

109TH CONGRESS  
1ST SESSION

# S. 2111

To amend the Internal Revenue Code of 1986 to provide a credit for small business employee training expenses, to increase the exclusion of capital gains from small business stocks, to extend expensing for small businesses, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2005

Mr. BAYH 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 provide a credit for small business employee training expenses, to increase the exclusion of capital gains from small business stocks, to extend expensing for small businesses, 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. SHORT TITLE.**

4 This Act may be cited as the “Small Business Growth  
5 Initiative Act of 2005”.

1 **SEC. 2. CREDIT FOR EMPLOYEE TRAINING EXPENSES OF**  
 2 **SMALL BUSINESSES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
 4 chapter A of chapter 1 of the Internal Revenue Code of  
 5 1986 (relating to business related credits) is amended by  
 6 adding at the end the following new section:

7 **“SEC. 45N. SMALL BUSINESS EMPLOYEE TRAINING EX-**  
 8 **PENSES.**

9 “(a) IN GENERAL.—

10 “(1) ALLOWANCE OF CREDIT.—For purposes of  
 11 section 38, in the case of an eligible small business  
 12 employer, the small business employee training cred-  
 13 it determined under this section for the taxable year  
 14 is an amount equal to so much of the qualified train-  
 15 ing expenses paid or incurred by the eligible small  
 16 business employer with respect to qualified employ-  
 17 ees as exceeds the base amount.

18 “(2) BASE AMOUNT.—For purposes of para-  
 19 graph (1)—

20 “(A) IN GENERAL.—The base amount is  
 21 an amount equal to the average amount of  
 22 qualified training expenses paid or incurred by  
 23 the eligible small business employer with re-  
 24 spect to all qualified employees for the 3 pre-  
 25 ceding taxable years.

1                   “(B) SPECIAL RULE FOR NEW BUSI-  
2                   NESSES.—

3                   “(i) BUSINESSES WITH AT LEAST 1  
4                   TAXABLE YEAR.—In the case of an eligible  
5                   small business employer which has at least  
6                   1 full preceding taxable year but fewer  
7                   than 3 preceding taxable years, the base  
8                   amount shall be the amount of qualified  
9                   training expenses paid or incurred by such  
10                  employer with respect to all qualified em-  
11                  ployees during the preceding taxable year.

12                  “(ii) START-UP YEAR.—In the case of  
13                  an eligible small business employer which  
14                  does not have any full preceding taxable  
15                  years, the base amount shall be zero.

16                  “(b) LIMITATIONS.—

17                  “(1) PER EMPLOYEE LIMITATION.—The  
18                  amount of the credit allowed under subsection (a)  
19                  for any taxable year with respect to any qualified  
20                  employee shall not exceed \$1,000 (\$500 in the case  
21                  of an eligible small business to which subsection  
22                  (a)(2)(B)(ii) applies).

23                  “(2) NUMBER OF EMPLOYEES.—Not more than  
24                  5 qualified employees may be taken into account  
25                  under subsection (a) for any taxable year.

1 “(c) ELIGIBLE SMALL BUSINESS EMPLOYER.—

2 “(1) IN GENERAL.—The term ‘eligible small  
3 business employer’ means, with respect to any cal-  
4 endar year, an employer who employed an average of  
5 at least 2 but not more than 100 employees on busi-  
6 ness days during the preceding taxable year.

7 “(2) EXCEPTION.—Such term shall not include  
8 any employer who is a physician or whose principal  
9 business is providing legal, accounting, engineering,  
10 architectural, or similar services.

11 “(d) QUALIFIED TRAINING EXPENSES.—For pur-  
12 poses of this section, the term ‘qualified training expenses’  
13 means expenses paid or incurred for the training of a  
14 qualified employee to a person who is an eligible provider  
15 of training services within the meaning of section 122 of  
16 the Workforce Investment Act of 1998.

17 “(e) QUALIFIED EMPLOYEE.—For purposes of this  
18 section, the term ‘qualified employee’ means an individual  
19 who has been employed by the eligible small business em-  
20 ployer on a full-time basis for at least 6 months and who  
21 is not any of the following:

22 “(1) A highly compensated employee (within  
23 the meaning of section 414(q)).

