

110TH CONGRESS
1ST SESSION

S. 555

To amend the Internal Revenue Code of 1986 to allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2007

Ms. SNOWE (for herself, Mr. BOND, and Mr. BINGAMAN) 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 allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, 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 (a) **SHORT TITLE.**—This Act may be cited as the
5 “SIMPLE Cafeteria Plan Act of 2007”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. ESTABLISHMENT OF SIMPLE CAFETERIA PLANS**
 8 **FOR SMALL BUSINESSES.**

9 (a) IN GENERAL.—Section 125 (relating to cafeteria
 10 plans) is amended by redesignating subsections (h) and
 11 (i) as subsections (i) and (j), respectively, and by inserting
 12 after subsection (g) the following new subsection:

13 “(h) SIMPLE CAFETERIA PLANS FOR SMALL BUSI-
 14 NESSES.—

15 “(1) IN GENERAL.—An eligible employer main-
 16 taining a simple cafeteria plan with respect to which
 17 the requirements of this subsection are met for any
 18 year shall be treated as meeting any applicable non-
 19 discrimination requirement with respect to benefits
 20 provided under the plan during such year.

21 “(2) SIMPLE CAFETERIA PLAN.—For purposes
 22 of this subsection, the term ‘simple cafeteria plan’
 23 means a cafeteria plan—

24 “(A) which is established and maintained
 25 by an eligible employer, and

1 “(B) with respect to which the contribution
2 requirements of paragraph (3), and the eligi-
3 bility and participation requirements of para-
4 graph (4), are met.

5 “(3) CONTRIBUTIONS REQUIREMENTS.—

6 “(A) IN GENERAL.—The requirements of
7 this paragraph are met if, under the plan—

8 “(i) the employer makes matching
9 contributions on behalf of each employee
10 who is eligible to participate in the plan
11 and who is not a highly compensated or
12 key employee in an amount equal to the
13 elective plan contributions of the employee
14 to the plan to the extent the employee’s
15 elective plan contributions do not exceed 3
16 percent of the employee’s compensation, or

17 “(ii) the employer is required, without
18 regard to whether an employee makes any
19 elective plan contribution, to make a con-
20 tribution to the plan on behalf of each em-
21 ployee who is not a highly compensated or
22 key employee and who is eligible to partici-
23 pate in the plan in an amount equal to at
24 least 2 percent of the employee’s com-
25 pensation.

“(B) MATCHING CONTRIBUTIONS ON BE-
 HALF OF HIGHLY COMPENSATED AND KEY EM-
 PLOYEES.—The requirements of subparagraph
 (A)(i) shall not be treated as met if, under the
 plan, the rate of matching contribution with re-
 spect to any elective plan contribution of a
 highly compensated or key employee at any rate
 of contribution is greater than that with respect
 to an employee who is not a highly compensated
 or key employee.

“(C) SPECIAL RULES.—

“(i) TIME FOR MAKING CONTRIBU-
 TIONS.—An employer shall not be treated
 as failing to meet the requirements of this
 paragraph with respect to any elective plan
 contributions of any compensation, or em-
 ployer contributions required under this
 paragraph with respect to any compensa-
 tion, if such contributions are made no
 later than the 15th day of the month fol-
 lowing the last day of the calendar quarter
 which includes the date of payment of the
 compensation.

“(ii) FORM OF CONTRIBUTIONS.—Em-
 ployer contributions required under this

paragraph may be made either to the plan to provide benefits offered under the plan or to any person as payment for providing benefits offered under the plan.

“(iii) ADDITIONAL CONTRIBUTIONS.—Subject to subparagraph (B), nothing in this paragraph shall be treated as prohibiting an employer from making contributions to the plan in addition to contributions required under subparagraph (A).

“(D) DEFINITIONS.—For purposes of this paragraph—

“(i) ELECTIVE PLAN CONTRIBUTION.—The term ‘elective plan contribution’ means any amount which is contributed at the election of the employee and which is not includible in gross income by reason of this section.

“(ii) HIGHLY COMPENSATED EMPLOYEE.—The term ‘highly compensated employee’ has the meaning given such term by section 414(q).

“(iii) KEY EMPLOYEE.—The term ‘key employee’ has the meaning given such term by section 416(i).

