

107TH CONGRESS  
1ST SESSION

# S. 798

To amend the Internal Revenue Code of 1986 to allow small business employers certain credits against income tax, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 30, 2001

Mr. LIEBERMAN 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 small business employers certain credits against income tax, 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 “Productivity, Oppor-  
5       tunity, and Prosperity Act of 2001”.

6       **SEC. 2. CREDIT FOR EXPENSES FOR REMEDIAL EDUCATION**  
7               **FOR EMPLOYEES.**

8       (a) IN GENERAL.—Subpart D of part IV of sub-  
9       chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by  
 2 adding at the end the following new section:

3 **“SEC. 45E. REMEDIAL EDUCATION CREDIT.**

4       “(a) GENERAL RULE.—For purposes of section 38,  
 5 the amount of the remedial education credit determined  
 6 under this section with respect to any employer for any  
 7 taxable year is an amount equal to 30 percent of the quali-  
 8 fied remedial education expenditures of the taxpayer for  
 9 such taxable year.

10       “(b) DEFINITIONS.—For purposes of this section—

11               “(1) QUALIFIED REMEDIAL EDUCATION EX-  
 12 PENDITURE.—The term ‘qualified remedial edu-  
 13 cation expenditure’ means any amount paid or in-  
 14 curred by the taxpayer for remedial education pro-  
 15 vided for any employee of the taxpayer.

16               “(2) REMEDIAL EDUCATION.—The term ‘reme-  
 17 dial education’ means a written plan of study and  
 18 training in literacy and numeracy, including the  
 19 study of English as a second language.

20       “(c) COORDINATION WITH OTHER CREDITS.—The  
 21 amount of credit otherwise allowable under sections 51(a)  
 22 and 1396(a) with respect to any employee shall be reduced  
 23 by the credit allowed by this section with respect to such  
 24 employee.

1       “(d) CONTROLLED GROUPS.—For purposes of this  
 2 section, all persons treated as a single employer under sub-  
 3 section (b), (c), (m), or (o) of section 414 shall be treated  
 4 as a single employer.”.

5       (b) CREDIT MADE PART OF GENERAL BUSINESS  
 6 CREDIT.—Subsection (b) of section 38 of the Internal  
 7 Revenue Code of 1986 (relating to general business credit)  
 8 is amended by striking “plus” at the end of paragraph  
 9 (12), by striking the period at the end of paragraph (13)  
 10 and inserting “, plus”, and by adding at the end the fol-  
 11 lowing new paragraph:

12               “(14) in the case of an employer, the remedial  
 13 education credit determined under section 45E(a).”.

14       (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of  
 15 the Internal Revenue Code of 1986 (relating to certain  
 16 expenses for which credits are allowable) is amended by  
 17 adding at the end the following new subsection:

18       “(d) REMEDIAL EDUCATION CREDIT.—No deduction  
 19 shall be allowed for that portion of the expenses otherwise  
 20 allowable as a deduction for the taxable year which is  
 21 equal to the amount of the credit determined for the tax-  
 22 able year under section 45E(a).”.

23       (d) CLERICAL AMENDMENT.—The table of sections  
 24 for subpart D of part IV of subchapter A of chapter 1

1 of the Internal Revenue Code of 1986 is amended by add-  
 2 ing at the end the following new item:

“Sec. 45E. Remedial education credit.”.

3 (e) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to expenses paid or incurred in  
 5 the taxable years beginning after the date of the enact-  
 6 ment of this Act.

7 **SEC. 3. INVESTMENT TAX CREDIT FOR QUALIFIED INFOR-**  
 8 **MATION TECHNOLOGY PROPERTY.**

9 (a) ALLOWANCE OF SMALL BUSINESS DIGITAL DI-  
 10 VIDE CREDIT.—Section 46 of the Internal Revenue Code  
 11 of 1986 (relating to investment credits) is amended by  
 12 striking “and” at the end of paragraph (2), by striking  
 13 the period at the end of paragraph (3) and inserting “,  
 14 and”, and by adding after paragraph (3) the following new  
 15 paragraph:

16 “(4) the small business digital divide credit.”.

