

108TH CONGRESS
1ST SESSION

S. 182

To amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in a corporation's financial statements.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2003

Mr. LEVIN (for himself, Mr. MCCAIN, Mr. DURBIN, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in a corporation's financial statements.

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 “Ending the Double
5 Standard for Stock Options Act”.

1 **SEC. 2. REQUIREMENTS FOR CONSISTENT TREATMENT OF**
2 **STOCK OPTIONS BY CORPORATIONS.**

3 (a) CONSISTENT TREATMENT FOR TAX DEDUC-
4 TION.—Section 83(h) of the Internal Revenue Code of
5 1986 (relating to deduction of employer) is amended—

6 (1) by striking “In the case of” and inserting:

7 “(1) IN GENERAL.—In the case of”, and

8 (2) by adding at the end the following new
9 paragraph:

10 “(2) SPECIAL RULES FOR PROPERTY TRANS-
11 FERRED PURSUANT TO STOCK OPTIONS.—

12 “(A) IN GENERAL.—In the case of prop-
13 erty transferred in connection with a stock op-
14 tion, the deduction otherwise allowable under
15 paragraph (1) shall not exceed the amount the
16 taxpayer has treated as an expense for the pur-
17 pose of ascertaining income, profit, or loss in a
18 report or statement to shareholders, partners,
19 or other proprietors (or to beneficiaries). In no
20 event shall such deduction be allowed before the
21 taxable year described in paragraph (1).

22 “(B) SPECIAL RULES FOR CONTROLLED
23 GROUPS.—The Secretary shall prescribe rules
24 for the application of this paragraph in cases
25 where the stock option is granted by a parent

1 or subsidiary corporation (within the meaning
2 of section 424) of the employer corporation.”.

3 (b) CONSISTENT TREATMENT FOR RESEARCH TAX
4 CREDIT.—Section 41(b)(2)(D) of the Internal Revenue
5 Code of 1986 (defining wages for purposes of credit for
6 increasing research expenses) is amended by inserting at
7 the end the following new clause:

8 “(iv) SPECIAL RULE FOR STOCK OP-
9 TIONS AND STOCK-BASED PLANS.—The
10 term ‘wages’ shall not include any amount
11 of property transferred in connection with
12 a stock option and required to be included
13 in a report or statement under section
14 83(h)(2) until it is so included, and the
15 portion of such amount which may be
16 treated as wages for a taxable year shall
17 not exceed the amount of the deduction al-
18 lowed under section 83(h) for such taxable
19 year with respect to such amount.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to property transferred and wages
22 provided on or after the date of the enactment of this Act.

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