

108TH CONGRESS
1ST SESSION

H. R. 2876

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit for amounts paid for products and counseling designed to assist individuals to cease using tobacco products.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2003

Mr. LATOURETTE (for himself, Mr. PLATTS, Mr. MEEHAN, and Mrs. JONES of Ohio) 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 individuals a refundable credit for amounts paid for products and counseling designed to assist individuals to cease using tobacco products.

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 “Quit Smoking Incen-
5 tive and Opportunity Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1 (1) Unless the prevalence of tobacco use is cut
2 dramatically, about 24,000,000 Americans, 1 out of
3 every 2 current smokers in America, will die pre-
4 maturely of a disease directly caused by their de-
5 pendence on tobacco.

6 (2) Smoking is the leading preventable cause of
7 death in the United States with 400,000 premature
8 deaths annually, and \$157,000,000,000 in annual
9 health-related economic losses, including more than
10 \$75,000,000,000 in excess medical expenditures.

11 (3) Clinical studies have shown that pharma-
12 cological treatments are an effective treatment for
13 tobacco dependence, and there are currently 6 medi-
14 cations that have been approved by the FDA for to-
15 bacco use cessation.

16 (4) Clinical studies have shown that counseling
17 is an effective treatment for tobacco dependence,
18 and that counseling can be provided in individual or
19 group settings, or via telephone, such as the Quit
20 Lines provided by 33 States.

21 (5) Studies have also shown that when coun-
22 seling is combined with pharmacological treatment,
23 the effectiveness of treatment doubles or triples
24 (compared to counseling alone).

1 (6) The cost of over-the-counter Nicotine Re-
2 placement Therapy (gum, patch, lozenges) is not
3 covered by Medicare, and is rarely covered by private
4 insurance. Fifteen states under Medicaid cover no
5 Nicotine Replacement Therapy and many of the re-
6 maining 35 states do not cover all Nicotine Replace-
7 ment Therapies. Nicotine Replacement Therapy is
8 rarely tax-deductible, and typically costs about \$300
9 for a suggested 10-week course of treatment.

10 (7) The Guide to Community Preventive Serv-
11 ices: Tobacco Use Prevention and Control (CDC
12 2000) and Treating Tobacco Use and Dependence:
13 Clinical Practice Guideline (2000) recommended a
14 reduction or elimination of out-of-pocket costs to in-
15 crease the use of tobacco use cessation treatments.

16 (8) Under current law, unreimbursed tobacco
17 use cessation counseling programs and prescribed
18 nicotine-withdrawal drugs are considered expenses
19 for medical care that are deductible subject to the
20 7.5 percent of adjusted gross income limitation.

21 (9) Two-thirds of all filers do not itemize.

1 **SEC. 3. REFUNDABLE CREDIT FOR AMOUNTS PAID TO AS-**
 2 **SIST INDIVIDUALS TO CEASE USING TO-**
 3 **BACCO PRODUCTS.**

4 (a) IN GENERAL.—Subpart C of part IV of sub-
 5 chapter A of chapter 1 of the Internal Revenue Code of
 6 1986 (relating to refundable credits) is amended by insert-
 7 ing after section 35 the following new section:

8 **“SEC. 35A. CERTAIN EXPENSES TO ASSIST INDIVIDUALS TO**
 9 **CEASE USING TOBACCO PRODUCTS.**

10 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 11 dividual, there shall be allowed as a credit against the tax
 12 imposed by this subtitle an amount equal to the qualified
 13 tobacco use cessation expenses paid by the taxpayer dur-
 14 ing the taxable year for the benefit of the taxpayer, the
 15 taxpayer’s spouse, or any dependent of the taxpayer.

16 “(b) LIMITATION.—The credit allowed under this sec-
 17 tion shall not exceed—

18 “(1) \$300 for amounts described in subsection
 19 (c)(1)(A), and

20 “(2) \$100 for amounts described in subsection
 21 (c)(1)(B).

22 “(c) QUALIFIED TOBACCO USE CESSATION EX-
 23 PENSES.—For purposes of this section—

24 “(1) IN GENERAL.—The term ‘qualified tobacco
 25 use cessation expenses’ means expenses—

1 “(A) for products determined by the Food
2 and Drug Administration to be safe and effec-
3 tive in promoting a reduction in the use of to-
4 bacco products by individuals, and

5 “(B) for counseling for cessation of to-
6 bacco use.

7 “(2) COUNSELING.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the term ‘counseling for cessation of
10 tobacco use’ means diagnostic, therapy, and
11 counseling services for cessation of tobacco use
12 for individuals who use tobacco products or who
13 are being treated for tobacco use which are fur-
14 nished—

15 “(i) by or under the supervision of a
16 physician, or

17 “(ii) by any other health care profes-
18 sional who is legally authorized to furnish
19 such services under State law (or the State
20 regulatory mechanism provided by State
21 law) of the State in which the services are
22 furnished.

23 “(B) LIMITATION.—Such term is limited
24 to—

1 “(i) services recommended in ‘Treat-
 2 ing Tobacco Use and Dependence: A Clin-
 3 ical Practice Guideline’, published by the
 4 Public Health Service in June 2000, or
 5 any subsequent modification of such
 6 Guideline, and

7 “(ii) such other services that the Sec-
 8 retary of Health and Human Services rec-
 9 ognizes to be effective.”

10 (b) TECHNICAL AMENDMENTS.—

11 (1) Paragraph (2) of section 1324(b) of title
 12 31, United States Code, is amended by inserting “or
 13 36” after “section 35”.

14 (2) The table of sections for subpart C of part
 15 IV of subchapter A of chapter 1 of such Code is
 16 amended by inserting after the item relating to sec-
 17 tion 35 following new item:

“Sec. 35A. Certain expenses to assist individuals to cease using
 tobacco products.”

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 the date of the enactment of this Act.

○