1 “(4) MINIMUM ELIGIBILITY AND PARTICIPA-
2 TION REQUIREMENTS.—

3 “(A) IN GENERAL.—The requirements of
4 this paragraph shall be treated as met with re-
5 spect to any year if, under the plan—

6 “(i) all employees who had at least
7 1,000 hours of service for the preceding
8 plan year are eligible to participate, and

9 “(ii) each employee eligible to partici-
10 pate in the plan may, subject to terms and
11 conditions applicable to all participants,
12 elect any benefit available under the plan.

13 “(B) CERTAIN EMPLOYEES MAY BE EX-
14 CLUDED.—For purposes of subparagraph
15 (A)(i), an employer may elect to exclude under
16 the plan employees—

17 “(i) who have less than 1 year of serv-
18 ice with the employer as of any day during
19 the plan year,

20 “(ii) who have not attained the age of
21 21 before the close of a plan year,

22 “(iii) who are covered under an agree-
23 ment which the Secretary of Labor finds to
24 be a collective bargaining agreement if
25 there is evidence that the benefits covered

1 under the cafeteria plan were the subject
2 of good faith bargaining between employee
3 representatives and the employer, or

4 “(iv) who are described in section
5 410(b)(3)(C) (relating to nonresident
6 aliens working outside the United States).

7 A plan may provide a shorter period of service
8 or younger age for purposes of clause (i) or (ii).

9 “(5) ELIGIBLE EMPLOYER.—For purposes of
10 this subsection—

11 “(A) IN GENERAL.—The term ‘eligible em-
12 ployer’ means, with respect to any year, any
13 employer if such employer employed an average
14 of 100 or fewer employees on business days
15 during either of the 2 preceding years. For pur-
16 poses of this subparagraph, a year may only be
17 taken into account if the employer was in exist-
18 ence throughout the year.

19 “(B) EMPLOYERS NOT IN EXISTENCE DUR-
20 ING PRECEDING YEAR.—If an employer was not
21 in existence throughout the preceding year, the
22 determination under subparagraph (A) shall be
23 based on the average number of employees that
24 it is reasonably expected such employer will em-
25 ploy on business days in the current year.

“(C) GROWING EMPLOYERS RETAIN
TREATMENT AS SMALL EMPLOYER.—If—

“(i) an employer was an eligible employer for any year (a ‘qualified year’), and

“(ii) such employer establishes a simple cafeteria plan for its employees for such year, then, notwithstanding the fact the employer fails to meet the requirements of subparagraph (A) for any subsequent year, such employer shall be treated as an eligible employer for such subsequent year with respect to employees (whether or not employees during a qualified year) of any trade or business which was covered by the plan during any qualified year. This subparagraph shall cease to apply if the employer employs an average of 200 more employees on business days during any year preceding any such subsequent year.

“(D) SPECIAL RULES.—

“(i) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

1 “(ii) AGGREGATION RULES.—All per-
 2 sons treated as a single employer under
 3 subsection (a) or (b) of section 52, or sub-
 4 section (n) or (o) of section 414, shall be
 5 treated as one person.

6 “(6) APPLICABLE NONDISCRIMINATION RE-
 7 QUIREMENT.—For purposes of this subsection, the
 8 term ‘applicable nondiscrimination requirement’
 9 means any requirement under subsection (b) of this
 10 section, section 79(d), section 105(h), or paragraph
 11 (2), (3), (4), or (8) of section 129(d).

12 “(7) COMPENSATION.—The term ‘compensa-
 13 tion’ has the meaning given such term by section
 14 414(s).”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to years beginning after December
 17 31, 2006.

18 **SEC. 3. MODIFICATIONS OF RULES APPLICABLE TO CAFETERIA PLANS.**
 19

20 (a) APPLICATION TO SELF-EMPLOYED INDIVID-
 21 UALS.—

22 (1) IN GENERAL.—Section 125(d) (defining caf-
 23 eteria plan) is amended by adding at the end the fol-
 24 lowing new paragraph:

1 “(3) EMPLOYEE TO INCLUDE SELF-EM-
2 PLOYED.—

3 “(A) IN GENERAL.—The term ‘employee’
4 includes an individual who is an employee with-
5 in the meaning of section 401(c)(1) (relating to
6 self-employed individuals).

