

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.

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

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

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) 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 nal 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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