17 (b) AMOUNT OF SMALL BUSINESS DIGITAL DIVIDE  
 18 CREDIT.—

19 (1) IN GENERAL.—Section 48 of the Internal  
 20 Revenue Code of 1986 (relating to the energy credit  
 21 and the reforestation credit) is amended by adding  
 22 at the end the following new subsection:

23 “(c) SMALL BUSINESS DIGITAL DIVIDE CREDIT.—

24 “(1) IN GENERAL.—For purposes of section 46,  
 25 in the case of a small business employer, the small

1 business digital divide credit for any taxable year is  
2 10 percent of the taxpayer's basis in qualified infor-  
3 mation technology property placed in service during  
4 such taxable year.

5 “(2) DEFINITIONS.—For purposes of this  
6 subpart—

7 “(A) QUALIFIED INFORMATION TECH-  
8 NOLOGY PROPERTY.—The term ‘qualified infor-  
9 mation technology property’ means computer  
10 technology and equipment (as defined in section  
11 170(e)(6)(F)(i)).

12 “(B) SMALL BUSINESS EMPLOYER.—

13 “(i) IN GENERAL.—The term ‘small  
14 business employer’ means, with respect to  
15 any taxable year, any employer who em-  
16 ployed an average of 100 or fewer employ-  
17 ees on business days during such taxable  
18 year.

19 “(ii) CONTROLLED GROUPS.—For  
20 purposes of clause (i), all persons treated  
21 as a single employer under subsection (b),  
22 (c), (m), or (o) of section 414 shall be  
23 treated as a single employer.

1           “(3) TERMINATION.—This subsection shall not  
2           apply to any property placed in service after Decem-  
3           ber 31, 2002.”.

4           (c) BASIS ADJUSTMENT TO REFLECT INVESTMENT  
5 CREDIT.—Paragraph (3) of section 50(c) of the Internal  
6 Revenue Code of 1986 (relating to basis adjustment to  
7 investment credit property) is amended by striking “en-  
8 ergy credit or reforestation credit” and inserting “energy  
9 credit, reforestation credit, or small business digital divide  
10 credit”.

11          (d) APPLICATION OF AT-RISK RULES.—Subpara-  
12 graph (C) of section 49(a)(1) of the Internal Revenue  
13 Code of 1986 (relating to certain nonrecourse financing  
14 excluded from credit basis) is amended by striking “and”  
15 at the end of clause (ii), by striking the period at the end  
16 of clause (iii) and inserting “, and”, and by adding at the  
17 end the following new clause:

18                               “(iv) the basis of qualified information  
19                               technology property.”.

20          (e) CLERICAL AMENDMENTS.—

21               (1) Section 48 of the Internal Revenue Code of  
22               1986 is amended by striking the heading and insert-  
23               ing the following:

1 **“SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT;**  
 2 **SMALL BUSINESS DIGITAL DIVIDE CREDIT.”.**

3 (2) The table of sections for subpart E of part  
 4 IV of subchapter A of chapter 1 of such Code is  
 5 amended by striking the item relating to section 48  
 6 and inserting the following:

“Sec. 48. Energy credit; reforestation credit; small business dig-  
 ital divide credit.”.

7 (f) **EFFECTIVE DATE.**—The amendments made by  
 8 this section shall apply to property placed in service after  
 9 the date of the enactment of this Act.

10 **SEC. 4. INCREASED EXCLUSION AND OTHER MODIFICA-**  
 11 **TIONS APPLICABLE TO QUALIFIED SMALL**  
 12 **BUSINESS STOCK.**

13 (a) **INCREASED EXCLUSION.**—

14 (1) **IN GENERAL.**—Subsection (a) of section  
 15 1202 of the Internal Revenue Code of 1986 (relating  
 16 to 50-percent exclusion for gain from certain small  
 17 business stock) is amended by striking “50 percent”  
 18 and inserting “100 percent”.

