

108TH CONGRESS
1ST SESSION

H. R. 1640

To amend the Internal Revenue Code of 1986 to allow a married couple who operates an unincorporated business as co-owners to file separate returns for purposes of the self-employment tax, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2003

Mr. UDALL of Colorado introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a married couple who operates an unincorporated business as co-owners to file separate returns for purposes of the self-employment 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. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—The Congress finds that—

5 (1) thousands of married couples own and oper-
6 ate unincorporated businesses that are classified as
7 partnerships for Federal income tax purposes; but

1 “(f) QUALIFIED JOINT BUSINESSES.—

2 “(1) IN GENERAL.—In the case of a qualified
3 joint business conducted by a husband and wife who
4 file a joint return for the taxable year, for purposes
5 of this title—

6 “(A) such joint business shall not be treat-
7 ed as a partnership,

8 “(B) all items of income, gain, loss, deduc-
9 tion, and credit shall be divided between the
10 spouses in such percentages as the spouses des-
11 ignate, and

12 “(C) each spouse shall take into account
13 such spouse’s respective share of such items as
14 if they were attributable to a trade or business
15 conducted by such spouse as a sole proprietor.

16 “(2) QUALIFIED JOINT BUSINESS.—For pur-
17 poses of this paragraph (1), the term ‘qualified joint
18 business’ means any joint venture involving the con-
19 duct of a business if—

20 “(A) the only members of such joint ven-
21 ture are a husband and wife, and

22 “(B) both spouses elect the application of
23 this subsection.”.

24 (b) NET EARNINGS FROM SELF-EMPLOYMENT.—

1 (1) Subsection (a) of section 1402 of such Code
2 (defining net earnings from self-employment) is
3 amended by striking “and” at the end of paragraph
4 (14), by striking the period at the end of paragraph
5 (15) and inserting “; and”, and by inserting after
6 paragraph (15) the following new paragraph:

7 “(16) notwithstanding the preceding provisions
8 of this subsection, each spouse’s share of income or
9 loss from a qualified joint business (as defined in
10 section 761(f)(2)) shall be taken into account as
11 provided in section 761(f) in determining net earn-
12 ings from self-employment of such spouse.”.

13 (2) Subsection (a) of section 211 of the Social
14 Security Act (defining net earnings from self-em-
15 ployment) is amended by striking “and” at the end
16 of paragraph (14), by striking the period at the end
17 of paragraph (15) and inserting “; and”, and by in-
18 serting after paragraph (15) the following new para-
19 graph:

20 “(16) Notwithstanding the preceding provisions
21 of this subsection, each spouse’s share of income or
22 loss from a qualified joint business (as defined in
23 section 761(f)(2) of the Internal Revenue Code of
24 1986) shall be taken into account as provided in

1 such section 761(f) in determining net earnings from
2 self-employment of such spouse.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2003.

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