

113TH CONGRESS
1ST SESSION

H. R. 774

To amend the Internal Revenue Code of 1986 to establish small business start-up savings accounts.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2013

Mr. GARDNER (for himself, Mr. COFFMAN, Mrs. LUMMIS, Mr. DENHAM, Mr. BENISHEK, Mrs. BLACKBURN, Mr. GOHMERT, Mr. LAMALFA, Mr. WALBERG, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to establish small business start-up savings accounts.

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 Start-
5 up Savings Accounts Act of 2013”.

1 **SEC. 2. ESTABLISHMENT OF SMALL BUSINESS START-UP**
2 **SAVINGS ACCOUNTS.**

3 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following new section:

6 **“SEC. 7529. SMALL BUSINESS START-UP SAVINGS AC-**
7 **COUNTS.**

8 “(a) IN GENERAL.—An individual or an eligible small
9 business may enter into an agreement with the Secretary
10 to establish a small business start-up savings account.

11 “(b) SMALL BUSINESS START-UP SAVINGS AC-
12 COUNT.—For purposes of this section, the term ‘small
13 business start-up savings account’ means a trust created
14 or organized in the United States for the benefit of the
15 account beneficiary, but only if the written governing in-
16 strument creating the trust meets the following require-
17 ments:

18 “(1) Except as provided in subsection (d)(3) in
19 the case of a rollover contribution, no contribution
20 will be accepted unless it is in cash, and contribu-
21 tions will not be accepted for the taxable year on be-
22 half of any account beneficiary in excess of the
23 amount in effect for such taxable year under sub-
24 section (d)(2).

25 “(2) The trustee is a bank (as defined in sec-
26 tion 408(n)) or such other person who demonstrates

1 to the satisfaction of the Secretary that the manner
2 in which such other person will administer the trust
3 will be consistent with the requirements of this sec-
4 tion.

5 “(3) No part of the trust funds will be invested
6 in life insurance contracts.

7 “(4) The interest of an individual in the bal-
8 ance of his account is nonforfeitable.

9 “(5) The assets of the trust will not be commin-
10 gled with other property except in a common trust
11 fund or common investment fund.

12 “(c) ELIGIBLE SMALL BUSINESS.—For purposes of
13 this section, the term ‘eligible small business’ means, with
14 respect to any taxable year, any person engaged in a trade
15 or business if the average number of employees employed
16 by such person on business days during the taxable year
17 was 500 or fewer.

18 “(d) TREATMENT OF CONTRIBUTIONS.—

19 “(1) IN GENERAL.—There shall be allowed as a
20 deduction for the taxable year an amount equal to
21 so much of the account beneficiary’s contributions
22 for the taxable year to all small business start-up
23 savings accounts maintained for the benefit of such
24 beneficiary as do not exceed the contribution limita-

1 tions in effect for the taxable year under paragraph
2 (2).

3 “(2) CONTRIBUTION LIMITATION.—

4 “(A) IN GENERAL.—The amount allowable
5 as a deduction under paragraph (1) with re-
6 spect to all small business start-up savings ac-
7 counts maintained for the benefit of any person
8 shall not exceed the lesser of—

9 “(i) \$10,000, or

10 “(ii) \$150,000, reduced by the aggre-
11 gate contributions by such person for all
12 taxable years with respect to all small busi-
13 ness start-up savings accounts of the tax-
14 payer.

15 “(B) COST OF LIVING ADJUSTMENT.—

16 “(i) IN GENERAL.—In the case of a
17 taxable year beginning after 2013, the
18 \$10,000 amount in subparagraph (A) shall
19 be increased by an amount equal to—

20 “(I) such dollar amount, multi-
21 plied by

22 “(II) the cost-of-living adjust-
23 ment determined under section 1(f)(3)
24 for the calendar year in which the tax-
25 able year begins, determined by sub-

1 stituting ‘calendar year 2012’ for ‘cal-
2 endar year 1992’ in subparagraph (B)
3 thereof.

4 “(ii) ROUNDING.—If any amount as
5 adjusted under clause (i) is not a multiple
6 of \$500, such amount shall be rounded to
7 the next lowest multiple of \$500.

8 “(3) ROLLOVERS FROM RETIREMENT PLANS
9 NOT ALLOWED.—Under regulations prescribed by
10 the Secretary, a person may make a rollover con-
11 tribution to a small business start-up savings ac-
12 count only in the case of a rollover from another
13 small business start-up savings account.

14 “(4) TREATED AS DEDUCTION FOR INDIVID-
15 UALS AND CORPORATIONS.—For purposes of chapter
16 1, the deduction allowed under paragraph (1) shall
17 be treated as a deduction specified in part VI of sub-
18 chapter B of chapter 1 (relating to itemized deduc-
19 tions for individuals and corporations).