7 “(B) LIMITATION.—The amount which
8 may be excluded under subsection (a) with re-
9 spect to a participant in a cafeteria plan by rea-
10 son of being an employee under subparagraph
11 (A) shall not exceed the employee’s earned in-
12 come (within the meaning of section 401(c)) de-
13 rived from the trade or business with respect to
14 which the cafeteria plan is established.”.

15 (2) APPLICATION TO BENEFITS WHICH MAY BE
16 PROVIDED UNDER CAFETERIA PLAN.—

17 (A) GROUP-TERM LIFE INSURANCE.—Sec-
18 tion 79 (relating to group-term life insurance
19 provided to employees) is amended by adding at
20 the end the following new subsection:

21 “(f) EMPLOYEE INCLUDES SELF-EMPLOYED.—

22 “(1) IN GENERAL.—For purposes of this sec-
23 tion, the term ‘employee’ includes an individual who
24 is an employee within the meaning of section
25 401(c)(1) (relating to self-employed individuals).

1 “(2) LIMITATION.—The amount which may be
 2 excluded under the exceptions contained in sub-
 3 section (a) or (b) with respect to an individual treat-
 4 ed as an employee by reason of paragraph (1) shall
 5 not exceed the employee’s earned income (within the
 6 meaning of section 401(c)) derived from the trade or
 7 business with respect to which the individual is so
 8 treated.”.

9 (B) ACCIDENT AND HEALTH PLANS.—Sec-
 10 tion 105(g) is amended to read as follows:

11 “(g) EMPLOYEE INCLUDES SELF-EMPLOYED.—

12 “(1) IN GENERAL.—For purposes of this sec-
 13 tion, the term ‘employee’ includes an individual who
 14 is an employee within the meaning of section
 15 401(c)(1) (relating to self-employed individuals).

16 “(2) LIMITATION.—The amount which may be
 17 excluded under this section by reason of subsection
 18 (b) or (c) with respect to an individual treated as an
 19 employee by reason of paragraph (1) shall not ex-
 20 ceed the employee’s earned income (within the mean-
 21 ing of section 401(c)) derived from the trade or
 22 business with respect to which the accident or health
 23 insurance was established.”.

24 (C) CONTRIBUTIONS BY EMPLOYERS TO
 25 ACCIDENT AND HEALTH PLANS.—

1 (i) IN GENERAL.—Section 106, as
 2 amended by subsection (b), is amended by
 3 adding after subsection (b) the following
 4 new subsection:

5 “(c) EMPLOYER TO INCLUDE SELF-EMPLOYED.—

6 “(1) IN GENERAL.—For purposes of this sec-
 7 tion, the term ‘employee’ includes an individual who
 8 is an employee within the meaning of section
 9 401(c)(1) (relating to self-employed individuals).

10 “(2) LIMITATION.—The amount which may be
 11 excluded under subsection (a) with respect to an in-
 12 dividual treated as an employee by reason of para-
 13 graph (1) shall not exceed the employee’s earned in-
 14 come (within the meaning of section 401(c)) derived
 15 from the trade or business with respect to which the
 16 accident or health insurance was established.”.

17 (ii) CLARIFICATION OF LIMITATIONS
 18 ON OTHER COVERAGE.—The first sentence
 19 of section 162(l)(2)(B) is amended to read
 20 as follows: “Paragraph (1) shall not apply
 21 to any taxpayer for any calendar month for
 22 which the taxpayer participates in any sub-
 23 sidized health plan maintained by any em-
 24 ployer (other than an employer described

1 in section 401(c)(4)) of the taxpayer or the
2 spouse of the taxpayer.”.

3 (b) LONG-TERM CARE INSURANCE PERMITTED TO
4 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE
5 SPENDING ARRANGEMENTS.—

6 (1) CAFETERIA PLANS.—The last sentence of
7 section 125(f) (defining qualified benefits) is amend-
8 ed to read as follows: “Such term shall include the
9 payment of premiums for any qualified long-term
10 care insurance contract (as defined in section
11 7702B) to the extent the amount of such payment
12 does not exceed the eligible long-term care premiums
13 (as defined in section 213(d)(10)) for such con-
14 tract.”.

15 (2) FLEXIBLE SPENDING ARRANGEMENTS.—
16 Section 106 (relating to contributions by employer to
17 accident and health plans) is amended by striking
18 subsection (c).

