-  
9 THORIZED ALIENS.—

10 “(A) IN GENERAL.—No deduction shall be  
11 allowed under subsection (a) for any wage paid  
12 to or on behalf of an unauthorized alien, as de-  
13 fined under section 274A(h)(3) of the Immigra-  
14 tion and Nationality Act (8 U.S.C.  
15 1324a(h)(3)).

16 “(B) WAGES.—For the purposes of this  
17 paragraph, the term ‘wages’ means all remu-  
18 neration for employment, including the cash  
19 value of all remuneration (including benefits)  
20 paid in any medium other than cash.

21 “(C) SAFE HARBOR.—If a person or other  
22 entity is participating in the basic pilot program  
23 described in section 403 of the Illegal Immigra-  
24 tion Reform and Immigrant Responsibility Act  
25 of 1996 (8 U.S.C. 1324a note) and obtains con-  
26 firmation of identity and employment eligibility

1 in compliance with the terms and conditions of  
2 the program with respect to the hiring (or re-  
3 cruitment or referral) of an employee, subpara-  
4 graph (A) shall not apply with respect to wages  
5 paid to such employee.”.

6 (b) SIX-YEAR LIMITATION ON ASSESSMENT AND  
7 COLLECTION.—Subsection (c) of section 6501 of such  
8 Code (relating to exceptions) is amended by adding at the  
9 end the following new paragraph:

10 “(11) DEDUCTION CLAIMED FOR WAGES PAID  
11 TO UNAUTHORIZED ALIENS.—In the case of a return  
12 of tax on which a deduction is shown in violation of  
13 section 162(c)(4), any tax under chapter 1 may be  
14 assessed, or a proceeding in court for the collection  
15 of such tax may be begun without assessment, at  
16 any time within 6 years after the return was filed.”.

17 (c) USE OF DOCUMENTATION FOR ENFORCEMENT  
18 PURPOSES.—Section 274A of the Immigration and Na-  
19 tionality Act (8 U.S.C. 1324a) is amended—

20 (1) in subparagraph (b)(5), by inserting “, sec-  
21 tion 162(c)(4) of the Internal Revenue Code of  
22 1986,” after “enforcement of this Act”;

23 (2) in subparagraph (d)(2)(F), by inserting “,  
24 section 162(c)(4) of the Internal Revenue Code of  
25 1986,” after “enforcement of this Act”; and

1           (3) in subparagraph (d)(2)(G), by inserting  
2           “section 162(c)(4) of the Internal Revenue Code of  
3           1986 or” after “or enforcement of”.

4           (d) AVAILABILITY OF INFORMATION.—

5           (1) IN GENERAL.—The Commissioner of Social  
6           Security, the Secretary of the Department of Home-  
7           land Security, and the Secretary of the Treasury,  
8           shall jointly establish a program to share informa-  
9           tion among such agencies that may or could lead to  
10          the identification of unauthorized aliens (as defined  
11          under section 274A(h)(3) of the Immigration and  
12          Nationality Act), including any no-match letter, any  
13          information in the earnings suspense file, and any  
14          information in the investigation and enforcement of  
15          section 162(c)(4) of the Internal Revenue Code of  
16          1986.

17          (2) DISCLOSURE BY SECRETARY OF THE  
18          TREASURY.—

19                (A) IN GENERAL.—Subsection (i) of sec-  
20                tion 6103 of the Internal Revenue Code of 1986  
21                is amended by adding at the end the following  
22                new paragraph:

23                “(9) PAYMENT OF WAGES TO UNAUTHORIZED  
24                ALIENS.—Upon request from the Commissioner of  
25                the Social Security Administration or the Secretary

1 of the Department of Homeland Security, the Sec-  
2 retary shall disclose to officers and employees of  
3 such Administration or Department—

4 “(A) taxpayer identity information of em-  
5 ployers who paid wages with respect to which a  
6 deduction was not allowed by reason of section  
7 162(c)(4), and

8 “(B) taxpayer identity information of indi-  
9 viduals to whom such wages were paid,  
10 for purposes of carrying out any enforcement activi-  
11 ties of such Administration or Department with re-  
12 spect to such employers or individuals.”.

13 (B) RECORDKEEPING.—Paragraph (4) of  
14 section 6103(p) of such Code is amended—

15 (i) by striking “(5), or (7)” in the  
16 matter preceding subparagraph (A) and in-  
17 serting “(5), (7), or (9)”, and

18 (ii) by striking “(5) or (7)” in sub-  
19 paragraph (F)(ii) and inserting “(5), (7),  
20 or (9)”.

