

107TH CONGRESS  
2D SESSION

# S. 1903

To amend the Internal Revenue Code of 1986 to allow certain small businesses to defer payment of tax.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2002

Mr. KERRY (for himself, Ms. SNOWE, Mr. LIEBERMAN, Mr. BENNETT, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow certain small businesses to defer payment of tax.

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 “Business Retained In-  
5       come During Growth and Expansion Act of 2002” or the  
6       “BRIDGE Act of 2002”.

7       **SEC. 2. DEFERRED PAYMENT OF TAX BY CERTAIN SMALL**  
8               **BUSINESSES.**

9               (a) IN GENERAL.—Subchapter B of chapter 62 of the  
10       Internal Revenue Code of 1986 (relating to extensions of

1 time for payment of tax) is amended by adding at the end  
 2 the following new section:

3 **“SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX FOR**  
 4 **CERTAIN SMALL BUSINESSES.**

5 “(a) IN GENERAL.—An eligible small business may  
 6 elect to pay the tax imposed by chapter 1 in 4 equal in-  
 7 stallments.

8 “(b) LIMITATION.—The maximum amount of tax  
 9 which may be paid in installments under this section for  
 10 any taxable year shall not exceed whichever of the fol-  
 11 lowing is the least:

12 “(1) The tax imposed by chapter 1 for the tax-  
 13 able year.

14 “(2) The amount contributed by the taxpayer  
 15 into a BRIDGE Account during such year.

16 “(3) The excess of \$250,000 over the aggregate  
 17 amount of tax for which an election under this sec-  
 18 tion was made by the taxpayer (or any predecessor)  
 19 for all prior taxable years.

20 “(c) ELIGIBLE SMALL BUSINESS.—For purposes of  
 21 this section—

22 “(1) IN GENERAL.—The term ‘eligible small  
 23 business’ means, with respect to any taxable year,  
 24 any person if—

1           “(A) such person meets the active business  
2 requirements of section 1202(e) throughout  
3 such taxable year,

4           “(B) the taxpayer has gross receipts of  
5 \$10,000,000 or less for the taxable year,

6           “(C) the gross receipts of the taxpayer for  
7 such taxable year are at least 10 percent great-  
8 er than the average annual gross receipts of the  
9 taxpayer (or any predecessor) for the 2 prior  
10 taxable years, and

11           “(D) the taxpayer uses an accrual method  
12 of accounting.

13           “(2) CERTAIN RULES TO APPLY.—Rules similar  
14 to the rules of paragraphs (2) and (3) of section  
15 448(c) shall apply for purposes of this subsection.

16           “(d) DATE FOR PAYMENT OF INSTALLMENTS; TIME  
17 FOR PAYMENT OF INTEREST.—

18           “(1) DATE FOR PAYMENT OF INSTALLMENTS.—

19           “(A) IN GENERAL.—If an election is made  
20 under this section for any taxable year, the first  
21 installment shall be paid on or before the due  
22 date for such installment and each succeeding  
23 installment shall be paid on or before the date  
24 which is 1 year after the date prescribed by this

1 paragraph for payment of the preceding install-  
 2 ment.

3 “(B) DUE DATE FOR FIRST INSTALL-  
 4 MENT.—The due date for the first installment  
 5 for a taxable year shall be whichever of the fol-  
 6 lowing is the earliest:

7 “(i) The date selected by the tax-  
 8 payer.

9 “(ii) The date which is 2 years after  
 10 the date prescribed by section 6151(a) for  
 11 payment of the tax for such taxable year.

12 “(2) TIME FOR PAYMENT OF INTEREST.—If the  
 13 time for payment of any amount of tax has been ex-  
 14 tended under this section—

15 “(A) INTEREST FOR PERIOD BEFORE DUE  
 16 DATE OF FIRST INSTALLMENT.—Interest pay-  
 17 able under section 6601 on any unpaid portion  
 18 of such amount attributable to the period before  
 19 the due date for the first installment shall be  
 20 paid annually.

