111TH CONGRESS
1ST SESSION

S. 1381

To amend the Internal Revenue Code of 1986 to provide additional tax relief for small businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2009

Mr. GRASSLEY 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 additional tax relief for small businesses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Tax Relief Act of 2009".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Subsection (b) of section 179 (relating to limitations) is amended—

(1) by striking ''$25,000'' and all that follows in paragraph (1) and inserting ''$500,000.'',

(2) by striking ''$200,000'' and all that follows in paragraph (2) and inserting ''$2,000,000'',

(3) by striking ''after 2007 and before 2011, the $120,000 and $500,000'' in paragraph (5)(A) and inserting ''after 2009, the $500,000 and the $2,000,000'',

(4) by striking ''2006'' in paragraph (5)(A)(ii) and inserting ''2008'', and

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) of the Internal Revenue Code of 1986 (defining section 179 property) is amended by striking ''and before 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 3. MODIFICATION OF CORPORATE INCOME TAX RATES.

(a) IN GENERAL.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended to read as follows:

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $1,000,000,

"(B) 25 percent of so much of the taxable income as exceeds $1,000,000 but does not exceed $1,500,000,

"(C) 34 percent of so much of the taxable income as exceeds $1,500,000 but does not exceed $10,000,000, and

"(D) 35 percent of so much of the taxable income as exceeds $10,000,000.

In the case of a corporation which has taxable income in excess of $2,000,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $235,000. In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 4. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES NOT SUBJECT TO ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULES FOR ELIGIBLE SMALL BUSINESS CREDITS.—

''(A) IN GENERAL.—In the case of eligible small business credits—

''(i) this section and section 39 shall be applied separately with respect to such credits, and

''(ii) in applying paragraph (1) to such credits—

"(I) the tentative minimum tax shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the eligible small business credits).

"(B) ELIGIBLE SMALL BUSINESS CREDITS.—For purposes of this subsection, the term 'eligible small business credits' means the sum of the credits listed in subsection (b) which are determined for the taxable year with respect to an eligible small business. Such credits shall not be taken into account under paragraph (2), (3), or (4).

"(C) ELIGIBLE SMALL BUSINESS.—For purposes of this subsection, the term 'eligible small business' means, with respect to any taxable year—

"(i) a corporation the stock of which is not publicly traded, or

"(ii) a partnership,

which meets the gross receipts test of section 448(c) (by substituting '$50,000,000' for

'$5,000,000' each place it appears) for the taxable year (or, in the case of a sole proprietorship, which would meet the test if such proprietorship were a corporation).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined in taxable years beginning after December 31, 2009, and to carrybacks of such credits.

SEC. 5. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES CARRIED BACK 5 YEARS.

(a) IN GENERAL.—Section 39(a) (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(4) 5-YEAR CARRYBACK FOR ELIGIBLE SMALL BUSINESS CREDITS.—

''(A) IN GENERAL.—Notwithstanding subsection (d), in the case of eligible small business credits—

''(i) this section shall be applied separately from the business credit (other than the eligible small business credits) or the marginal oil and gas well production credit,

''(ii) paragraph (1) shall be applied by substituting 'each of the 5 taxable years' for 'the taxable year' in subparagraph (A) thereof, and

"(iii) paragraph (2) shall be applied—

"(I) by substituting '25 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

"(II) by substituting '24 taxable years' for '20 taxable years' in subparagraph (B) thereof.

"(B) ELIGIBLE SMALL BUSINESS CREDITS.—For purposes of this subsection, the term 'eligible small business credits' has the meaning given such term by section 38(c)(5)(B).".

(b) CONFORMING AMENDMENT.—Section 39(a)(3)(A) is amended by inserting "or the eligible small business credits" after "credit)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to credits arising in taxable years beginning after December 31, 2009.

SEC. 6. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

"(A) 9 percent of the lesser of—

"(i) the qualified production activities income of the taxpayer for the taxable year, or

"(ii) taxable income (determined without regard to this section) for the taxable year, and

"(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

"(i) the eligible small business income of the taxpayer for the taxable year, or

"(ii) taxable income (determined without regard to this section) for the taxable year.".