24 “(2) A physician or a veterinarian.

1           “(3) An individual participating in an appren-  
 2           ticeship or a specialty trade skills development pro-  
 3           gram associated with a specialty trade contractor as  
 4           specified in subsection 238 of the North American  
 5           Industry Classification System (as in effect on the  
 6           date of the enactment of this section).”.

7           (b) CREDIT MADE PART OF GENERAL BUSINESS  
 8 CREDIT.—Section 38(b) of the Internal Revenue Code of  
 9 1986 is amended by striking “and” at the end of para-  
 10 graph (25), by striking the period at the end of paragraph  
 11 (26) and inserting “, plus”, and by adding at the end the  
 12 following new paragraph:

13           “(27) the small business employee training  
 14           credit determined under section 45N(a).”.

15           (c) CLERICAL AMENDMENT.—The table of sections  
 16 for subpart D of part IV of subchapter A of chapter 1  
 17 of the Internal Revenue Code of 1986 is amended by add-  
 18 ing at the end the following new item:

“Sec. 45N. Small business employee training credit.”.

19           (d) EFFECTIVE DATE.—The amendments made by  
 20 this section shall apply to expenditures incurred after De-  
 21 cember 31, 2005.

22 **SEC. 3. INCREASED EXCLUSION AND OTHER MODIFICA-**  
 23 **TIONS APPLICABLE TO QUALIFIED SMALL**  
 24 **BUSINESS STOCK.**

25           (a) INCREASED EXCLUSION.—

1           (1) IN GENERAL.—Subsection (a) of section  
 2           1202 of the Internal Revenue Code of 1986 (relating  
 3           to 50-percent exclusion for gain from certain small  
 4           business stock) is amended to read as follows:

5           “(a) EXCLUSION.—Gross income shall not include  
 6           any gain from the sale or exchange of qualified small busi-  
 7           ness stock held for more than 3 years.”.

8           (2) CONFORMING AMENDMENTS.—

9           (A) Subparagraph (A) of section 1(h)(4) of  
 10          such Code is amended to read as follows:

11          “(A) collectibles gain, over”.

12          (B) Section 1(h) of such Code is amended  
 13          by striking paragraph (7).

14          (C)(i) Section 1(h) of such Code is amend-  
 15          ed by redesignating paragraphs (8), (9), (10),  
 16          (11), (12), and (13) as paragraphs (7), (8), (9),  
 17          (10), (11), and (12), respectively.

18          (ii) Sections 163(d)(4)(B), 854(b)(5),  
 19          857(c)(2)(D) of such Code are each amended  
 20          by striking “section 1(h)(11)(B)” and inserting  
 21          “section 1(h)(10)(B)”.

22          (iii) The following sections in 301(f)(4) of  
 23          such Code are each amended by striking “sec-  
 24          tion 1(h)(11)” and inserting “section  
 25          1(h)(10)”:

1 (I) Section 301(f)(4).

2 (II) Section 306(a)(1)(D).

3 (III) Section 584(c).

4 (IV) Section 702(a)(5).

5 (V) Section 854(a).

6 (VI) Section 854(b)(2).

7 (iv) The heading of section 857(c)(2) is  
 8 amended by striking “1(h)(11)” and inserting  
 9 “1(h)(10)”.

10 (D) Subsection (c) of section 1202 of such  
 11 Code is amended by adding at the end the fol-  
 12 lowing new paragraph:

13 “(4) STOCK HELD AMONG MEMBERS OF CON-  
 14 TROLLED GROUP NOT ELIGIBLE.—Stock of a mem-  
 15 ber of a parent-subsidiary controlled group (as de-  
 16 fined in subsection (d)(3)) shall not be treated as  
 17 qualified small business stock while held by another  
 18 member of such group.”.

19 (E) Subsections (g)(2)(A) and (j)(1)(A) of  
 20 section 1202 of such Code are each amended by  
 21 striking “5 years” and inserting “3 years”.

22 (F) The heading for section 1202 of such  
 23 Code is amended by striking “**PARTIAL**”.

24 (G) The table of sections for part I of sub-  
 25 chapter P of chapter 1 of such Code is amended

1 by striking “Partial exclusion” in the item re-  
 2 lating to section 1202 and inserting “Exclu-  
 3 sion”.