19 (2) **CONFORMING AMENDMENTS.**—

20 (A) Subparagraph (A) of section 1(h)(5) of  
 21 such Code is amended to read as follows:

22 “(A) collectibles gain, over”.

23 (B) Section 1(h) of such Code is amended  
 24 by striking paragraph (8).

(C) Paragraph (9) of section 1(h) of such Code is amended by striking “, gain described in paragraph (7)(A)(i), and section 1202 gain” and inserting “and gain described in paragraph (7)(A)(i)”.

(D) Section 1(h) of such Code is amended by redesignating paragraphs (9) (as amended by subparagraph (C)), (10), (11), (12), and (13) as paragraphs (8), (9), (10), (11), and (12), respectively.

(E) The heading for section 1202 of such Code is amended by striking “**PARTIAL**” and inserting “**100-PERCENT**”.

(F) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by striking “Partial” in the item relating to section 1202 and inserting “100-percent”.

(b) REDUCTION IN HOLDING PERIOD.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to partial exclusion for gains from certain small business stock) is amended by striking “5 years” and inserting “3 years”.

(2) CONFORMING AMENDMENT.—Subsections (g)(2)(A) and (j)(1)(A) of section 1202 of such Code



1 are each amended by striking “5 years” and insert-  
 2 ing “3 years”.

3 (c) EXCLUSION AVAILABLE TO CORPORATIONS.—

4 (1) IN GENERAL.—Subsection (a) of section  
 5 1202 of the Internal Revenue Code of 1986 (relating  
 6 to partial exclusion for gains from certain small  
 7 business stock) is amended by striking “other than  
 8 a corporation”.

9 (2) TECHNICAL AMENDMENT.—Subsection (c)  
 10 of section 1202 of such Code is amended by adding  
 11 at the end the following new paragraph:

12 “(4) STOCK HELD AMONG MEMBERS OF CON-  
 13 TROLLED GROUP NOT ELIGIBLE.—Stock of a mem-  
 14 ber of a parent-subsidiary controlled group (as de-  
 15 fined in subsection (d)(3)) shall not be treated as  
 16 qualified small business stock while held by another  
 17 member of such group.”.

18 (d) REPEAL OF MINIMUM TAX PREFERENCE.—

19 (1) IN GENERAL.—Subsection (a) of section 57  
 20 of the Internal Revenue Code of 1986 (relating to  
 21 items of tax preference) is amended by striking  
 22 paragraph (7).

23 (2) TECHNICAL AMENDMENT.—Subclause (II)  
 24 of section 53(d)(1)(B)(ii) of such Code is amended  
 25 by striking “, (5), and (7)” and inserting “and (5)”.

1 (e) STOCK OF LARGER BUSINESSES ELIGIBLE FOR  
2 EXCLUSION.—

3 (1) IN GENERAL.—Paragraph (1) of section  
4 1202(d) of the Internal Revenue Code of 1986 (de-  
5 fining qualified small business) is amended by strik-  
6 ing “\$50,000,000” each place it appears and insert-  
7 ing “\$300,000,000”.

8 (2) INFLATION ADJUSTMENT.—Section 1202(d)  
9 of such Code (defining qualified small business) is  
10 amended by adding at the end the following:

11 “(4) INFLATION ADJUSTMENT OF ASSET LIM-  
12 ITATION.—In the case of stock issued in any calendar  
13 year after 2002, the \$300,000,000 amount con-  
14 tained in paragraph (1) shall be increased by an  
15 amount equal to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-  
18 mined under section 1(f)(3) for the calendar  
19 year in which the taxable year begins, deter-  
20 mined by substituting ‘calendar year 2001’ for  
21 ‘calendar year 1992’ in subparagraph (B)  
22 thereof.

23 If any amount as adjusted under the preceding sen-  
24 tence is not a multiple of \$10,000, such amount

1 shall be rounded to the nearest multiple of  
 2 \$10,000.”.

