

106TH CONGRESS
1ST SESSION

S. 825

To amend the Internal Revenue Code of 1986 to allow small business employers a credit against income tax for employee health insurance expenses paid or incurred by the employer.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 1999

Mr. DURBIN (for himself and Mr. SCHUMER) 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 allow small business employers a credit against income tax for employee health insurance expenses paid or incurred by the employer.

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. CREDIT FOR EMPLOYEE HEALTH INSURANCE**

4 **EXPENSES.**

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 (relating to business-related credits) is amended by

8 adding at the end the following:

1 **“SEC. 45D. EMPLOYEE HEALTH INSURANCE EXPENSES.**

2 “(a) GENERAL RULE.—For purposes of section 38,
3 in the case of a small employer, the employee health insur-
4 ance expenses credit determined under this section is an
5 amount equal to the applicable percentage of the amount
6 paid by the taxpayer during the taxable year for qualified
7 employee health insurance expenses.

8 “(b) APPLICABLE PERCENTAGE.—For purposes of
9 subsection (a), the applicable percentage is equal to—

10 “(1) 60 percent in the case of self-only cov-
11 erage, and

12 “(2) 70 percent in the case of family coverage
13 (as defined in section 220(c)(5)).

14 “(c) PER EMPLOYEE DOLLAR LIMITATION.—The
15 amount of qualified employee health insurance expenses
16 taken into account under subsection (a) with respect to
17 any qualified employee for any taxable year shall not
18 exceed—

19 “(1) \$600 in the case of self-only coverage, and

20 “(2) \$1,200 in the case of family coverage (as
21 so defined).

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

23 “(1) SMALL EMPLOYER.—

24 “(A) IN GENERAL.—The term ‘small em-
25 ployer’ means, with respect to any calendar
26 year, any employer if such employer employed

1 an average of 9 or fewer employees on business
2 days during either of the 2 preceding calendar
3 years. For purposes of the preceding sentence,
4 a preceding calendar year may be taken into ac-
5 count only if the employer was in existence
6 throughout such year.

7 “(B) EMPLOYERS NOT IN EXISTENCE IN
8 PRECEDING YEAR.—In the case of an employer
9 which was not in existence throughout the 1st
10 preceding calendar year, the determination
11 under subparagraph (A) shall be based on the
12 average number of employees that it is reason-
13 ably expected such employer will employ on
14 business days in the current calendar year.

15 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-
16 ANCE EXPENSES.—

17 “(A) IN GENERAL.—The term ‘qualified
18 employee health insurance expenses’ means any
19 amount paid by an employer for health insur-
20 ance coverage to the extent such amount is at-
21 tributable to coverage provided to any employee
22 while such employee is a qualified employee.

23 “(B) EXCEPTION FOR AMOUNTS PAID
24 UNDER SALARY REDUCTION ARRANGEMENTS.—
25 No amount paid or incurred for health insur-

1 ance coverage pursuant to a salary reduction
2 arrangement shall be taken into account under
3 subparagraph (A).

4 “(C) HEALTH INSURANCE COVERAGE.—
5 The term ‘health insurance coverage’ has the
6 meaning given such term by section 9832(b)(1).

7 “(3) QUALIFIED EMPLOYEE.—

8 “(A) IN GENERAL.—The term ‘qualified
9 employee’ means, with respect to any period, an
10 employee of an employer if the total amount of
11 wages paid or incurred by such employer to
12 such employee at an annual rate during the
13 taxable year exceeds \$5,000 but does not exceed
14 \$16,000.

15 “(B) TREATMENT OF CERTAIN EMPLOY-
16 EES.—For purposes of subparagraph (A), the
17 term ‘employee’ shall include—

18 “(i) an employee within the meaning
19 of section 401(c)(1), and

20 “(ii) a leased employee within the
21 meaning of section 414(n).

22 “(C) WAGES.—The term ‘wages’—

23 “(i) has the meaning given such term
24 by section 3121(a) (determined without re-

1 gard to any dollar limitation contained in
2 such section), and

3 “(ii) in the case of an employee de-
4 scribed in subparagraph (B)(i), includes
5 the net earnings from self-employment (as
6 defined in section 1402(a) and as so deter-
7 mined).

8 “(D) INFLATION ADJUSTMENT.—

9 “(i) IN GENERAL.—In the case of any
10 taxable year beginning in a calendar year
11 after 1999, the \$16,000 amount contained
12 in subparagraph (A) shall be increased by
13 an amount equal to—

14 “(I) such dollar amount, multi-
15 plied by

16 “(II) the cost-of-living adjust-
17 ment under section 1(f)(3) for the cal-
18 endar year in which the taxable year
19 begins, determined by substituting
20 ‘calendar year 1998’ for ‘calendar
21 year 1992’ in subparagraph (B) there-
22 of.

23 “(ii) ROUNDING.—If any increase de-
24 termined under clause (i) is not a multiple

1 of \$100, such amount shall be rounded to
2 the nearest multiple of \$100.

3 “(e) CERTAIN RULES MADE APPLICABLE.—For pur-
4 poses of this section, rules similar to the rules of section
5 52 shall apply.

6 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
7 or credit under any other provision of this chapter shall
8 be allowed with respect to qualified employee health insur-
9 ance expenses taken into account under subsection (a).”

10 (b) CREDIT TO BE PART OF GENERAL BUSINESS
11 CREDIT.—Section 38(b) of the Internal Revenue Code of
12 1986 (relating to current year business credit) is amended
13 by striking “plus” at the end of paragraph (11), by strik-
14 ing the period at the end of paragraph (12) and inserting
15 “, plus”, and by adding at the end the following:

16 “(13) the employee health insurance expenses
17 credit determined under section 45D.”

18 (c) NO CARRYBACKS.—Subsection (d) of section 39
19 of the Internal Revenue Code of 1986 (relating to
20 carryback and carryforward of unused credits) is amended
21 by adding at the end the following:

22 “(9) NO CARRYBACK OF SECTION 45D CREDIT
23 BEFORE EFFECTIVE DATE.—No portion of the un-
24 used business credit for any taxable year which is
25 attributable to the employee health insurance ex-

1 penses credit determined under section 45D may be
2 carried back to a taxable year ending before the date
3 of the enactment of section 45D.”

4 (d) CLERICAL AMENDMENT.—The table of sections
5 for subpart D of part IV of subchapter A of chapter 1
6 of the Internal Revenue Code of 1986 is amended by add-
7 ing at the end the following:

“Sec. 45D. Employee health insurance expenses.”

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

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