

108TH CONGRESS  
2D SESSION

# H. R. 5093

To amend the Internal Revenue Code of 1986 to provide for small business tax incentives, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage and to increase the exemption for annual gross volume of sales made or business done by an enterprise, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2004

Mr. ENGLISH introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for small business tax incentives, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage and to increase the exemption for annual gross volume of sales made or business done by an enterprise, 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. SMALL BUSINESS TAX INCENTIVES.**

4 (a) INCREASE IN SECTION 179 EXPENSING.—

1           (1) INCREASE IN DOLLAR LIMITATION MADE  
2       PERMANENT.—Paragraph (1) of section 179(b) of  
3       the Internal Revenue Code of 1986 (relating to dol-  
4       lar limitation) is amended by striking “\$25,000  
5       (\$100,000 in the case of taxable years beginning  
6       after 2002 and before 2006)” and inserting  
7       “\$100,000”.

8           (2) INCREASE IN THRESHOLD FOR REDUCTION  
9       OF DOLLAR LIMITATION.—Paragraph (2) of section  
10      179(b) of such Code (relating to reduction in limita-  
11      tion) is amended by striking “\$200,000 (\$400,000  
12      in the case of taxable years beginning after 2002  
13      and before 2006)” and inserting “\$500,000”.

14          (3) INFLATION ADJUSTMENT.—Paragraph (5)  
15      of section 179(b) of such Code (relating to inflations  
16      adjustments) is amended to read as follows:

17          “(5) INFLATION ADJUSTMENTS.—

18              “(A) DOLLAR LIMITATION.—In the case of  
19              any taxable year beginning in a calendar year  
20              after 2004, the \$100,000 amount in paragraph  
21              (1) shall be increased by an amount equal to—

22                  “(i) such dollar amount, multiplied by

23                  “(ii) the cost-of-living adjustment  
24                  under section 1(f)(3) for the calendar year  
25                  in which the taxable year begins deter-

1           mined by substituting ‘calendar year 2002’  
2           for ‘calendar year 1992’ in subparagraph  
3           (B) thereof.

4           “(B) PHASEOUT AMOUNT.—In the case of  
5           any taxable year beginning in a calendar year  
6           after 2005, the \$500,000 amount in paragraph  
7           (2) shall be increased by an amount equal to—

8                   “(i) such dollar amount, multiplied by

9                   “(ii) the cost-of-living adjustment  
10           under section 1(f)(3) for the calendar year  
11           in which the taxable year begins deter-  
12           mined by substituting ‘calendar year 2004’  
13           for ‘calendar year 1992’ in subparagraph  
14           (B) thereof.

15           “(C) ROUNDING.—

16                   “(i) DOLLAR LIMITATION.—If the  
17           amount in paragraph (1) as increased  
18           under subparagraph (A) is not a multiple  
19           of \$1,000, such amount shall be rounded  
20           to the nearest multiple of \$1,000.

21                   “(ii) PHASEOUT AMOUNT.—If the  
22           amount in paragraph (2) as increased  
23           under subparagraph (B) is not a multiple  
24           of \$10,000, such amount shall be rounded  
25           to the nearest multiple of \$10,000.”.

1           (4) EFFECTIVE DATE.—The amendments made  
 2       by this subsection shall apply to taxable years begin-  
 3       ning after December 31, 2004.

4       (b) WORK OPPORTUNITY CREDIT, WELFARE-TO-  
 5 WORK CREDIT, AND RESEARCH CREDIT ALLOWED  
 6 AGAINST ALTERNATIVE MINIMUM TAX.—

7           (1) IN GENERAL.—Subsection (c) of section 38  
 8       of the Internal Revenue Code of 1986 (relating to  
 9       limitation based on amount of tax) is amended by  
 10      redesignating paragraph (4) as paragraph (7) and  
 11      by inserting after paragraph (3) the following new  
 12      paragraphs:

13           “(4) SPECIAL RULES FOR WORK OPPORTUNITY  
 14      CREDIT.—

15           “(A) IN GENERAL.—In the case of the  
 16      work opportunity credit—

17           “(i) this section and section 39 shall  
 18           be applied separately with respect to such  
 19           credit, and

20           “(ii) in applying paragraph (1) to  
 21           such credit—

22           “(I) subparagraph (A) shall not  
 23           apply, and

24           “(II) the limitation under para-  
 25           graph (1) (as modified by subclause

1 (I)) shall be reduced by the credit al-  
2 lowed under subsection (a) for the  
3 taxable year (other than the work op-  
4 portunity credit, the welfare-to-work  
5 credit, or the research credit).

