

[117H9574]



(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to provide a partially refundable credit against payroll taxes for certain restaurants affected by the COVID-19 pandemic.

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IN THE HOUSE OF REPRESENTATIVES

Mr. BLUMENAUER introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to provide a partially refundable credit against payroll taxes for certain restaurants affected by the COVID-19 pandemic.

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 “Restaurant Revitaliza-  
5 tion Tax Credit Act”.

1 **SEC. 2. RESTAURANT REVITALIZATION CREDIT.**

2 (a) IN GENERAL.—Subchapter D of chapter 21 of  
3 subtitle C of the Internal Revenue Code of 1986 is amend-  
4 ed by adding at the end the following new section:

5 **“SEC. 3135. RESTAURANT REVITALIZATION CREDIT.**

6 “(a) IN GENERAL.—In the case of an eligible em-  
7 ployer, there shall be allowed as a credit against applicable  
8 employment taxes for each calendar quarter an amount  
9 equal to 100 percent of the wages with respect to each  
10 employee of such employer for such calendar quarter.

11 “(b) LIMITATIONS AND REFUNDABILITY.—

12 “(1) IN GENERAL.—The aggregate amount of  
13 wages which may be taken into account under sub-  
14 section (a) by the eligible employer for any calendar  
15 quarter shall not exceed \$25,000.

16 “(2) CREDIT LIMITED TO EMPLOYMENT  
17 TAXES.—The credit allowed by subsection (a) with  
18 respect to any calendar quarter shall not exceed the  
19 applicable employment taxes (reduced by any credits  
20 allowed under subsections (e) and (f) of section  
21 3111) on the wages paid with respect to the employ-  
22 ment of all the employees of the eligible employer for  
23 such calendar quarter. For purposes of the pre-  
24 ceding sentence, the credit allowed under subsection  
25 (a) shall be applied first against applicable employ-  
26 ment taxes described in subsection (c)(1)(A).

1           “(3) PARTIAL REFUNDABILITY OF EXCESS  
2 CREDIT.—

3           “(A) IN GENERAL.—If the amount of the  
4 credit under subsection (a) exceeds the limita-  
5 tion of paragraph (2), so much of such excess  
6 as does not exceed the applicable employer re-  
7 fund limitation shall be treated as an overpay-  
8 ment that shall be refunded under sections  
9 6402(a) and 6413(b).

10           “(B) APPLICABLE EMPLOYER REFUND  
11 LIMITATION.—For purposes of subparagraph  
12 (A), the applicable employer refund limitation is  
13 the excess of—

14           “(i) \$25,000, over

15           “(ii) the amount of credit treated as  
16 an overpayment of the eligible employer by  
17 reason of this paragraph for all preceding  
18 calendar quarters.

19           “(C) REDUCTION BASED ON NUMBER OF  
20 EMPLOYEES.—In the case of any eligible em-  
21 ployer for which the average number of full-  
22 time employees (within the meaning of section  
23 4980H) employed by such eligible employer  
24 during the last calendar quarter of 2022  
25 (rounded to the nearest multiple of 1) exceeds

1           10, the \$25,000 dollar amount under subpara-  
2           graph (A)(ii)(I) shall be reduced (but not below  
3           zero) by the product of such excess and \$2,500.

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

5           “(1) APPLICABLE EMPLOYMENT TAXES.—The  
6           term ‘applicable employment taxes’ means the fol-  
7           lowing:

8           “(A) The taxes imposed under section  
9           3111(a).

10          “(B) The taxes imposed under section  
11          3111(b).

12          “(2) ELIGIBLE EMPLOYER.—

13          “(A) IN GENERAL.—The term ‘eligible em-  
14          ployer’ means any employer—

15               “(i) which is an eligible entity (as de-  
16               fined in section 5003(a) of the American  
17               Rescue Plan Act of 2021) which—

18                       “(I) was established before  
19                       March 14, 2020,

20                       “(II) submitted an application  
21                       for a grant under section 5003(c) of  
22                       such Act in accordance with the pro-  
23                       cedures established by the Adminis-  
24                       trator of the Small Business Adminis-  
25                       tration under such section,

1 “(III) certifies to the Secretary  
2 (in such form and manner as the Sec-  
3 retary requires) that such employer  
4 was eligible for a grant under such  
5 section, and

6 “(IV) did not receive any grant  
7 funds under such section due to a lack  
8 of funding,

9 “(ii) which paid applicable employ-  
10 ment taxes with respect to pay periods oc-  
11 ccurring in at least 2 calendar quarters of  
12 calendar year 2021, and

13 “(iii) which meets the gross receipts  
14 test of subparagraph (B).

15 “(B) GROSS RECEIPTS TEST.—An em-  
16 ployer meets the gross receipts test of this sub-  
17 paragraph if—

18 “(i) the gross receipts of such em-  
19 ployer for any applicable calendar year  
20 were less than 50 percent the gross re-  
21 ceipts of such employer for calendar year  
22 2019, or

23 “(ii) the average gross receipts of  
24 such employer for all applicable calendar  
25 years were less than 70 percent the gross

1 receipts of such employer for the calendar  
2 year 2019.

3 “(C) APPLICABLE CALENDAR YEAR.—For  
4 purposes of this paragraph, the term ‘applicable  
5 calendar year’ means any of the following:

6 “(i) Calendar year 2020.

7 “(ii) Calendar year 2021.

