

111TH CONGRESS  
2D SESSION

# H. R. 5318

To amend the Internal Revenue Code of 1986 to waive the 10-percent penalty on early distributions from individual retirement plans for small business investments.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2010

Mr. GINGREY of Georgia (for himself, Mr. PENCE, Mr. BARTLETT, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. FRANKS of Arizona, Ms. GRANGER, Mr. HALL of Texas, Mrs. LUMMIS, Mr. MARCHANT, Mr. MCCLINTOCK, Mr. PITTS, and Mr. POSEY) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to waive the 10-percent penalty on early distributions from individual retirement plans for small business investments.

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 Invest-  
5 ment Penalty Relief Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) In March 2010, the Department of Labor  
2       reported approximately 15 million people out of  
3       work, thereby making the national unemployment  
4       rate at 9.7 percent.

5           (2) Small businesses account for approximately  
6       25 million, or 99.7 percent, of employers in the  
7       United States.

8           (3) In the last 15 years, small businesses have  
9       accounted for approximately 22 million new jobs, or  
10      roughly 93 percent of the net new jobs created.

11          (4) Since the commencement of the financial  
12      crisis, small businesses have been denied loans, seen  
13      credit lines curtailed, and have lost access to venture  
14      capital and securities markets.

15   **SEC. 3. WAIVER OF 10-PERCENT PENALTY ON SMALL BUSI-**  
16                   **NESS DISTRIBUTIONS.**

17      Paragraph (2) of section 72(t) of the Internal Rev-  
18      enue Code of 1986 is amended by adding at the end the  
19      following new subparagraph:

20                   “(H) SMALL BUSINESS DISTRIBUTIONS.—

21                           “(i) IN GENERAL.—Any payment or  
22                   distribution to the individual during 2010  
23                   or 2011 to the extent that for the taxable  
24                   year such amount does not exceed the less-  
25                   er of—

1 “(I) the small business invest-  
2 ment of the individual for the taxable  
3 year, or

4 “(II) the lesser of \$10,000, or 25  
5 percent of the nonforefeitable value of  
6 the plan at the beginning of the tax-  
7 able year.

8 “(ii) SMALL BUSINESS INVEST-  
9 MENT.—For purposes of this subpara-  
10 graph, the term ‘small business invest-  
11 ment’ means, with respect to a qualified  
12 small business, an amount equal to the  
13 basis of property which—

14 “(I) is placed in service during  
15 the taxable year,

16 “(II) is used in the trade or busi-  
17 ness of the taxpayer, and

18 “(III) is subject to the allowance  
19 for depreciation provided in section  
20 167 or is real property used in such  
21 trade or business.

22 “(iii) QUALIFIED SMALL BUSINESS.—  
23 For purposes of this subparagraph—

24 “(I) IN GENERAL.—The term  
25 ‘qualified small business’ means any

1 trade or business the gross receipts of  
2 which for the preceding taxable year  
3 did not exceed \$20,000,000 or which  
4 employed not more than 50 full-time  
5 employees during the preceding tax-  
6 able year.

7 “(II) FULL-TIME.—An employee  
8 shall be considered full-time if such  
9 employee is employed at least 30  
10 hours per week for 20 or more cal-  
11 endar weeks in the taxable year.

12 “(III) CONTROLLED GROUPS.—  
13 For purposes of subclause (I), all per-  
14 sons treated as a single employer  
15 under subsection (a) or (b) of section  
16 52 or subsection (m) or (o) of section  
17 414 shall be treated as a single trade  
18 or business.

19 “(iv) RELATED PERSONS.—A person  
20 shall be treated as related to another per-  
21 son if the relationship between such per-  
22 sons would result in the disallowance of  
23 losses under section 267 or 707(b).”.

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