20 “(e) TREATMENT OF DISTRIBUTIONS.—

21 “(1) TAX TREATMENT.—

22 “(A) EXCLUSION OF QUALIFIED DISTRIBUTI-
23 ONS.—Any qualified distribution from a small
24 business start-up savings account shall not be
25 includible in gross income.

1 “(B) INCLUSION OF OTHER DISTRIBUTIONS.—Any distribution from a small business
2 start-up savings account which is not a qualified
3 distribution shall be included in gross in-
4 come.
5

6 “(2) QUALIFIED DISTRIBUTION.—For purposes
7 of this subsection, the term ‘qualified distribution’
8 means, with respect to any taxable year, any pay-
9 ment or distribution from a small business start-up
10 savings account—

11 “(A) to the extent the amount of such pay-
12 ment or distribution does not exceed the sum
13 of—

14 “(i) the aggregate amounts paid or in-
15 curred by the taxpayer for such taxable
16 year with respect to the taxpayer’s trade or
17 business for the purchase of equipment or
18 facilities, marketing, training, incorpora-
19 tion, and accounting fees, and

20 “(ii) the aggregate capital contribu-
21 tions of the taxpayer with respect to an eli-
22 gible small business for the taxable year
23 (but only to the extent such amounts are
24 used by such small business for purposes
25 described in clause (i)), and

1 “(B) which, in the case of a payment or
2 distribution subsequent to the first payment or
3 distribution from such account (or any prede-
4 cessor to such account)—

5 “(i) is made not later than the close
6 of the 5th taxable year beginning after the
7 date of such first payment or distribution,
8 and

9 “(ii) is made with respect to the same
10 eligible small business with respect to
11 which such first payment or distribution
12 was made.

13 “(3) TREATMENT AFTER DEATH OF ACCOUNT
14 BENEFICIARY.—

15 “(A) IN GENERAL.—If, by reason of the
16 death of the account beneficiary, any person ac-
17 quires the account beneficiary’s interest in a
18 small business start-up savings account—

19 “(i) such account shall cease to be a
20 small business start-up savings account as
21 of the date of death, and

22 “(ii) an amount equal to the fair mar-
23 ket value of the assets in such account on
24 such date shall be includible—

1 “(I) in the case of a person who
2 is not the estate of such beneficiary,
3 in such person’s gross income for the
4 taxable year which includes such date,
5 or

6 “(II) in the case of a person who
7 is the estate of such beneficiary, in
8 such beneficiary’s gross income for
9 the last taxable year of such bene-
10 ficiary.

11 “(B) SPECIAL RULES.—

12 “(i) REDUCTION OF INCLUSION FOR
13 PREDEATH EXPENSES.—The amount in-
14 cludible in gross income under subpara-
15 graph (A) shall be reduced by the amounts
16 described in paragraph (2) which were in-
17 curred by the decedent before the date of
18 the decedent’s death and paid by such per-
19 son within 1 year after such date.

20 “(ii) DEDUCTION FOR ESTATE
21 TAXES.—An appropriate deduction shall be
22 allowed under section 691(c) to any person
23 (other than the decedent) with respect to
24 amounts included in gross income under
25 subparagraph (A)(ii)(I) by such person.

1 “(4) TREATMENT FOR FAILURE TO BE TREAT-
2 ED AS ELIGIBLE SMALL BUSINESS.—If for any tax-
3 able year a taxpayer which holds a small business
4 start-up savings account as an eligible small busi-
5 ness ceases to be an eligible small business—

6 “(A) such account shall cease to be a small
7 business start-up savings account, and

8 “(B) the balance of such account shall be
9 treated as paid out for such taxable year in a
10 distribution which is not a qualified distribu-
11 tion.

12 “(f) SPECIAL RULES.—

13 “(1) DENIAL OF DOUBLE BENEFIT.—Any de-
14 duction or credit otherwise allowed for the taxable
15 year with respect to amounts described in subsection
16 (e)(2)(A) shall be reduced by an amount equal to
17 the qualified distributions attributable to such
18 amounts. The adjusted basis of any property placed
19 in service for the taxable year shall be reduced by
20 the amount of any qualified distributions attrib-
21 utable to such property. For purposes of this para-
22 graph, qualified distributions shall first be treated as
23 attributable to amounts described in subsection
24 (e)(2)(A), then to property placed in service for the
25 taxable year.

1 “(2) **AGGREGATION RULE.**—For purposes of
2 this section, all persons treated as a single employer
3 under subsection (a) or (b) of section 52, or sub-
4 section (m) or (o) of section 414, shall be treated as
5 one person.”.

6 (b) **EXCISE TAX ON EXCESS CONTRIBUTIONS AND**
7 **NONQUALIFIED DISTRIBUTIONS.**—Subtitle D of the Inter-
8 nal Revenue Code of 1986 is amended by adding at the
9 end the following new chapter:

10 **“CHAPTER 50A—SMALL BUSINESS START-**
11 **UP SAVINGS ACCOUNTS**

 “Sec. 5000D. Tax on excess contributions to small business start-up savings
 accounts.