8 “(D) SPECIAL RULE FOR EMPLOYERS NOT  
9 IN EXISTENCE FOR ENTIRETY OF 2019.—In the  
10 case of any employer that was in existence be-  
11 fore January 1, 2020, but not in existence on  
12 January 1, 2019, the amount of gross receipts  
13 taken into account for any applicable calendar  
14 year shall be the amount of such gross receipts  
15 (determined without regard to this clause) mul-  
16 tiplied by the ratio of—

17 “(i) the number of days during 2019  
18 during which such employer was in exist-  
19 ence, to

20 “(ii) 365.

21 “(E) SPECIAL RULE FOR EMPLOYERS NOT  
22 IN EXISTENCE BEFORE 2020.—In the case of  
23 any employer that was not in existence before  
24 January 1, 2020, in applying this paragraph—

1 “(i) the amount of gross receipts for  
2 calendar year 2019 shall be equal to the  
3 product of—

4 “(I) the amount of gross receipts  
5 for the period beginning on the date  
6 the employer was established and end-  
7 ing before March 14, 2020, and

8 “(II) the ratio of 366 to the  
9 number of days in the period de-  
10 scribed in subclause (I), and

11 “(ii) the amount of gross receipts for  
12 calendar year 2020 shall be equal to the  
13 product of—

14 “(I) the amount of gross receipts  
15 for the period beginning after March  
16 13, 2020, and ending on December  
17 31, 2020, and

18 “(II) the ratio of 366 to the  
19 number of days in the period de-  
20 scribed in subclause (I).

21 “(3) WAGES.—

22 “(A) IN GENERAL.—The term ‘wages’ has  
23 the meaning given such term under section  
24 3121(a), determined without regard to para-  
25 graph (1) thereof.

1           “(B) EXCEPTION.—Such term shall not in-  
2           clude any wages taken into account under sec-  
3           tions 41, 45A, 45P, 45S, 51, and 1396.

4           “(4) OTHER TERMS.—Any term used in this  
5           section which is also used in this chapter shall have  
6           the same meaning as when used in this chapter.

7           “(d) AGGREGATION RULE.—All persons treated as a  
8           single employer under subsection (a) or (b) of section 52,  
9           or subsection (m) or (o) of section 414, shall be treated  
10          as one employer for purposes of this section.

11          “(e) ELECTION TO NOT TAKE CERTAIN WAGES INTO  
12          ACCOUNT.—This section shall not apply to so much of the  
13          wages paid by an eligible employer as such employer elects  
14          (at such time and in such manner as the Secretary may  
15          prescribe) to not take into account for purposes of this  
16          section.

17          “(f) THIRD PARTY PAYORS.—Any credit allowed  
18          under this section shall be treated as a credit described  
19          in section 3511(d)(2).

20          “(g) TREATMENT OF DEPOSITS.—The Secretary  
21          shall waive any penalty under section 6656 for any failure  
22          to make a deposit of any applicable employment taxes if  
23          the Secretary determines that such failure was due to the  
24          reasonable anticipation of the credit allowed under this  
25          section.

1       “(h) EXTENSION OF LIMITATION ON ASSESSMENT.—  
2 Notwithstanding section 6501, the limitation on the time  
3 period for the assessment of any amount attributable to  
4 a credit claimed under this section shall not expire before  
5 the date that is 5 years after the later of—

6               “(1) the date on which the original return  
7 which includes the calendar quarter with respect to  
8 which such credit is determined is filed, or

9               “(2) the date on which such return is treated  
10 as filed under section 6501(b)(2).

11       “(i) REGULATIONS AND GUIDANCE.—The Secretary  
12 shall issue such forms, instructions, regulations, and other  
13 guidance as are necessary—

14               “(1) with respect to the application of the cred-  
15 it under subsection (a) to third party payors (includ-  
16 ing professional employer organizations, certified  
17 professional employer organizations, or agents under  
18 section 3504), including regulations or guidance al-  
19 lowing such payors to submit documentation nec-  
20 essary to substantiate the eligible employer status of  
21 employers that use such payors, and

22               “(2) to prevent the avoidance of the purposes of  
23 the limitations under this section, including through  
24 the leaseback of employees.

1 Any forms, instructions, regulations, or other guidance de-  
2 scribed in paragraph (1) shall require the customer to be  
3 responsible for the accounting of the credit and for any  
4 liability for improperly claimed credits and shall require  
5 the certified professional employer organization or other  
6 third party payor to accurately report such tax credits  
7 based on the information provided by the customer.

8 “(j) APPLICATION.—This section shall only apply to  
9 wages paid after December 31, 2022, and before January  
10 1, 2024.”.

11 (b) REFUNDS.—Paragraph (2) of section 1324(b) of  
12 title 31, United States Code, is amended by inserting  
13 “3135,” after “3134”.

14 (c) CLERICAL AMENDMENT.—The table of sections  
15 for subchapter D of chapter 21 of subtitle C of the Inter-  
16 nal Revenue Code of 1986 is amended by adding at the  
17 end the following:

“Sec. 3135. Restaurant revitalization credit.”.

18 (d) COORDINATION WITH SMALL BUSINESS ADMIN-  
19 ISTRATION.—The Administrator of the Small Business  
20 Administration shall coordinate with and provide informa-  
21 tion to the Secretary of the Treasury (or the Secretary’s  
22 delegate) to assist in identifying employers that are eligi-  
23 ble for the credit allowed by section 3135 of the Internal  
24 Revenue Code of 1986, as added by this section.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to calendar quarters beginning  
3 after December 31, 2022.