4 (b) REPEAL OF MINIMUM TAX PREFERENCE.—

5 (1) IN GENERAL.—Subsection (a) of section 57  
 6 of the Internal Revenue Code of 1986 (relating to  
 7 items of tax preference) is amended by striking  
 8 paragraph (7).

9 (2) TECHNICAL AMENDMENT.—Subclause (II)  
 10 of section 53(d)(1)(B)(ii) of such Code is amended  
 11 by striking “, (5), and (7)” and inserting “and (5)”.

12 (c) REPEAL OF PER-ISSUER LIMITATION.—Section  
 13 1202(b) of the Internal Revenue Code of 1986 (relating  
 14 to per-issuer limitations on taxpayer’s eligible gain) is re-  
 15 pealed.

16 (d) OTHER MODIFICATIONS.—

17 (1) REPEAL OF WORKING CAPITAL LIMITA-  
 18 TION.—Section 1202(e)(6) of the Internal Revenue  
 19 Code of 1986 (relating to working capital) is amend-  
 20 ed—

21 (A) in subparagraph (B), by striking “2  
 22 years” and inserting “5 years”; and

23 (B) by striking the last sentence.

24 (2) EXCEPTION FROM REDEMPTION RULES  
 25 WHERE BUSINESS PURPOSE.—Section 1202(c)(3) of



such Code (relating to certain purchases by corporation of its own stock) is amended by adding at the end the following new subparagraph:

“(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.”.

(e) QUALIFIED TRADE OR BUSINESS.—Section 1202(e)(3) of the Internal Revenue Code of 1986 (defining qualified trade or business) is amended by inserting “and” at the end of subparagraph (C), by striking “, and” at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(f) EFFECTIVE DATES.—The amendments made by this section apply to stock issued after December 31, 2005.

**SEC. 4. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.**

Subsections (b), (c), and (d) of section 179 are each amended by striking “2008” each place it appears and inserting “2011”.

1 **SEC. 5. SBIR AND STTR PROGRAM EXPENDITURES.**

2 (a) SBIR PROGRAM EXPENDITURES.—Section  
 3 9(f)(1) of the Small Business Act (15 U.S.C. 638(f)(1))  
 4 is amended by striking subparagraphs (A) through (C)  
 5 and inserting the following:

6 “(A) not less than 2.5 percent of such  
 7 budget in fiscal year 2006;

8 “(B) not less than 3.0 percent of such  
 9 budget in fiscal year 2007;

10 “(C) not less than 3.5 percent of such  
 11 budget in fiscal year 2008;

12 “(D) not less than 4.0 percent of such  
 13 budget in fiscal year 2009;

14 “(E) not less than 4.5 percent of such  
 15 budget in fiscal year 2010; and

16 “(F) not less than 5.0 percent of such  
 17 budget in fiscal year 2011 and each fiscal year  
 18 thereafter.”.

19 (b) STTR PROGRAM EXPENDITURES.—Section  
 20 9(n)(1)(B) of the Small Business Act (15 U.S.C.  
 21 638(n)(1)(B)) is amended by striking clauses (i) and (ii)  
 22 and inserting the following:

23 “(i) not less than 0.3 percent in fiscal  
 24 year 2006;

25 “(ii) not less than 0.36 percent in fis-  
 26 cal year 2007;

1 “(iii) not less than 0.42 percent in fis-  
2 cal year 2008;

3 “(iv) not less than 0.48 percent in fis-  
4 cal year 2009;

5 “(v) not less than 0.54 percent in fis-  
6 cal year 2010;

7 “(vi) not less than 0.6 percent in fis-  
8 cal year 2011 and each fiscal year there-  
9 after.”.

10 **SEC. 6. EXPANSION OF CREDIT FOR SMALL EMPLOYER**  
11 **PENSION PLAN STARTUP COSTS.**

12 (a) IN GENERAL.—Paragraph (1) of section 45E(b)  
13 of the Internal Revenue Code of 1986 is amended by strik-  
14 ing “\$500” and inserting “\$1,000”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to taxable years beginning after  
17 December 31, 2005.

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