

110TH CONGRESS
2D SESSION

S. 3278

To amend the Internal Revenue Code of 1986 to provide that no loan may be made from a qualified employer plan using a credit card or other intermediary and to limit the number of loans that may be made from a qualified employer plan to a participant or beneficiary.

IN THE SENATE OF THE UNITED STATES

JULY 17, 2008

Mr. SCHUMER (for himself, Mr. KOHL, and Mr. SMITH) 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 no loan may be made from a qualified employer plan using a credit card or other intermediary and to limit the number of loans that may be made from a qualified employer plan to a participant or beneficiary.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. QUALIFIED EMPLOYER PLANS PROHIBITED**
 2 **FROM MAKING LOANS THROUGH CREDIT**
 3 **CARDS AND OTHER INTERMEDIARIES.**

4 (a) IN GENERAL.—Subsection (a) of section 401 of
 5 the Internal Revenue Code of 1986 is amended by insert-
 6 ing after paragraph (36) the following new paragraph:

7 “(37) PROHIBITION OF LOANS THROUGH CRED-
 8 IT CARDS AND OTHER INTERMEDIARIES.—A trust
 9 shall not constitute a qualified trust under this sec-
 10 tion if the plan makes any loan to any beneficiary
 11 under the plan through the use of any credit card
 12 or any other intermediary.”

13 (b) APPLICATION TO EMPLOYEE ANNUITIES.—

14 (1) IN GENERAL.—Section 404(a)(2) of the In-
 15 ternal Revenue Code of 1986 (relating to employees’
 16 annuities) is amended by striking “and (31)” and
 17 inserting “(31), and (37)”.

18 (2) SECTION 403(b) ANNUITY CONTRACTS.—
 19 Section 403(b)(1) of such Code is amended by strik-
 20 ing “and” at the end of subparagraph (D), by in-
 21 serting “and” at the end of subparagraph (E), and
 22 by inserting after subparagraph (E) the following
 23 new subparagraph:

24 “(F) the requirements of section
 25 401(a)(37) are met with respect to the contract

1 and any plan under which the contract is pur-
 2 chased,”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to plan years beginning after the
 5 date of the enactment of this Act.

6 **SEC. 2. LIMITATION ON NUMBER OF LOANS FROM QUALI-**
 7 **FIED EMPLOYER PLANS WHICH MAY BE OUT-**
 8 **STANDING WITH RESPECT TO ANY PARTICI-**
 9 **PANT OR BENEFICIARY.**

10 (a) IN GENERAL.—Paragraph (2) of section 72(p) of
 11 the Internal Revenue Code of 1986 (relating to loans
 12 treated as distributions) is amended by redesignating sub-
 13 paragraph (D) as subparagraph (E) and by inserting after
 14 subparagraph (C) the following new subparagraph:

15 “(D) EXCEPTION ONLY TO APPLY TO 3
 16 LOANS.—

17 “(i) IN GENERAL.—Subparagraph (A)
 18 shall not apply to any loan made after the
 19 date of the enactment of this subparagraph
 20 if, immediately after such loan is made, the
 21 number of outstanding loans from the plan
 22 to the participant or beneficiary exceeds 3.

23 “(ii) REFINANCINGS.—If any loan
 24 made after the date of the enactment of
 25 this subparagraph refinances 1 or more

1 outstanding loans from the plan to the
2 participant or beneficiary, the number of
3 loans taken into account under subpara-
4 graph (A) with respect to such loan shall
5 be equal to 1 plus the number of loans re-
6 financed by such loan.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to loans made after the date of
9 the enactment of this Act.

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