

108TH CONGRESS  
1ST SESSION

# S. 697

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

MARCH 24, 2003

Mr. HATCH 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-  
10          enue Code of 1986 (relating to definition of

1 wages) is amended by striking “or” at the end  
2 of paragraph (20), by striking the period at the  
3 end of paragraph (21) and inserting “; or”, and  
4 by inserting after paragraph (21) the following  
5 new paragraph:

6                   “(22) remuneration on account of—

7                   “(A) a transfer of a share of stock to any  
8                   individual pursuant to an exercise of an incen-  
9                   tive stock option (as defined in section 422(b))  
10                  or under an employee stock purchase plan (as  
11                  defined in section 423(b)), or

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

14 (B) AMENDMENT OF SOCIAL SECURITY  
15 ACT.—Section 209(a) of the Social Security Act  
16 is amended by striking “or” at the end of para-  
17 graph (17), by striking the period at the end of  
18 paragraph (18) and inserting “; or”, and by in-  
19 serting after paragraph (18) the following new  
20 paragraph:

21                   “(19) Remuneration on account of—

22                   “(A) a transfer of a share of stock to any  
23                   individual pursuant to an exercise of an incen-  
24                   tive stock option (as defined in section 422(b)  
25                   of the Internal Revenue Code of 1986) or under

1                   an employee stock purchase plan (as defined in  
2                   section 423(b) of such Code), or

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

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

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

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

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

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

25                   “(18) remuneration on account of—

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

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

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

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to stock acquired pursuant to op-  
3 tions exercised after December 31, 2002.

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