AMENDMENT TO RULES COMMITTEE PRINT 115-85

OFFERED BY MR. KING OF IOWA

Page 191, after line 12, insert the following:

TITLE VI—CLARIFICATION THAT WAGES PAID TO UNAUTHORIZED ALIENS MAY NOT BE DEDUCTED FROM GROSS INCOME

SEC. 601. CLARIFICATION THAT WAGES PAID TO UNAUTHORIZED ALIENS MAY NOT BE DEDUCTED FROM GROSS INCOME.

(a) In General.—Subsection (e) of section 162 of the Internal Revenue Code of 1986 (relating to illegal bribes, kickbacks, and other payments) is amended by adding at the end the following new paragraph:

“(4) WAGES PAID TO OR ON BEHALF OF UNAUTHORIZED ALIENS.—

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

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

“(C) SAFE HARBOR.—If a person or other entity is participating in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an employee, subparagraph (A) shall not apply with respect to wages paid to such employee.

“(D) BURDEN OF PROOF.—In the case of any examination of a return in connection with a deduction under this section by reason of this paragraph, the Secretary shall bear the burden of proving that wages were paid to or on behalf of an unauthorized alien.
“(E) LIMITATION ON TAXPAYER AUDIT.—

The Secretary may not commence an audit or other investigation of a taxpayer solely on the basis of a deduction taken under this section by reason of this paragraph.”.

(b) SIX-YEAR LIMITATION ON ASSESSMENT AND COLLECTION.—Subsection (c) of section 6501 of the Internal Revenue Code of 1986 (relating to exceptions) is amended by adding at the end the following new paragraph:

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

(c) USE OF DOCUMENTATION FOR ENFORCEMENT PURPOSES.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subparagraph (b)(5), by inserting “, section 162(c)(4) of the Internal Revenue Code of 1986,” after “enforcement of this Act”;
(2) in subparagraph (d)(2)(F), by inserting “,
section 162(c)(4) of the Internal Revenue Code of
1986,” after “enforcement of this Act”; and
(3) in subparagraph (d)(2)(G), by inserting
“section 162(c)(4) of the Internal Revenue Code of
1986 or” after “or enforcement of”.
(d) AVAILABILITY OF INFORMATION.—
(1) IN GENERAL.—The Commissioner of Social
Security, the Secretary of the Department of Home-
land Security, and the Secretary of the Treasury,
shall jointly establish a program to share informa-
tion among such agencies that may or could lead to
the identification of unauthorized aliens (as defined
under section 274A(h)(3) of the Immigration and
Nationality Act), including any no-match letter, any
information in the earnings suspense file, and any
information in the investigation and enforcement of
section 162(c)(4) of the Internal Revenue Code of
1986.
(2) DISCLOSURE BY SECRETARY OF THE
TREASURY.—
(A) IN GENERAL.—Subsection (i) of sec-
tion 6103 of the Internal Revenue Code of 1986
is amended by adding at the end the following
new paragraph:
“(9) Payment of Wages to Unauthorized Aliens.—Upon request from the Commissioner of the Social Security Administration or the Secretary of the Department of Homeland Security, the Secretary shall disclose to officers and employees of such Administration or Department—

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

“(B) taxpayer identity information of individuals to whom such wages were paid, for purposes of carrying out any enforcement activities of such Administration or Department with respect to such employers or individuals.”.

(B) Recordkeeping.—Paragraph (4) of section 6103(p) of such Code is amended—

(i) by striking “(5), or (7)” in the matter preceding subparagraph (A) and inserting “(5), (7), or (9)”, and

(ii) by striking “(5) or (7)” in subparagraph (F)(ii) and inserting “(5), (7), or (9)”.

(e) Effective Date.—
(1) Except as provided in paragraph (2), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2017.