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2006.

22 **SEC. 4. MODIFICATION OF RULES APPLICABLE TO FLEXI-**
23 **BLE SPENDING ARRANGEMENTS.**

24 (a) MODIFICATION OF RULES.—

1 (1) IN GENERAL.—Section 125 of the Internal
 2 Revenue Code of 1986, as amended by section 2, is
 3 amended by redesignating subsections (i) and (j) as
 4 subsection (j) and (k), respectively, and by inserting
 5 after subsection (h) the following new subsection:

6 “(i) SPECIAL RULES APPLICABLE TO FLEXIBLE
 7 SPENDING ARRANGEMENTS.—

8 “(1) IN GENERAL.—For purposes of this title,
 9 a plan or other arrangement shall not fail to be
 10 treated as a flexible spending or similar arrangement
 11 solely because under the plan or arrangement—

12 “(A) the amount of the reimbursement for
 13 covered expenses at any time may not exceed
 14 the balance in the participant’s account for the
 15 covered expenses as of such time,

16 “(B) except as provided in paragraph
 17 (4)(A)(ii), a participant may elect at any time
 18 specified by the plan or arrangement to make
 19 or modify any election regarding the covered
 20 benefits, or the level of covered benefits, of the
 21 participant under the plan, and

22 “(C) a participant is permitted access to
 23 any unused balance in the participant’s ac-
 24 counts under such plan or arrangement in the
 25 manner provided under paragraph (2) or (3).

1 “(2) CARRYOVERS AND ROLLOVERS OF UNUSED
2 BENEFITS IN HEALTH AND DEPENDENT CARE AR-
3 RANGEMENTS.—

4 “(A) IN GENERAL.—A plan or arrange-
5 ment may permit a participant in a health flexi-
6 ble spending arrangement or dependent care
7 flexible spending arrangement to elect—

8 “(i) to carry forward any aggregate
9 unused balances in the participant’s ac-
10 counts under such arrangement as of the
11 close of any year to the succeeding year, or

12 “(ii) to have such balance transferred
13 to a plan described in subparagraph (E).

14 Such carryforward or transfer shall be treated
15 as having occurred within 30 days of the close
16 of the year.

17 “(B) DOLLAR LIMIT ON
18 CARRYFORWARDS.—

19 “(i) IN GENERAL.—The amount which
20 a participant may elect to carry forward
21 under subparagraph (A)(i) from any year
22 shall not exceed \$500. For purposes of this
23 paragraph, all plans and arrangements
24 maintained by an employer or any related
25 person shall be treated as 1 plan.

1 “(ii) COST-OF-LIVING ADJUSTMENT.—

2 In the case of any taxable year beginning
3 in a calendar year after 2007, the \$500
4 amount under clause (i) shall be increased
5 by an amount equal to—

6 “(I) \$500, multiplied by

7 “(II) the cost-of-living adjust-
8 ment determined under section 1(f)(3)
9 for such calendar year, determined by
10 substituting ‘2006’ for ‘1992’ in sub-
11 paragraph (B) thereof.

12 If any dollar amount as increased under
13 this clause is not a multiple of \$100, such
14 amount shall be rounded to the next lowest
15 multiple of \$100.

16 “(C) EXCLUSION FROM GROSS INCOME.—

17 No amount shall be required to be included in
18 gross income under this chapter by reason of
19 any carryforward or transfer under this para-
20 graph.

21 “(D) COORDINATION WITH LIMITS.—

22 “(i) CARRYFORWARDS.—The max-
23 imum amount which may be contributed to
24 a health flexible spending arrangement or
25 dependent care flexible spending arrange-

1 ment for any year to which an unused
 2 amount is carried under this paragraph
 3 shall be reduced by such amount.

4 “(ii) ROLLOVERS.—Any amount
 5 transferred under subparagraph (A)(ii)
 6 shall be treated as an eligible rollover
 7 under section 219, 223(f)(5), 401(k),
 8 403(b), or 457, whichever is applicable, ex-
 9 cept that—

10 “(I) the amount of the contribu-
 11 tions which a participant may make to
 12 the plan under any such section for
 13 the taxable year including the transfer
 14 shall be reduced by the amount trans-
 15 ferred, and

16 “(II) in the case of a transfer to
 17 a plan described in clause (ii) or (iii)
 18 of subparagraph (E), the transferred
 19 amounts shall be treated as elective
 20 deferrals for such taxable year.

