

118TH CONGRESS
1ST SESSION

H. R. 6072

To amend the Internal Revenue Code of 1986 to provide tax credits for carriage of independent programmers by certain multichannel video programming distributors.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2023

Mr. BILIRAKIS (for himself, Ms. CLARKE of New York, Mr. STEUBE, Mr. PANNETTA, Mrs. MILLER of West Virginia, Mr. VALADAO, Ms. SALAZAR, Mr. SOTO, Mr. CARTER of Georgia, Ms. SCHAKOWSKY, Ms. CASTOR of Florida, Mr. CÁRDENAS, and Ms. KELLY of Illinois) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 provide tax credits for carriage of independent programmers by certain multichannel video programming distributors.

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 “Independent Program-
5 mers Tax Incentive Act”.

1 **SEC. 2. CARRIAGE OF INDEPENDENT PROGRAMMERS TAX**

2 **CREDIT.**

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. 45BB. CARRIAGE OF INDEPENDENT PROGRAMMERS**

8 **CREDIT.**

9 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
10 tion 38, in the case of any eligible distributor, the carriage
11 of independent programmers credit determined under this
12 section for the taxable year is, with respect to each agree-
13 ment for qualifying carriage entered into by such eligible
14 distributor, the lesser of—

15 “(1) the net license fees paid or incurred by
16 such eligible distributor during such taxable year
17 under such agreement for qualifying carriage, or

18 “(2) the product of \$0.10 multiplied by the av-
19 erage number of monthly subscribers (for calendar
20 months during such taxable year) to which carriage
21 is provided under such agreement.

22 “(b) MAXIMUM CREDIT.—The credit determined
23 under this section with respect to any eligible distributor
24 for any taxable year shall not exceed the product of \$0.30
25 multiplied by the average number of monthly subscribers
26 (for calendar months during such taxable year).

1 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) ELIGIBLE DISTRIBUTOR.—The term ‘eligi-
4 ble distributor’ means any person which is either—

5 “(A) engaged in the trade or business of
6 being a multichannel video programming dis-
7 tributor, or

8 “(B) a virtual multichannel video program-
9 ming distributor.

10 “(2) MULTICHANNEL VIDEO PROGRAMMING
11 DISTRIBUTOR.—The term ‘multichannel video pro-
12 gramming distributor’ has the meaning given such
13 term in section 76.1000(e) of title 47 of the Code
14 of Federal Regulations.

15 “(3) VIRTUAL MULTICHANNEL VIDEO PRO-
16 GRAMMING DISTRIBUTOR.—The term ‘virtual multi-
17 channel video programming distributor’ means any
18 person engaged in the trade or business of making
19 available directly to the end user, by means of the
20 Internet or other IP-based transmission path, mul-
21 tiple streams of linear video programming.

22 “(4) VIDEO PROGRAMMING.—The term ‘video
23 programming’ has the meaning given such term in
24 section 79.4(a)(1) of title 47 of the Code of Federal
25 Regulations.

1 “(5) AGREEMENT FOR QUALIFYING CAR-
2 RIAGE.—The term ‘agreement for qualifying car-
3 riage’ means a written agreement between an eligible
4 distributor and a qualified independent programmer
5 that provides for new or expanded carriage of one or
6 more linear video programming streams of a quali-
7 fied independent programmer to at least 40 percent
8 of the eligible distributor’s subscriber base in aggre-
9 gate for such linear video programming streams and
10 which requires the eligible distributor to pay a li-
11 cense fee to the qualified independent programmer.

12 “(6) QUALIFIED INDEPENDENT PRO-
13 GRAMMER.—

14 “(A) IN GENERAL.—The term ‘qualified
15 independent programmer’ means a United
16 States-based person engaged in the production,
17 creation, or wholesale distribution of linear
18 video programming (including, but not limited
19 to, women-, minority-, or socially disadvan-
20 taged-, owned programmers) if—

21 “(i) such person is not a publicly-trad-
22 ed company, multichannel video program-
23 ming distributor, virtual multichannel
24 video programming distributor, network, or
25 television station company, and

1 “(ii) no publicly-traded company, mul-
2 tichannel video programming distributor,
3 virtual multichannel video programming
4 distributor, network, or television station
5 company has a cognizable interest in such
6 person.

7 “(B) SOCIALLY DISADVANTAGED.—The
8 term ‘socially disadvantaged’ has the meaning
9 given such term in section 124.103 of title 13
10 of the Code of Federal Regulations.

11 “(C) PUBLICLY-TRADED COMPANY.—The
12 term ‘publicly-traded company’ means any enti-
13 ty if one or more equity interests in such entity
14 are traded on an established securities market.

