

108TH CONGRESS  
1ST SESSION

# S. 206

To amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchase plans.

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IN THE SENATE OF THE UNITED STATES

JANUARY 23, 2003

Mr. ROBERTS (for himself, Mrs. CLINTON, Mr. HATCH, Mr. BINGAMAN, and Mr. KYL) 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 clarify the treatment of incentive stock options and employee stock purchase plans.

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. EXCLUSION OF INCENTIVE STOCK OPTIONS**  
4 **AND EMPLOYEE STOCK PURCHASE PLAN**  
5 **STOCK OPTIONS FROM WAGES.**

6 (a) EXCLUSION FROM EMPLOYMENT TAXES.—

7 (1) SOCIAL SECURITY TAXES.—

8 (A) AMENDMENT OF INTERNAL REVENUE  
9 CODE.—Section 3121(a) of the Internal Rev-

enue Code of 1986 (relating to definition of wages) is amended by striking “or” at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting “; or”, and by inserting after paragraph (21) the following new paragraph:

“(22) remuneration on account of—

“(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

“(B) any disposition by the individual of such stock.”.

(B) AMENDMENT OF SOCIAL SECURITY ACT.—Section 209(a) of the Social Security Act is amended by striking “or” at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting “; or”, and by inserting after paragraph (18) the following new paragraph:

“(19) Remuneration on account of—

“(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b))

1 of the Internal Revenue Code of 1986) or under  
 2 an employee stock purchase plan (as defined in  
 3 section 423(b) of such Code), or

4 “(B) any disposition by the individual of  
 5 such stock.”.

6 (2) RAILROAD RETIREMENT TAXES.—Sub-  
 7 section (e) of section 3231 of the Internal Revenue  
 8 Code of 1986 is amended by adding at the end the  
 9 following new paragraph:

10 “(11) QUALIFIED STOCK OPTIONS.—The term  
 11 ‘compensation’ shall not include any remuneration  
 12 on account of—

13 “(A) a transfer of a share of stock to any  
 14 individual pursuant to an exercise of an incen-  
 15 tive stock option (as defined in section 422(b))  
 16 or under an employee stock purchase plan (as  
 17 defined in section 423(b)), or

18 “(B) any disposition by the individual of  
 19 such stock.”.

20 (3) UNEMPLOYMENT TAXES.—Section 3306(b)  
 21 of such Code (relating to definition of wages) is  
 22 amended by striking “or” at the end of paragraph  
 23 (16), by striking the period at the end of paragraph  
 24 (17) and inserting “; or”, and by inserting after  
 25 paragraph (17) the following new paragraph:

1 “(18) remuneration on account of—

2 “(A) a transfer of a share of stock to any  
3 individual pursuant to an exercise of an incen-  
4 tive stock option (as defined in section 422(b))  
5 or under an employee stock purchase plan (as  
6 defined in section 423(b)), or

7 “(B) any disposition by the individual of  
8 such stock.”.

9 (b) WAGE WITHHOLDING NOT REQUIRED ON DIS-  
10 QUALIFYING DISPOSITIONS.—Section 421(b) of the Inter-  
11 nal Revenue Code of 1986 (relating to effect of disquali-  
12 fying dispositions) is amended by adding at the end the  
13 following new sentence: “No amount shall be required to  
14 be deducted and withheld under chapter 24 with respect  
15 to any increase in income attributable to a disposition de-  
16 scribed in the preceding sentence.”.

17 (c) WAGE WITHHOLDING NOT REQUIRED ON COM-  
18 PENSATION WHERE OPTION PRICE IS BETWEEN 85 PER-  
19 CENT AND 100 PERCENT OF VALUE OF STOCK.—Section  
20 423(c) of the Internal Revenue Code of 1986 (relating to  
21 special rule where option price is between 85 percent and  
22 100 percent of value of stock) is amended by adding at  
23 the end the following new sentence: “No amount shall be  
24 required to be deducted and withheld under chapter 24

1 with respect to any amount treated as compensation under  
2 this subsection.”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to stock acquired pursuant to op-  
5 tions exercised after the date of the enactment of this Act.

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