

118TH CONGRESS
1ST SESSION

S. 2512

To amend the Internal Revenue Code of 1986 to provide a credit for re-enrollment provisions in retirement plans of small employers.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2023

Mr. CASSIDY (for himself and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for re-enrollment provisions in retirement plans of small employers.

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. RETIREMENT PLAN RE-ENROLLMENT CREDIT**
4 **FOR SMALL EMPLOYERS.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
6 chapter A of chapter 1 of the Internal Revenue Code of
7 1986 is amended by adding at the end the following new
8 section:

1 **“SEC. 45BB. CREDIT FOR RE-ENROLLMENT PROVISIONS IN**
2 **PLANS PROVIDED BY SMALL EMPLOYERS.**

3 “(a) IN GENERAL.—For purposes of section 38, in
4 the case of an eligible employer, the retirement re-enroll-
5 ment credit determined under this section for any taxable
6 year is an amount equal to—

7 “(1) \$500 for any taxable year occurring during
8 the credit period, and

9 “(2) zero for any other taxable year.

10 “(b) CREDIT PERIOD.—For purposes of subsection
11 (a)—

12 “(1) IN GENERAL.—The credit period with re-
13 spect to any eligible employer is the 3-taxable-year
14 period beginning with the first taxable year for
15 which the employer includes a re-enrollment provi-
16 sion in an eligible automatic contribution arrange-
17 ment under a qualified employer plan (as defined in
18 section 4972(d)) maintained by the employer.

19 “(2) MAINTENANCE OF ARRANGEMENT.—No
20 taxable year with respect to an employer shall be
21 treated as occurring within the credit period unless
22 the provision described in paragraph (1) is included
23 in the plan for such year.

24 “(c) RE-ENROLLMENT PROVISION.—For purposes of
25 this section—

1 “(1) IN GENERAL.—The term ‘re-enrollment
2 provision’ means a provision of an eligible automatic
3 contribution arrangement under which each em-
4 ployee eligible to participate in the arrangement who
5 is not contributing or is contributing less than the
6 percentage applicable to an eligible employee in the
7 first year of eligibility is treated as being in such
8 first year of eligibility in each applicable year with
9 respect to the employee.

10 “(2) ELECTION OUT.—The election treated as
11 having been made under paragraph (1) shall cease
12 to apply with respect to any employee if such em-
13 ployee makes an affirmative election—

14 “(A) not to have such contributions made,
15 or

16 “(B) to make elective contributions at a
17 level specified in such affirmative election.

18 “(3) APPLICABLE YEAR EVERY THIRD YEAR.—

19 “(A) IN GENERAL.—The term ‘applicable
20 year’ means, with respect to an employee, such
21 employee’s first plan year of eligibility under
22 the arrangement and all subsequent plan years
23 of eligibility.

24 “(B) EXCEPTION.—Following any applica-
25 ble year of an employee (determined after the

1 application of this subparagraph), the plan may
 2 elect to treat the next 1 or 2 plan years as not
 3 being applicable years with respect to such em-
 4 ployee.

5 “(d) DEFINITIONS.—For purposes of this section—

6 “(1) ELIGIBLE EMPLOYER.—The term ‘eligible
 7 employer’ has the meaning given such term in sec-
 8 tion 408(p)(2)(C)(i).

9 “(2) ELIGIBLE AUTOMATIC CONTRIBUTION AR-
 10 RANGEMENT.—The term ‘eligible automatic con-
 11 tribution arrangement’ has the meaning given such
 12 term in section 414(w)(3).”.

13 (b) CREDIT TO BE PART OF GENERAL BUSINESS
 14 CREDIT.—Subsection (b) of section 38 of the Internal
 15 Revenue Code of 1986 is amended by striking “plus” at
 16 the end of paragraph (40), by striking the period at the
 17 end of paragraph (41) and inserting “, plus”, and by add-
 18 ing at the end the following new paragraph:

19 “(42) in the case of an eligible employer (as de-
 20 fined in section 45BB(d)(1)), the retirement re-en-
 21 rollment credit determined under section 45BB(a).”.

22 (c) TREATMENT OF CREDIT FOR CERTIFIED PRO-
 23 FESSIONAL EMPLOYER ORGANIZATIONS.—Paragraph (2)
 24 of section 3511(d) of the Internal Revenue Code of 1986
 25 is amended—

1 (1) by redesignating subparagraphs (G), (H),
2 and (I) as subparagraphs (H), (I), and (J) respec-
3 tively, and

4 (2) by inserting after subparagraph (F) the fol-
5 lowing new subparagraph:

6 “(G) section 45BB (retirement re-enroll-
7 ment credit),”.

8 (d) CLERICAL AMENDMENT.—The table of sections
9 for subpart D of part IV of subchapter A of chapter 1
10 of the Internal Revenue Code of 1986 is amended by in-
11 serting after the item relating to section 45AA the fol-
12 lowing new item:

“Sec. 45BB. Credit for re-enrollment provisions in plans provided by small em-
ployers.”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2023.

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