21 (e) EFFECTIVE DATE.—

22 (1) Except as provided in paragraph (2), this  
23 Act and the amendments made by this Act shall  
24 take effect on the date of the enactment of this Act.

1           (2) The amendments made by subsections (a)  
2           and (b) shall apply to taxable years beginning after  
3           December 31, 2007.

4 **SEC. 3. MODIFICATION OF BASIC PILOT PROGRAM FOR EM-**  
5 **PLOYMENT ELIGIBILITY VERIFICATION.**

6           (a) **MAKING PERMANENT.**—Subsection (b) of section  
7 401 of the Illegal Immigration Reform and Immigrant Re-  
8 sponsibility Act of 1996 (8 U.S.C. 1324a note) is amended  
9 by striking the last sentence.

10          (b) **APPLICATION TO CURRENT EMPLOYEES.**—

11           (1) **VOLUNTARY ELECTION.**—The first sentence  
12 of section 402(a) of such Act is amended to read as  
13 follows: “Any person or other entity that conducts  
14 any hiring (or recruitment or referral) in a State or  
15 employs any individuals in a State may elect to par-  
16 ticipate in a pilot program.”.

17           (2) **BENEFIT OF REBUTTABLE PRESUMP-**  
18 **TION.**—Paragraph (1) of section 402(b) of such Act  
19 is amended by adding at the end the following: “If  
20 a person or other entity is participating in a pilot  
21 program and obtains confirmation of identity and  
22 employment eligibility in compliance with the terms  
23 and conditions of the program with respect to indi-  
24 viduals employed by the person or entity, the person  
25 or entity has established a rebuttable presumption

1 that the person or entity has not violated section  
2 274A(a)(2) with respect to such individuals.”.

3 (3) SCOPE OF ELECTION.—Subparagraph (A)  
4 of section 402(e)(2) of such Act is amended to read  
5 as follows:

6 “(A) IN GENERAL.—Any electing person or  
7 other entity may provide that the election under  
8 subsection (a) shall apply (during the period in  
9 which the election is in effect)—

10 “(i) to all its hiring (and all recruit-  
11 ment or referral);

12 “(ii) to all its hiring (and all recruit-  
13 ment or referral and all individuals em-  
14 ployed by the person or entity);

15 “(iii) to all its hiring (and all recruit-  
16 ment or referral) in one or more States or  
17 one or more places of hiring (or recruit-  
18 ment or referral, as the case may be); or

19 “(iv) to all its hiring (and all recruit-  
20 ment or referral and all individuals em-  
21 ployed by the person or entity) in one or  
22 more States or one or more place of hiring  
23 (or recruitment or referral or employment,  
24 as the case may be).”.

1           (4) PROCEDURES FOR PARTICIPANTS IN BASIC  
2           PILOT PROGRAM.—Subsection (a) of section 403 of  
3           such Act is amended—

4                   (A) in the matter preceding paragraph (1),  
5                   by inserting “or continued employment in the  
6                   United States” after “United States”; and

7                   (B) in paragraph (3)—

8                           (i) in subparagraph (A), by striking  
9                           all that follows “(as specified by the Sec-  
10                           retary of Homeland Security)” and insert-  
11                           ing “after the date of the hiring, or re-  
12                           cruitment or referral, in the case of inquir-  
13                           ies made pursuant to a hiring, recruitment  
14                           or referral (and not of previously hired in-  
15                           dividuals).”; and

16                           (ii) in subparagraph (B), by striking  
17                           “such 3 working days” and inserting “the  
18                           specified period”.

19           (c) APPLICATION TO JOB APPLICANTS.—Section  
20           402(e)(2) of such Act is amended by adding at the end  
21           the following:

22                           “(C) JOB OFFER MAY BE MADE CONDI-  
23                           TIONAL ON FINAL CONFIRMATION BY E-  
24                           VERIFY.—A person or other entity that elects to  
25                           participate in the basic pilot program described



1 in section 403(a) (known as the ‘E-Verify pro-  
2 gram’) may offer a prospective employee an em-  
3 ployment position conditioned on final  
4 verification of the identity and employment eli-  
5 gibility of the employee using the employment  
6 eligibility confirmation system established under  
7 section 404.”.

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