

117TH CONGRESS
1ST SESSION

H. R. 3940

To provide tax incentives that support local newspapers and other local media, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2021

Mrs. KIRKPATRICK (for herself and Mr. NEWHOUSE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide tax incentives that support local newspapers and other local media, 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 “Local Journalism Sus-
5 tainability Act”.

6 **SEC. 2. CREDIT FOR LOCAL NEWSPAPER SUBSCRIPTIONS.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 25D the fol-
10 lowing new section:

1 **“SEC. 25E. LOCAL NEWSPAPER SUBSCRIPTIONS.**

2 “(a) IN GENERAL.—In the case of an individual,
3 there shall be allowed as a credit against the tax imposed
4 by this chapter for the taxable year an amount equal to
5 the applicable percentage of amounts paid or incurred for
6 subscriptions to one or more local newspapers for the per-
7 sonal use of the taxpayer.

8 “(b) ANNUAL DOLLAR LIMITATION.—The credit al-
9 lowed under subsection (a) to any taxpayer for any taxable
10 year shall not exceed \$250.

11 “(c) APPLICABLE PERCENTAGE.—For purposes of
12 this section, the term ‘applicable percentage’ means—

13 “(1) in the case of the first taxable year to
14 which this section applies, 80 percent, and

15 “(2) in the case of any subsequent taxable year,
16 50 percent.

17 “(d) LOCAL NEWSPAPER.—For purposes of this sec-
18 tion—

19 “(1) IN GENERAL.—The term ‘local newspaper’
20 means any print or digital publication if—

21 “(A) the primary content of such publica-
22 tion is original content derived from primary
23 sources and relating to news and current
24 events,

25 “(B) such publication primarily serves the
26 needs of a regional or local community,

1 “(C) the publisher of such publication em-
2 ploys at least one local news journalist who re-
3 sides in such regional or local community, and

4 “(D) the publisher of such publication em-
5 ploys not greater than 750 employees.

6 “(2) LOCAL NEWS JOURNALIST.—For purposes
7 of paragraph (1)(C), the term ‘local news journalist’
8 means any individual who regularly gathers, collects,
9 photographs, records, writes, or reports news or in-
10 formation that concerns local events or other mat-
11 ters of local public interest.

12 “(3) AGGREGATION RULE.—

13 “(A) IN GENERAL.—For purposes of sub-
14 paragraphs (C) and (D) of paragraph (1), all
15 persons treated as a single employer under sub-
16 section (a) or (b) of section 52, or subsection
17 (m) or (o) of section 414, shall be treated as
18 one person.

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply unless such persons are involved
21 in the production of the same print or digital
22 publication.

23 “(4) CONTINUOUS QUALIFICATION.—The re-
24 quirements of subparagraphs (A) and (B) of para-
25 graph (1) shall not be treated as met unless such re-

1 requirements are met at all times during the period
2 beginning on the date which is 2 years before the
3 date of the enactment of this section and ending on
4 the date that the subscription described in sub-
5 section (a) is paid or incurred.

6 “(5) APPLICATION TO CERTAIN ORGANIZATIONS
7 EXEMPT FROM TAX.—In the case of any print or
8 digital publication which is published by any organi-
9 zation described in section 501(c) and exempt from
10 tax under section 501(a)—

11 “(A) such publication shall be treated as a
12 local newspaper only if the publication of print
13 and digital publications is the primary activity
14 of such organization, and

15 “(B) any person making a charitable con-
16 tribution (as defined in section 170(c)) to such
17 organization may elect to treat such contribu-
18 tion as an amount paid or incurred for a sub-
19 scription to which this section applies in lieu of
20 treating such contribution as a charitable con-
21 tribution for purposes of section 170.

22 “(e) TERMINATION.—No credit shall be allowed
23 under this section for any amount paid or incurred in a
24 taxable year ending after the close of 5-year period begin-
25 ning on the date of the enactment of this section.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for subpart A of part IV of subchapter A of chapter 1
 3 is amended by inserting after the item relating to section
 4 25D the following new item:

“Sec. 25E. Local newspaper subscriptions.”.

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to amounts paid or incurred in tax-
 7 able years beginning after the date of the enactment of
 8 this Act.

9 **SEC. 3. PAYROLL CREDIT FOR COMPENSATION OF LOCAL**
 10 **NEWS JOURNALISTS.**

11 (a) IN GENERAL.—In the case of an eligible local
 12 newspaper publisher, there shall be allowed as a credit
 13 against the taxes imposed by section 3111(a) of the Inter-
 14 nal Revenue Code of 1986 for each calendar quarter an
 15 amount equal to the applicable percentage of wages paid
 16 by such publisher to local news journalists for such cal-
 17 endar quarter.