15 “(D) NETWORK.—The term ‘network’ has
16 the meaning given such term in section 76.55(f)
17 of title 47 of the Code of Federal Regulations.

18 “(E) TELEVISION STATION COMPANY.—
19 The term ‘television station company’ means
20 any person if, after taking into account the au-
21 dience reach of all television stations under
22 common control with such person, such person
23 has a national audience reach in excess of 3
24 percent. Terms used in this subparagraph
25 which are also used in section 202(c) of the

1 Telecommunications Act of 1996 (or in the reg-
2 ulations issued pursuant to such section) shall
3 have the same meaning as when used in such
4 section (or such regulations).

5 “(F) COGNIZABLE INTEREST.—The term
6 ‘cognizable interest’ has the meaning given such
7 term in section 76.1000(b) of title 47 of the
8 Code of Federal Regulations.

9 “(7) LICENSE FEES.—Except as otherwise pro-
10 vided by the Secretary, in the case of an agreement
11 for qualifying carriage which is net effective rate
12 positive for the qualified independent programmer,
13 the appropriate amount shall be treated as a license
14 fee paid by the eligible distributor to the qualified
15 independent programmer.

16 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction
17 shall be allowed under this chapter for any amount to the
18 extent that such amount is allowed as a credit under this
19 section.”.

20 (b) CREDIT MADE PART OF GENERAL BUSINESS
21 CREDIT.—Subsection (b) of section 38 of such Code is
22 amended by striking “plus” at the end of paragraph (40),
23 by striking the period at the end of paragraph (41) and
24 inserting “, plus”, and by adding at the end the following
25 new paragraph:

1 “(42) the carriage of independent programmers
2 credit determined under section 45BB.”.

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

“Sec. 45BB. Carriage of Independent Programmers Credit.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to expenses paid or incurred after
9 the date of the enactment of this Act, in taxable years
10 ending after such date.

11 **SEC. 3. BIENNIAL REPORT BY FCC TO CONGRESS.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of the enactment of this Act, and not less frequently
14 than every 2 years thereafter, the Federal Communica-
15 tions Commission shall submit to Congress a report that—

16 (1) states the number of qualified independent
17 programmers that have a linear video programming
18 stream that is distributed to subscribers of one or
19 more eligible distributors and the average length of
20 time for which such a linear video programming
21 stream has been so distributed by the same eligible
22 distributor;

23 (2) states the number of qualified independent
24 programmers that have a linear video programming
25 stream that is distributed to subscribers of one or

1 more multichannel video programming distributors
2 and the average length of time for which such a lin-
3 ear video programming stream has been so distrib-
4 uted by the same multichannel video programming
5 distributor;

6 (3) states the number of qualified independent
7 programmers that have a linear video programming
8 stream that is distributed to subscribers of one or
9 more virtual multichannel video programming dis-
10 tributors and the average length of time for which
11 such a linear video programming stream has been so
12 distributed by the same virtual multichannel video
13 programming distributor; and

14 (4) contains recommendations for how to in-
15 crease the number of qualified independent program-
16 mers described in paragraph (1).

17 (b) DEFINITIONS.—In this section, the terms “eligi-
18 ble distributor”, “multichannel video programming dis-
19 tributor”, “virtual multichannel video programming dis-
20 tributor”, “video programming”, and “qualified inde-
21 pendent programmer” have the meanings given such
22 terms in section 45BB(c) of the Internal Revenue Code
23 of 1986, as added by section 2.

24 (c) DISCLOSURE OF TAX RETURN INFORMATION.—
25 Section 6103(l) of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new para-
2 graph:

3 “(24) DISCLOSURE OF RETURN INFORMATION
4 TO FEDERAL COMMUNICATIONS COMMISSION FOR BI-
5 ENNIAL REPORTS TO CONGRESS.—

6 “(A) IN GENERAL.—The Secretary shall,
7 upon written request from the Federal Commu-
8 nications Commission, disclose to officers and
9 employees of such Commission such return in-
10 formation of taxpayers claiming the credit al-
11 lowable under section 45BB as such Commis-
12 sion determines necessary to prepare the re-
13 ports required under section 2 of the Inde-
14 pendent Programmers Tax Incentive Act.

15 “(B) RESTRICTION ON DISCLOSURE.—Re-
16 turn information disclosed under subparagraph
17 (A) may be used by officers and employees of
18 the Federal Communications Commission for
19 the purposes of, and to the extent necessary in,
20 preparing the reports required under section 2
21 of the Independent Programmers Tax Incentive
22 Act. Such reports shall not include return infor-
23 mation which is identifiable as being with re-
24 spect to a particular taxpayer.”.

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