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

"(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

"(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term 'eligible small business' has the meaning given such term by section 38(c)(5)(C).

"(2) ELIGIBLE SMALL BUSINESS INCOME.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible small business income' means the excess of—

"(i) the income of the eligible small business which—

"(I) is attributable to the actual conduct of a trade or business,

"(II) is income from sources within the United States (within the meaning of section 861), and

"(III) is not passive income (as defined in section 904(d)(2)(B)), over

"(ii) the sum of—

"(I) the cost of goods sold that are allocable to such income, and

"(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

"(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

"(i) Any income which is attributable to any property described in section 1400N(p)(3).

"(ii) Any income which is attributable to the ownership or management of any professional sports team.

"(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

"(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

"(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

"(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.".

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking "paragraph (1)" and inserting "paragraph (1)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 7. REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

"(7) RECOGNITION PERIOD.—

"(A) IN GENERAL.—The term 'recognition period' means the 5-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(B) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS.—For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e), subparagraph (A) shall be applied without regard to the phrase '10-year'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 8. CARRYBACK OF NET OPERATING LOSSES OF CERTAIN SMALL BUSINESSES ALLOWED FOR 5 YEARS.

Subparagraph (H) of section 172(b)(1) is amended to read as follows:

"(H) 5-YEAR CARRYBACK OF LOSSES OF CERTAIN SMALL BUSINESSES.—

"(i) IN GENERAL.—In the case of a net operating loss with respect to any eligible small business for any taxable year ending after 2008, or, if applicable, following the taxable year with respect to which an election was made by such eligible small business under this subparagraph (as in effect before the date of the enactment of the Small Business Tax Relief Act of 2009)—

"(I) subparagraph (A)(i) shall be applied by substituting '5' for '2',

"(II) subparagraph (E)(ii) shall be applied by substituting '4' for '2', and

"(III) subparagraph (F) shall not apply.

"(ii) ELIGIBLE SMALL BUSINESS.—For purposes of clause (i), the term 'eligible small business' has the meaning given such term by section 38(c)(5)(C).".

SEC. 9. MODIFICATIONS TO EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) TEMPORARY INCREASE IN EXCLUSION.—Paragraph (3) of section 1202(a) (relating to exclusion) is amended to read as follows:

"(3) SPECIAL RULES FOR STOCK ACQUIRED BEFORE 2011.—In the case of qualified small business stock—

"(A) acquired after the date of the American Recovery and Reinvestment Tax Act of 2009 and on or before the date of the enactment of the Small Business Tax Relief Act of 2009—

"(i) paragraph (1) shall be applied by substituting '75 percent' for '50 percent', and

"(ii) paragraph (2) shall not apply, and

"(B) acquired after the date of the enactment of the Small Business Tax Relief Act of 2009 and before January 1, 2011—

"(i) paragraph (1) shall be applied by substituting '100 percent' for '50 percent',

"(ii) paragraph (2) shall not apply, and "(iii) section 57(a)(7) shall not apply.".

(b) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) (relating to per-issuer limitation on taxpayer's eligible gain) is amended by striking "$10,000,000" and inserting "$15,000,000".

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) (relating to treatment of married individuals) is amended by striking "paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000' " and inserting "the amount under paragraph (1)(A) shall be half of the amount otherwise in effect".

(c) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) (defining qualified small business) is amended by striking "$50,000,000" each place it appears and inserting "$75,000,000".

(d) INFLATION ADJUSTMENTS.—Section 1202 (relating to partial exclusion for gain from certain small business stock) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning after 2009, the $15,000,000 amount in subsection (b)(1)(A), the $75,000,000 amount in subsection (d)(1)(A), and the $75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $1,000,000 such amount shall be rounded to the next lowest multiple of $1,000,000.".

(e) EFFECTIVE DATES.—

(1) EXCLUSION; QUALIFIED SMALL BUSINESS.—The amendments made by subsections (a) and (c) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (b) and (d)

shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 10. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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