18 (b) LIMITATIONS AND REFUNDABILITY.—

19 (1) WAGES TAKEN INTO ACCOUNT.—The
 20 amount of wages paid with respect to any individual
 21 which may be taken into account under subsection
 22 (a) during any calendar quarter by the eligible local
 23 newspaper publisher shall not exceed \$12,500.

24 (2) CREDIT LIMITED TO EMPLOYMENT
 25 TAXES.—The credit allowed by subsection (a) with

1 respect to any calendar quarter shall not exceed the
2 applicable employment taxes (reduced by any credits
3 allowed under subsections (e) and (f) of section
4 3111 of the Internal Revenue Code of 1986, sections
5 7001 and 7003 of the Families First Coronavirus
6 Response Act, and section 2301 of the CARES Act)
7 on the wages paid with respect to the employment
8 of all the employees of the eligible local newspaper
9 publisher for such calendar quarter.

10 (3) REFUNDABILITY OF EXCESS CREDIT.—

11 (A) IN GENERAL.—If the amount of the
12 credit under subsection (a) exceeds the limita-
13 tion of paragraph (2) for any calendar quarter,
14 such excess shall be treated as an overpayment
15 that shall be refunded under sections 6402(a)
16 and 6413(b) of the Internal Revenue Code of
17 1986.

18 (B) TREATMENT OF PAYMENTS.—For pur-
19 poses of section 1324 of title 31, United States
20 Code, any amounts due to the employer under
21 this paragraph shall be treated in the same
22 manner as a refund due from a credit provision
23 referred to in subsection (b)(2) of such section.

24 (c) DEFINITIONS.—For purposes of this section—

1 (1) APPLICABLE PERCENTAGE.—The term “ap-
2 plicable percentage” means—

3 (A) in the case of each of the first 4 cal-
4 endar quarters to which this section applies, 50
5 percent; and

6 (B) in the case of each calendar quarter
7 thereafter, 30 percent.

8 (2) ELIGIBLE LOCAL NEWSPAPER PUB-
9 LISHER.—The term “eligible local newspaper pub-
10 lisher” means, with respect to any calendar quarter,
11 any employer if substantially all of the gross receipts
12 of such employer for such calendar quarter are de-
13 rived in the trade or business of publishing local
14 newspapers (as defined in section 25E(d)(1)).

15 (3) LOCAL NEWS JOURNALIST.—The term
16 “local news journalist” means, with respect to any
17 eligible local newspaper publisher for any calendar
18 quarter, any individual who provides at least 100
19 hours of service as a local news journalist (as de-
20 fined in section 25E(d)(2)) during such calendar
21 quarter to such eligible local newspaper publisher.

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of the Treasury or the Secretary’s del-
24 egate.

1 (5) OTHER TERMS.—Any term used in this sec-
2 tion which is also used in chapter 21 of the Internal
3 Revenue Code of 1986 shall have the same meaning
4 as when used in such chapter.

5 (d) AGGREGATION RULE.—

6 (1) IN GENERAL.—All persons treated as a sin-
7 gle employer under subsection (a) or (b) of section
8 52 of the Internal Revenue Code of 1986, or sub-
9 section (m) or (o) of section 414 of such Code, shall
10 be treated as one employer for purposes of this sec-
11 tion.

12 (2) EXCEPTION.—Paragraph (1) shall not
13 apply unless such persons are involved in the pro-
14 duction of the same print or digital publication.

15 (e) CERTAIN RULES TO APPLY.—For purposes of
16 this section, rules similar to the rules of sections 51(i)(1)
17 and 280C(a) of the Internal Revenue Code of 1986 shall
18 apply.

19 (f) CERTAIN GOVERNMENTAL EMPLOYERS.—This
20 credit shall not apply to the Government of the United
21 States, the government of any State or political subdivi-
22 sion thereof, or any agency or instrumentality of any of
23 the foregoing.

24 (g) ELECTION TO HAVE SECTION NOT APPLY.—
25 This section shall not apply with respect to any eligible

1 local newspaper publisher for any calendar quarter if such
2 person elects (at such time and in such manner as the
3 Secretary may prescribe) not to have this section apply.

4 (h) SPECIAL RULES.—

5 (1) EMPLOYEE NOT TAKEN INTO ACCOUNT
6 MORE THAN ONCE.—An employee shall not be in-
7 cluded for purposes of this section for any period
8 with respect to any employer if such employer is al-
9 lowed a credit under section 51 of the Internal Rev-
10 enue Code of 1986 with respect to such employee for
11 such period.

12 (2) DENIAL OF DOUBLE BENEFIT.—Any wages
13 taken into account in determining the credit allowed
14 under this section shall not be taken into account for
15 purposes of determining the credit allowed under
16 section 45S of such Code.