6 “(B) WORK OPPORTUNITY CREDIT.—For  
7 purposes of this subsection, the term ‘work op-  
8 portunity credit’ means the credit allowable  
9 under subsection (a) by reason of section 51(a).

10 “(5) SPECIAL RULES FOR WELFARE-TO-WORK  
11 CREDIT.—

12 “(A) IN GENERAL.—In the case of the wel-  
13 fare-to-work credit—

14 “(i) this section and section 39 shall  
15 be applied separately with respect to such  
16 credit, and

17 “(ii) in applying paragraph (1) to  
18 such credit—

19 “(I) subparagraph (A) shall not  
20 apply, and

21 “(II) the limitation under para-  
22 graph (1) (as modified by subclause  
23 (I)) shall be reduced by the credit al-  
24 lowed under subsection (a) for the

1 taxable year (other than the welfare-  
2 to-work credit or the research credit).

3 “(B) WELFARE-TO-WORK CREDIT.—For  
4 purposes of this subsection, the term ‘welfare-  
5 to-work credit’ means the credit allowable under  
6 subsection (a) by reason of section 51A(d)(2).

7 “(6) SPECIAL RULES FOR RESEARCH CREDIT.—

8 “(A) IN GENERAL.—In the case of the re-  
9 search credit—

10 “(i) this section and section 39 shall  
11 be applied separately with respect to such  
12 credit, and

13 “(ii) in applying paragraph (1) to  
14 such credit—

15 “(I) subparagraph (A) shall not  
16 apply, and

17 “(II) the limitation under para-  
18 graph (1) (as modified by subclause  
19 (I)) shall be reduced by the credit al-  
20 lowed under subsection (a) for the  
21 taxable year (other than the research  
22 credit).

23 “(B) RESEARCH CREDIT.—For purposes of  
24 this subsection, the term ‘research credit’

1 means the credit allowable under subsection (a)  
 2 by reason of section 41.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Subclause (II) of section  
 5 38(c)(2)(A)(ii) of such Code is amended—

6 (i) by striking “or” after “employ-  
 7 ment credit” and inserting a comma, and

8 (ii) by inserting “, the work oppor-  
 9 tunity credit, the welfare-to-work credit, or  
 10 the research credit” after “employee cred-  
 11 it”.

12 (B) Subclause (II) of section  
 13 38(c)(3)(A)(ii) of such Code is amended by in-  
 14 serting “, the work opportunity credit, the wel-  
 15 fare-to-work, or the research credit” after “em-  
 16 ployee credit”.

17 (3) EFFECTIVE DATE.—The amendments made  
 18 by this subsection shall apply to taxable years begin-  
 19 ning after December 31, 2004.

20 **SEC. 2. STANDARD HOME OFFICE DEDUCTION.**

21 (a) IN GENERAL.—Subsection (c) of section 280A of  
 22 the Internal Revenue Code of 1986 (relating to disallow-  
 23 ance of certain expenses in connection with business use  
 24 of home, rental of vacation homes, etc.) is amended by  
 25 adding at the end the following new paragraph:

1           “(7) STANDARD HOME OFFICE DEDUCTION.—

2           In the case of a use described in paragraph (1), (2),  
 3           or (4), and in the case of a use described in para-  
 4           graph (3) where the dwelling unit is used by the tax-  
 5           payer during the taxable year as a residence, the de-  
 6           ductions allowed under this chapter for the taxable  
 7           year by reason of being attributed to such use shall  
 8           not be less than \$2,500.”.

9           (b) STANDARD HOME OFFICE DEDUCTION NOT SUB-  
 10          JECT TO LIMITATION.—Paragraph (5) of section 280A(c)  
 11          of such Code (relating to limitation on deductions) is  
 12          amended by striking “In the case of” and inserting “Ex-  
 13          cept as provided in paragraph (7), in the case of”.