3 (f) REPEAL OF PER-ISSUER LIMITATION.—Section  
 4 1202(b) of the Internal Revenue Code of 1986 (relating  
 5 to per-issuer limitations on taxpayer’s eligible gain) is re-  
 6 pealed.

7 (g) OTHER MODIFICATIONS.—

8 (1) REPEAL OF WORKING CAPITAL LIMITA-  
 9 TION.—Section 1202(e)(6) of the Internal Revenue  
 10 Code of 1986 (relating to working capital) is  
 11 amended—

12 (A) in subparagraph (B), by striking “2  
 13 years” and inserting “5 years”; and

14 (B) by striking the last sentence.

15 (2) EXCEPTION FROM REDEMPTION RULES  
 16 WHERE BUSINESS PURPOSE.—Section 1202(c)(3) of  
 17 such Code (relating to certain purchases by corpora-  
 18 tion of its own stock) is amended by adding at the  
 19 end the following new subparagraph:

20 “(D) WAIVER WHERE BUSINESS PUR-  
 21 POSE.—A purchase of stock by the issuing cor-  
 22 poration shall be disregarded for purposes of  
 23 subparagraph (B) if the issuing corporation es-  
 24 tablishes that there was a business purpose for  
 25 such purchase and one of the principal purposes

1 of the purchase was not to avoid the limitations  
 2 of this section.”.

3 (h) QUALIFIED TRADE OR BUSINESS.—Section  
 4 1202(e)(3) of the Internal Revenue Code of 1986 (defin-  
 5 ing qualified trade or business) is amended by inserting  
 6 “and” at the end of subparagraph (C), by striking “, and”  
 7 at the end of subparagraph (D) and inserting a period,  
 8 and by striking subparagraph (E).

9 (i) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as provided in para-  
 11 graph (2), the amendments made by this section  
 12 apply to stock issued after the date of the enactment  
 13 of this Act.

14 (2) SPECIAL RULE.—The amendments made by  
 15 subsections (a), (c), (e), (f), and (g)(1) apply to  
 16 stock issued after August 10, 1993.

17 **SEC. 5. REPEAL OF MINIMUM TAX PREFERENCE FOR EX-**  
 18 **CLUSION FOR INCENTIVE STOCK OPTIONS.**

19 (a) IN GENERAL.—Subsection (b) of section 56 of the  
 20 Internal Revenue Code of 1986 (relating to adjustments  
 21 in computing alternative minimum taxable income) is  
 22 amended by striking paragraph (3).

23 (b) EFFECTIVE DATE.—The amendment made by  
 24 this section shall apply to options exercised in calendar

1 years beginning after the date of the enactment of this  
2 Act.

3 **SEC. 6. 3-YEAR DEPRECIABLE LIFE FOR SEMICONDUCTOR**  
4 **MANUFACTURING EQUIPMENT.**

5 (a) IN GENERAL.—Subparagraph (A) of section  
6 168(e)(3) of the Internal Revenue Code of 1986 (relating  
7 to classification of property) is amended by striking “and”  
8 at the end of clause (ii), by striking the period at the end  
9 of clause (iii) and inserting “, and”, and by adding at the  
10 end the following new clause:

11 “(iv) any semiconductor manufacturing  
12 equipment.”

13 (b) CONFORMING AMENDMENTS.—

14 (1) Subparagraph (B) of section 168(e)(3) of  
15 the Internal Revenue Code of 1986 is amended—

16 (A) by striking clause (ii),

17 (B) by redesignating clauses (iii) through  
18 (vi) as clauses (ii) through (v), respectively, and

19 (C) by striking “clause (vi)(I)” in the last  
20 sentence and inserting “clause (v)(I)”.

21 (2) Subparagraph (B) of section 168(g)(3) of  
22 such Code is amended by striking the items relating  
23 to subparagraph (B)(ii) and subparagraph (B)(iii)  
24 and inserting the following:

“(A)(iv) ..... 3  
“(B)(ii) ..... 9.5”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to equipment placed in service  
3 after the date of the enactment of this Act.