17 (3) THIRD-PARTY PAYORS.—Any credit allowed
18 under this section shall be treated as a credit de-
19 scribed in section 3511(d)(2) of such Code.

20 (i) TRANSFERS TO FEDERAL OLD-AGE AND SUR-
21 VIVORS INSURANCE TRUST FUND.—There are hereby ap-
22 propriated to the Federal Old-Age and Survivors Insur-
23 ance Trust Fund and the Federal Disability Insurance
24 Trust Fund established under section 201 of the Social
25 Security Act (42 U.S.C. 401) amounts equal to the reduc-

1 tion in revenues to the Treasury by reason of this section
2 (without regard to this subsection). Amounts appropriated
3 by the preceding sentence shall be transferred from the
4 general fund at such times and in such manner as to rep-
5 licate to the extent possible the transfers which would have
6 occurred to such Trust Fund or Account had this section
7 not been enacted.

8 (j) TREATMENT OF DEPOSITS.—The Secretary shall
9 waive any penalty under section 6656 of the Internal Rev-
10 enue Code of 1986 for any failure to make a deposit of
11 any applicable employment taxes if the Secretary deter-
12 mines that such failure was due to the reasonable anticipa-
13 tion of the credit allowed under this section.

14 (k) REGULATIONS AND GUIDANCE.—The Secretary
15 shall issue such forms, instructions, regulations, and guid-
16 ance as are necessary—

17 (1) to allow the advance payment of the credit
18 under subsection (a), subject to the limitations pro-
19 vided in this section, based on such information as
20 the Secretary shall require;

21 (2) to provide for the reconciliation of such ad-
22 vance payment with the amount advanced at the
23 time of filing the return of tax for the applicable cal-
24 endar quarter or taxable year; and

1 of the qualified local media advertising expenses paid or
2 incurred by the taxpayer during such taxable year.

3 “(b) LIMITATION.—The credit allowed under sub-
4 section (a) to any taxpayer for any taxable year shall not
5 exceed—

6 “(1) in the case of the first taxable year to
7 which this section applies, \$5,000, and

8 “(2) in the case of any subsequent taxable year,
9 \$2,500.

10 “(c) APPLICABLE PERCENTAGE.—For purposes of
11 this section, the term ‘applicable percentage’ means—

12 “(1) in the case of the first taxable year to
13 which this section applies, 80 percent, and

14 “(2) in the case of any subsequent taxable year,
15 50 percent.

16 “(d) ELIGIBLE SMALL BUSINESS.—For purposes of
17 this section, the term ‘eligible small business’ means any
18 person for any taxable year if the average number of full-
19 time employees (as determined for purposes of deter-
20 mining whether an employer is an applicable large em-
21 ployer for purposes of section 4980H(c)(2) of the Internal
22 Revenue Code of 1986) employed by such person during
23 such taxable year was less than 50.

24 “(e) QUALIFIED LOCAL MEDIA ADVERTISING EX-
25 PENSES.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘qualified local
2 media advertising expenses’ means amounts paid or
3 incurred in the ordinary course of a trade or busi-
4 ness for advertising in a local newspaper (as defined
5 in section 25E(d)) or a broadcast of a local radio or
6 television station.

7 “(2) LOCAL RADIO OR TELEVISION STATION.—
8 The term ‘local radio or television station’ means
9 any broadcast radio or television station licensed by
10 the Federal Communications Commission to serve a
11 local community.

12 “(f) SPECIAL RULES.—

13 “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-
14 tion shall be allowed for any qualified local media
15 advertising expenses otherwise allowable as a deduc-
16 tion for the taxable year which is equal to the
17 amount of the credit determined for such taxable
18 year under subsection (a).

19 “(2) AGGREGATION RULE.—All persons treated
20 as a single employer under subsection (a) or (b) of
21 section 52 of the Internal Revenue Code of 1986, or
22 subsection (m) or (o) of section 414 of such Code,
23 shall be treated as one employer for purposes of this
24 section.

1 “(g) TERMINATION.—No credit shall be allowed
2 under this section for any amount paid or incurred in a
3 taxable year ending after the close of 5-year period begin-
4 ning on the date of the enactment of this section.”.

5 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
6 NESS CREDIT.—Section 38(b), as amended by the pre-
7 ceding provisions of this Act, is further amended by strik-
8 ing “plus” at the end of paragraph (32), by striking the
9 period at the end of paragraph (33) and inserting “, plus”,
10 and by adding at the end the following new paragraph:

11 “(34) in the case of an eligible small business,
12 the local media advertising credit determined under
13 section 45U(a).”.

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

“Sec. 45U. Advertising in local newspapers and local media.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to amounts paid or incurred in tax-
20 able years beginning after the date of the enactment of
21 this Act.

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