21 “(B) INTEREST DURING INSTALLMENT PE-  
 22 RIOD.—Interest payable under section 6601 on  
 23 any unpaid portion of such amount attributable  
 24 to any period after such period shall be paid at

1 the same time as, and as a part of, each install-  
 2 ment payment of the tax.

3 “(C) INTEREST IN THE CASE OF CERTAIN  
 4 DEFICIENCIES.—In the case of a deficiency to  
 5 which subsection (e)(3) applies for a taxable  
 6 year which is assessed after the due date for  
 7 the first installment for such year, interest at-  
 8 tributable to the period before such due date,  
 9 and interest assigned under subparagraph (B)  
 10 to any installment the date for payment of  
 11 which has arrived on or before the date of the  
 12 assessment of the deficiency, shall be paid upon  
 13 notice and demand from the Secretary.

14 “(e) SPECIAL RULES.—

15 “(1) APPLICATION OF LIMITATION TO PART-  
 16 NERS AND S CORPORATION SHAREHOLDERS.—

17 “(A) IN GENERAL.—In applying this sec-  
 18 tion to a partnership which is an eligible small  
 19 business—

20 “(i) the election under subsection (a)  
 21 shall be made by the partnership,

22 “(ii) the amount referred to in sub-  
 23 section (b)(1) shall be the sum of each  
 24 partner’s tax which is attributable to items

1 of the partnership and assuming the high-  
 2 est marginal rate under section 1, and

3 “(iii) the partnership shall be treated  
 4 as the taxpayer referred to in paragraphs  
 5 (2) and (3) of subsection (b).

6 “(B) OVERALL LIMITATION ALSO APPLIED  
 7 AT PARTNER LEVEL.—In the case of a partner  
 8 in a partnership, the limitation under sub-  
 9 section (b)(3) shall be applied at the partner-  
 10 ship and partner levels.

11 “(C) SIMILAR RULES FOR S CORPORA-  
 12 TIONS.—Rules similar to the rules of subpara-  
 13 graphs (A) and (B) shall apply to shareholders  
 14 in an S corporation.

15 “(2) ACCELERATION OF PAYMENT IN CERTAIN  
 16 CASES.—

17 “(A) IN GENERAL.—If—

18 “(i) the taxpayer ceases to meet the  
 19 requirement of subsection (c)(1)(A), or

20 “(ii) there is an ownership change  
 21 with respect to the taxpayer,

22 then the extension of time for payment of tax  
 23 provided in subsection (a) shall cease to apply,  
 24 and the unpaid portion of the tax payable in in-  
 25 stallments shall be paid on or before the due

1 date for filing the return of tax imposed by  
 2 chapter 1 for the first taxable year following  
 3 such cessation.

4 “(B) OWNERSHIP CHANGE.—For purposes  
 5 of subparagraph, in the case of a corporation,  
 6 the term ‘ownership change’ has the meaning  
 7 given to such term by section 382. Rules simi-  
 8 lar to the rules applicable under the preceding  
 9 sentence shall apply to a partnership.

10 “(3) PRORATION OF DEFICIENCY TO INSTALL-  
 11 MENTS.—Rules similar to the rules of section  
 12 6166(e) shall apply for purposes of this section.

13 “(f) BRIDGE ACCOUNT.—For purposes of this  
 14 section—

15 “(1) IN GENERAL.—The term ‘BRIDGE Ac-  
 16 count’ means a trust created or organized in the  
 17 United States for the exclusive benefit of an eligible  
 18 small business, but only if the written governing in-  
 19 strument creating the trust meets the following re-  
 20 quirements:

21 “(A) No contribution will be accepted for  
 22 any taxable year in excess of the amount al-  
 23 lowed as a deferral under subsection (b) for  
 24 such year.