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

17       **SEC. 3. MINIMUM WAGE PROVISIONS.**

18          (a) INCREASE IN TIP INCOME.—Section 3(m)(1) of  
 19          the Fair Labor Standards Act of 1938 (29 U.S.C.  
 20          203(m)(1)) is amended by adding before the semicolon the  
 21          following: “, except that, for purposes of this paragraph,  
 22          the cash wage paid such employee shall be not less than  
 23          \$3.25 an hour beginning October 1, 2005”.

24          (b) MINIMUM WAGE.—



1           (1) EXEMPTION FOR SMALL EMPLOYERS.—Sec-  
2           tion 6 of the Fair Labor Standards Act of 1938 (29  
3           U.S.C. 206) is amended—

4                   (A) in subsection (a), by inserting after  
5           “Every employer” the following: “who employs  
6           ten or more employees”; and

7                   (B) in subsection (b), by inserting after  
8           “Every employer” the following: “who employs  
9           ten or more employees”.

10          (2) PHASED INCREASE.—Section 6(a) of such  
11          Act (29 U.S.C. 206(a)) is amended by striking para-  
12          graph (1) and inserting the following new para-  
13          graph:

14               “(1) except as otherwise provided in this sec-  
15          tion, not less than \$5.15 an hour through the period  
16          ending September 30, 2005, not less than \$5.50 an  
17          hour during the year beginning October 1, 2005, not  
18          less than \$6.00 an hour during the year beginning  
19          October 1, 2006, and not less than \$6.50 an hour  
20          during the year beginning October 1, 2007.”.

21          (c) EFFECTIVE DATE.—The amendment made by  
22          subsection (b)(1) shall apply beginning October 1, 2005.

1 **SEC. 4. INCREASED EXEMPTION FOR ANNUAL GROSS VOL-**  
2 **UME OF SALES MADE OR BUSINESS DONE BY**  
3 **AN ENTERPRISE.**

4 Section 3(s)(1)(A)(ii) of the Fair Labor Standards  
5 Act of 1938 (29 U.S.C. 203(s)(1)(A)(ii)) is amended to  
6 read as follows:

7 “(ii) is an enterprise whose annual gross  
8 volume of sales made or business done, exclu-  
9 sive of excise taxes at the retail level that are  
10 separately stated, is not less than \$500,000  
11 through the period ending September 30, 2005,  
12 not less than \$650,000 during the year begin-  
13 ning October 1, 2005, not less than \$800,000  
14 during the year beginning October 1, 2006, and  
15 not less than \$1,000,000 during the year begin-  
16 ning October 1, 2007.”.

17 **SEC. 5. EARNED INCOME EXCLUSION UNDER THE SSI PRO-**  
18 **GRAM.**

19 (a) IN GENERAL.—Section 1612(b) of the Social Se-  
20 curity Act (42 U.S.C. 1382a(b)) is amended—

21 (1) by striking “and” at the end of paragraph  
22 (22);

23 (2) by striking the period at the end of para-  
24 graph (23) and inserting “; and”; and

25 (3) by adding at the end the following:

1           “(24)(A) if such individual does not have an eli-  
2           gible spouse, the amount (if any) by which the min-  
3           imum wage rate in effect for the month under sec-  
4           tion 6 of the Fair Labor Standards Act of 1938  
5           multiplied by the number of hours for which such in-  
6           dividual is gainfully employed during the month ex-  
7           ceeds the total amount of earned income of such in-  
8           dividual excluded by the preceding provisions of this  
9           subsection for the month; or

10           “(B) if such individual has an eligible spouse,  
11           the amount (if any) by which the minimum wage  
12           rate in effect for the month under section 6 of the  
13           Fair Labor Standards Act of 1938 multiplied by the  
14           total number of hours for which such individual and  
15           such spouse are gainfully employed during the  
16           month exceeds the total amount of earned income of  
17           such individual and such spouse excluded by the pre-  
18           ceding provisions of this subsection for the month.”.

19           (b) EFFECTIVE DATE.—The amendments made by  
20           subsection (a) shall take effect on October 1, 2005, and  
21           shall apply to benefits for months beginning on or after  
22           such date.

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