 “Sec. 5000E. Tax on nonqualified distributions from small business start-up
 savings accounts.

 “Sec. 5000F. Cross reference.

12 **“SEC. 5000D. TAX ON EXCESS CONTRIBUTIONS TO SMALL**
13 **BUSINESS START-UP SAVINGS ACCOUNTS.**

14 “(a) **IN GENERAL.**—In the case of a small business
15 start-up savings account (within the meaning of section
16 7529) there is imposed for each taxable year a tax in an
17 amount equal to 6 percent of the amount of the excess
18 contributions to such taxpayer’s account (determined as
19 of the close of the taxable year).

20 “(b) **LIMITATION.**—The amount of tax imposed by
21 subsection (a) shall not exceed 6 percent of the value of
22 the account (determined as of the close of the taxable
23 year).

1 “(c) EXCESS CONTRIBUTIONS.—For purposes of this
2 section, in the case of contributions to all small business
3 start-up savings accounts maintained for the benefit of a
4 person, the term ‘excess contributions’ means the sum
5 of—

6 “(1) the excess (if any) of—

7 “(A) the amount contributed to such ac-
8 counts for the taxable year, over

9 “(B) the amount allowable as a contribu-
10 tion under section 7529(d)(2)(A) for such tax-
11 able year, and

12 “(2) the amount determined under this sub-
13 section for the preceding taxable year, reduced by
14 the sum of—

15 “(A) the distributions out of the accounts
16 for the taxable year, and

17 “(B) the excess (if any) of—

18 “(i) the maximum amount allowable
19 as a contribution under section
20 7529(d)(2)(A) for such taxable year, over

21 “(ii) the amount contributed to such
22 accounts for such taxable year.

1 **“SEC. 5000E. TAX ON NONQUALIFIED DISTRIBUTIONS FROM**
2 **SMALL BUSINESS START-UP SAVINGS AC-**
3 **COUNTS.**

4 “(a) IN GENERAL.—If for any taxable year an
5 amount is paid or distributed out of a taxpayer’s small
6 business start-up savings account, there is imposed for
7 such taxable year a tax in an amount equal to 10 percent
8 of the portion of such amount which is includible in the
9 gross income of the taxpayer.

10 “(b) EXCEPTION FOR DISABILITY OR DEATH.—Sub-
11 section (a) shall not apply if the payment or distribution
12 is made after the account beneficiary becomes disabled
13 within the meaning of section 72(m)(7) (but only if such
14 beneficiary’s account was created before becoming so dis-
15 abled) or dies.

16 **“SEC. 5000F. CROSS REFERENCE.**

17 “For prohibited transactions, see section 4975.”.

18 (c) PROHIBITED TRANSACTIONS.—

19 (1) IN GENERAL.—Paragraph (1) of section
20 4975(e) of such Code is amended by striking “or”
21 at the end of subparagraph (F), by striking the pe-
22 riod at the end of subparagraph and inserting “,
23 or”, and by adding at the end the following new sub-
24 paragraph:

25 “(H) a small business start-up savings ac-
26 count (within the meaning of section 7529).”.

1 (2) SPECIAL RULE FOR CEASING TO BE A
2 SMALL BUSINESS START-UP SAVINGS ACCOUNT.—
3 Section 4975(c) of such Code (relating to tax on
4 prohibited transactions) is amended by adding at the
5 end the following new paragraph:

6 “(7) SPECIAL RULE FOR SMALL BUSINESS
7 START-UP SAVINGS ACCOUNT.—An individual for
8 whose benefit a small business start-up savings ac-
9 count (within the meaning of section 7529) is estab-
10 lished shall be exempt from the tax imposed by this
11 section with respect to any transaction concerning
12 such account (which would otherwise be taxable
13 under this section) if, with respect to such trans-
14 action, the account ceases to be a small business
15 start-up savings account by reason of the application
16 of paragraph (3) or (4) of section 7529(e) to such
17 account.”.

18 (d) DEDUCTION ALLOWED WHETHER OR NOT INDI-
19 VIDUAL ITEMIZES.—Subsection (a) of section 62 of such
20 Code is amended by inserting after paragraph (21) the
21 following new paragraph:

22 “(22) CONTRIBUTIONS TO SMALL BUSINESS
23 START-UP SAVINGS ACCOUNTS.—The deduction al-
24 lowed by section 7529(d)(1)(A).”.

25 (e) CONFORMING AMENDMENTS.—

1 (1) The table of chapters for subtitle D such
2 Code is amended by adding at the end the following
3 new item:

“CHAPTER 50A. SMALL BUSINESS START-UP SAVINGS ACCOUNTS.”.

4 (2) The table of sections for chapter 77 of such
5 Code is amended by inserting after the item relating
6 to section 7528 the following new item:

“Sec. 7529. Small Business Start-Up Savings Accounts.”.

7 (f) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2012.

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