21 “(E) PLANS.—A plan is described in this
 22 subparagraph if it is—

23 “(i) an individual retirement plan,

24 “(ii) a qualified cash or deferred ar-
 25 rangement described in section 401(k),

1 “(iii) a plan under which amounts are
 2 contributed by an individual’s employer for
 3 an annuity contract described in section
 4 403(b),

5 “(iv) an eligible deferred compensa-
 6 tion plan described in section 457, or

7 “(v) a health savings account de-
 8 scribed in section 223.

9 “(3) DISTRIBUTION UPON TERMINATION.—

10 “(A) IN GENERAL.—A plan or arrange-
 11 ment may permit a participant (or any des-
 12 ignated heir of the participant) to receive a
 13 cash payment equal to the aggregate unused ac-
 14 count balances in the plan or arrangement as of
 15 the date the individual is separated (including
 16 by death or disability) from employment with
 17 the employer maintaining the plan or arrange-
 18 ment.

19 “(B) INCLUSION IN INCOME.—Any pay-
 20 ment under subparagraph (A) shall be includ-
 21 ible in gross income for the taxable year in
 22 which such payment is distributed to the em-
 23 ployee.

24 “(4) TERMS RELATING TO FLEXIBLE SPENDING
 25 ARRANGEMENTS.—

1 “(A) FLEXIBLE SPENDING ARRANGE-
2 MENTS.—

3 “(i) IN GENERAL.—For purposes of
4 this subsection, a flexible spending ar-
5 rangement is a benefit program which pro-
6 vides employees with coverage under which
7 specified incurred expenses may be reim-
8 bursed (subject to reimbursement maxi-
9 mums and other reasonable conditions).

10 “(ii) ELECTIONS REQUIRED.—A plan
11 or arrangement shall not be treated as a
12 flexible spending arrangement unless a
13 participant may at least 4 times during
14 any year make or modify any election re-
15 garding covered benefits or the level of cov-
16 ered benefits.

17 “(B) HEALTH AND DEPENDENT CARE AR-
18 RANGEMENTS.—The terms ‘health flexible
19 spending arrangement’ and ‘dependent care
20 flexible spending arrangement’ means any flexi-
21 ble spending arrangement (or portion thereof)
22 which provides payments for expenses incurred
23 for medical care (as defined in section 213(d))
24 or dependent care (within the meaning of sec-
25 tion 129), respectively.”.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 125 of the Internal Revenue Code of 1986 is amended by inserting “**AND FLEXIBLE SPENDING ARRANGEMENTS**” after “**PLANS**”.

(B) The item relating to section 125 of such Code in the table of sections for part III of subchapter B of chapter 1 is amended by inserting “and flexible spending arrangements” after “plans”.

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 is amended by striking subsection (e) (relating to FSA and HRA Terminations to Fund HSAs).

(2) Section 223(c)(1)(A)(iii)(II) is amended to read as follows:

“(II) the individual is transferring the entire balance of such arrangement as of the end of the plan year to a health savings account pursuant to section 125(i)(2)(A)(ii), in accordance with rules prescribed by the Secretary.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect on the date of the enactment
 3 of this Act.

4 **SEC. 5. RULES RELATING TO EMPLOYER-PROVIDED**
 5 **HEALTH AND DEPENDENT CARE BENEFITS.**

6 (a) HEALTH BENEFITS.—Section 106, as amended
 7 by section 4(b), is amended by adding at the end the fol-
 8 lowing new subsection:

9 “(e) LIMITATION ON CONTRIBUTIONS TO HEALTH
 10 FLEXIBLE SPENDING ARRANGEMENTS.—

11 “(1) IN GENERAL.—Gross income of an em-
 12 ployee for any taxable year shall include employer-
 13 provided coverage provided through 1 or more health
 14 flexible spending arrangements (within the meaning
 15 of section 125(i)) to the extent that the amount oth-
 16 erwise excludable under subsection (a) with regard
 17 to such coverage exceeds the applicable dollar limit
 18 for the taxable year.