1           “(B) The trustee is a bank (as defined in  
 2           section 408(n)) or another person who dem-  
 3           onstrates to the satisfaction of the Secretary  
 4           that the manner in which such person will ad-  
 5           minister the trust will be consistent with the re-  
 6           quirements of this section.

7           “(C) The assets of the trust consist en-  
 8           tirely of cash or of obligations which have ade-  
 9           quate stated interest (as defined in section  
 10          1274(c)(2)) and which pay such interest not  
 11          less often than annually.

12          “(D) The assets of the trust will not be  
 13          commingled with other property except in a  
 14          common trust fund or common investment  
 15          fund.

16          “(E) Amounts in the trust may be used  
 17          only—

18                  “(i) as security for a loan to the busi-  
 19                  ness or for repayment of such loan, or

20                  “(ii) to pay the installments under  
 21                  this section.

22          “(2) ACCOUNT TAXED AS GRANTOR TRUST.—  
 23          The grantor of a BRIDGE Account shall be treated  
 24          for purposes of this title as the owner of such Ac-  
 25          count and shall be subject to tax thereon in accord-

1       ance with subpart E of part I of subchapter J of  
 2       this chapter (relating to grantors and others treated  
 3       as substantial owners).

4           “(3) TIME WHEN PAYMENTS DEEMED MADE.—

5       For purposes of this section, a taxpayer shall be  
 6       deemed to have made a payment to a BRIDGE Ac-  
 7       count on the last day of a taxable year if such pay-  
 8       ment is made on account of such taxable year and  
 9       is made within 3½ months after the close of such  
 10      taxable year.

11      “(g) REPORTS.—The Secretary may require such re-  
 12     porting as the Secretary determines to be appropriate to  
 13     carry out this section.

14      “(h) APPLICATION OF SECTION.—This section shall  
 15     apply to taxes imposed for taxable years beginning after  
 16     December 31, 2001, and before January 1, 2006.”.

17      (b) PRIORITY OF LENDER.—Subsection (b) of section  
 18     6323 of the Internal Revenue Code of 1986 (relating to  
 19     protection for certain interests even though notice filed)  
 20     is amended by adding at the end the following new para-  
 21     graph:

22           “(11) LOANS SECURED BY BRIDGE AC-  
 23     COUNTS.—With respect to a BRIDGE account (as  
 24     defined in section 6168(f)) with any bank (as de-  
 25     fined in section 408(n)), to the extent of any loan

1       made by such bank without actual notice or knowl-  
 2       edge of the existence of such lien, as against such  
 3       bank, if such loan is secured by such account.”.

4       (c) CLERICAL AMENDMENT.—The table of sections  
 5       for subchapter B of chapter 62 of the Internal Revenue  
 6       Code of 1986 is amended by adding at the end the fol-  
 7       lowing new item:

“Sec. 6168. Extension of time for payment of tax for certain  
 small businesses.”.

8       (d) EFFECTIVE DATE.—The amendments made by  
 9       this section shall apply to taxable years beginning after  
 10      December 31, 2001.

11      (e) STUDY BY GENERAL ACCOUNTING OFFICE.—

12           (1) STUDY.—In consultation with the Secretary  
 13      of the Treasury, the Comptroller General of the  
 14      United States shall undertake a study to evaluate  
 15      the applicability (including administrative aspects)  
 16      and impact of the BRIDGE Act of 2001, including  
 17      how it affects the capital funding needs of busi-  
 18      nesses under the Act and number of businesses ben-  
 19      efiting.

20           (2) REPORT.—Not later than March 31, 2005,  
 21      the Comptroller General shall transmit to the Com-  
 22      mittee on Ways and Means of the House of Rep-  
 23      resentatives and the Committee on Finance of the  
 24      Senate a written report presenting the results of the

1 study conducted pursuant to this subsection, to-  
2 gether with such recommendations for legislative or  
3 administrative changes as the Comptroller General  
4 determines are appropriate.

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