19 “(2) APPLICABLE DOLLAR LIMIT.—For pur-
 20 poses of this subsection—

21 “(A) IN GENERAL.—The applicable dollar
 22 limit for any taxable year is an amount equal
 23 to the sum of—

24 “(i) \$7,500, plus

1 “(ii) if the arrangement provides cov-
 2 erage for 1 or more individuals in addition
 3 to the employee, an amount equal to one-
 4 third of the amount in effect under clause
 5 (i) (after adjustment under subparagraph
 6 (B)).

7 “(B) COST-OF-LIVING ADJUSTMENT.—In
 8 the case of taxable years beginning in any cal-
 9 endar year after 2007, the \$7,500 amount
 10 under subparagraph (A) shall be increased by
 11 an amount equal to—

12 “(i) \$7,500, multiplied by

13 “(ii) the cost-of-living adjustment de-
 14 termined under section 1(f)(3) for the cal-
 15 endar year, determined by substituting
 16 ‘2006’ for ‘1992’ in subparagraph (B)
 17 thereof.

18 If any dollar amount as increased under this
 19 subparagraph is not a multiple of \$100, such
 20 dollar amount shall be rounded to the next low-
 21 est multiple of \$100.”.

22 (b) DEPENDENT CARE.—

23 (1) EXCLUSION LIMIT.—

24 (A) IN GENERAL.—Section 129(a)(2) (re-
 25 lating to limitation on exclusion) is amended—

1 (i) by striking “\$5,000” and inserting
 2 “the applicable dollar limit”, and

3 (ii) by striking “\$2,500” and insert-
 4 ing “one-half of such limit”.

5 (B) APPLICABLE DOLLAR LIMIT.—Section
 6 129(a) is amended by adding at the end the fol-
 7 lowing new paragraph:

8 “(3) APPLICABLE DOLLAR LIMIT.—For pur-
 9 poses of this subsection—

10 “(A) IN GENERAL.—The applicable dollar
 11 limit is \$5,000 (\$10,000 if dependent care as-
 12 sistance is provided under the program to 2 or
 13 more qualifying individuals of the employee).

14 “(B) COST-OF-LIVING ADJUSTMENTS.—

15 “(i) \$5,000 AMOUNT.—In the case of
 16 taxable years beginning after 2007, the
 17 \$5,000 amount under subparagraph (A)
 18 shall be increased by an amount equal to—

19 “(I) \$5,000, multiplied by

20 “(II) the cost-of-living adjust-
 21 ment determined under section 1(f)(3)
 22 for the calendar year in which the tax-
 23 able year begins, determined by sub-
 24 stituting ‘2006’ for ‘1992’ in subpara-
 25 graph (B) thereof.

If any dollar amount as increased under this clause is not a multiple of \$100, such dollar amount shall be rounded to the next lowest multiple of \$100.

“(ii) \$10,000 AMOUNT.—The \$10,000 amount under subparagraph (A) for taxable years beginning after 2005 shall be increased to an amount equal to twice the amount the \$5,000 amount is increased to under clause (i).”.

(2) AVERAGE BENEFITS TEST.—

(A) IN GENERAL.—Section 129(d)(8)(A) (relating to benefits) is amended—

(i) by striking “55 percent” and inserting “60 percent”, and

(ii) by striking “highly compensated employees” the second place it appears and inserting “employees receiving benefits”.

(B) SALARY REDUCTION AGREEMENTS.—Section 129(d)(8)(B) (relating to salary reduction agreements) is amended—

(i) by striking “\$25,000” and inserting “\$30,000”, and

(ii) by adding at the end the following: “In the case of years beginning

1 after 2007, the \$30,000 amount in the
2 first sentence shall be adjusted at the same
3 time, and in the same manner, as the ap-
4 plicable dollar amount is adjusted under
5 subsection (a)(3)(B).”.

6 (3) PRINCIPAL SHAREHOLDERS OR OWNERS.—
7 Section 129(d)(4) (relating to principal shareholders
8 and owners) is amended by adding at the end the
9 following: “In the case of any failure to meet the re-
10 quirements of this paragraph for any year, amounts
11 shall only be required by reason of the failure to be
12 included in gross income of the shareholders or own-
13 ers who are members of the class described in the
14 preceding sentence.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2006.

○