III

Calendar No. 226

114TH CONGRESS
1ST SESSION

S. RES. 252

Expressing the sense of the Committee on Small Business and Entrepreneurship of the Senate relating to easing the burden of Federal tax compliance on small businesses.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2015

Mr. VITTER, from the Committee on Small Business and Entrepreneurship of the Senate, reported the following original resolution; which was placed on the calendar

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RESOLUTION

Expressing the sense of the Committee on Small Business and Entrepreneurship of the Senate relating to easing the burden of Federal tax compliance on small businesses.

Whereas American small businesses face major obstacles complying with their Federal tax obligations;

Whereas the complexity of the Federal tax code unfairly penalizes small businesses;

Whereas such complexity requires small business owners to spend significant amounts of time, money, and resources complying with their tax obligations and less time operating their business;

Whereas Congress has exacerbated these challenges for America's small businesses by failing to update the tax code in a manner that properly reflects current circumstances;

Whereas tax policy should also promote increased savings by American citizens to be able to afford the costs of living deeper into old age;

Whereas employee stock ownership plans help small businesses offer economic incentives to employees and help employees save more for their retirements via investments in their employing companies;

Whereas tax policy should support small businesses in providing benefit packages to their employees to be competitive with larger employers for the best talent;

Whereas the successful research and development tax credit has been used to incentivize private firms to invest in research and development, and private investment leads to spillover effects that can have a broad public good through the creation of new products, the development of new processes, and the launching of new industries;

Whereas while the research and development tax credit is essential for our innovators, it is not accessible to many small businesses and startups—per the Government Accountability Office, over half of the credit goes to firms with $1,000,000,000 or more in receipts;

Whereas, according to the Congressional Research Service, numerous commercially successful innovations originated in small, fledgling firms that could not access the research and development credit;

Whereas, if Congress made the research and development tax credit more available to small businesses and startups, thousands of innovative small firms could claim the credit, boosting their capacity to invest in innovation and job creation; and

Whereas prudent changes to the structure of the Federal tax code would ease the burden of tax compliance, allowing small businesses to put more money back into their business, community, and the economy: Now, therefore, be it

Resolved, That it is the sense of the Committee on Small Business and Entrepreneurship that the Senate should enact the following:

TITLE I—SMALL BUSINESS TAX REFORM

SEC. 101. EXPANSION OF CASH ACCOUNTING THRESHOLD.

(a) IN GENERAL.—

(1) IN GENERAL.—Paragraph (3) of section 448(b) of the Internal Revenue Code of 1986 is amended by striking "$5,000,000" in the text and in the heading and inserting "$25,000,000".

(2) CONFORMING AMENDMENTS.—Section 448(c) of such Code is amended—

(A) by striking "$5,000,000" each place it appears in the text and in the heading of paragraph (1) and inserting "$25,000,000", and

(B) by adding at the end the following new paragraph:

"(4) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2015, the dollar amount contained in subsection (b)(3) and paragraph (1) of this subsection shall 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, by substituting 'calendar year 2014' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.".

(b) EXEMPTION FROM INVENTORY REQUIREMENT.—Section 471 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SECTION NOT TO APPLY TO CERTAIN CASH METHOD TAXPAYERS.—If a taxpayer—

"(1) would otherwise be required to use inventories under this section for any taxable year, but

"(2) the taxpayer meets the gross receipts test of section 448(b) for the taxable year and is eligible and elects to use the cash receipts and disbursements method of accounting for the taxable year,

then the requirement to use inventories shall not apply to the taxpayer for the taxable year.''.

(c) EFFECTIVE DATE AND SPECIAL RULE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2014.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer; and

(B) such change shall be treated as made with the consent of the Secretary of the Treasury.

SEC. 102. MODIFICATION OF SAFE HARBOR FOR EXPENSING OF ACQUISITION OR PRODUCTION COSTS OF TANGIBLE PROPERTY.

(a) REQUIREMENT TO MODIFY SAFE HARBOR.—The Secretary of the Treasury or his delegate shall, within 180 days after the date of enactment of this Act, modify Treasury Regulations section 1.263(a)–1(f) by—

(1) increasing the amount of the de minimis safe harbor for taxpayers without applicable financial statements from $500 to $2,500,

(2) requiring adequate records showing the dollar amount being expensed in lieu of accounting procedures in place at the beginning of the taxable year, and

(3) modifying the definition of applicable financial statement to include reviewed financial statements.

(b) EFFECTIVE DATE.—The modifications required by subsection (a) shall apply to taxable years beginning after December 31, 2014.

SEC. 103. REMOVAL OF COMPUTER EQUIPMENT FROM LISTED PROPERTY.

(a) IN GENERAL.—Section 280F(d)(4)(A) of the Internal Revenue Code of 1986 is amended by inserting ‘‘and’’ at the end of clause (iii) and by striking clause (iv).

(b) CONFORMING AMENDMENT.—Section 280F(d)(4) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

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

SEC. 104. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES.

(a) IN GENERAL.—Paragraph (4) of section 162(l) of the Internal Revenue Code of 1986 is amended by striking "for taxable years beginning before January 1, 2010, or after December 31, 2010" and inserting "for taxable years beginning before January 1, 2015.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2014.

SEC. 105. MODIFICATION OF RULES RELATING TO THE TERMINATION OF PARTNERSHIPS AND S CORPORATIONS.

(a) NO TERMINATION OF PARTNERSHIP ON SALE OR EXCHANGE OF ASSETS.—

(1) IN GENERAL.—Section 708(b)(1) of the Internal Revenue Code of 1986 is amended by striking "only if" and all that follows and inserting "only if no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership.".

(2) CONFORMING AMENDMENTS.—

(A) Section 168(i)(7)(B) of such Code is amended by striking the last sentence.

(B) Section 743(e) of such Code is amended by striking paragraph (4).

(C) Section 774 of such Code is amended by striking subsection (c).

(b) NO TERMINATION OF S CORPORATION STATUS DUE TO EXCESSIVE PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(D) TERMINATION.—This paragraph shall not apply to taxable years ending after the date of the enactment of this subparagraph.".

TITLE II—PROVISIONS RELATED TO THE INTERNAL REVENUE SERVICE

SEC. 201. INFLATION ADJUSTMENTS FOR CERTAIN PROVISIONS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7529. INFLATION ADJUSTMENTS.

"(a) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2015, each of the specified dollar amounts shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) 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 2014' for 'calendar year 1992' in subparagraph (B) thereof.

"(b) SPECIFIED DOLLAR AMOUNTS.—For purposes of subsection (a), the specified dollar amounts are—

"(1) the $50,000 amount in section 79(a)(1),

"(2) each of the $5,250 amounts in section 127(a)(2),

"(3) each of the $500 amounts in paragraphs (11)(A), (11)(B), and (12) of section 170(f),

"(4) the $5,000 amount in section 170(f)(11)(C),

"(5) the $10,000,000 amount in section 263A(b)(2),

"(6) each of the dollar amounts in section 274(b)(1),

"(7) each of the $400 amounts in section 274(j),

"(8) the $1,600 amount in section 274(j)(2)(B),

"(9) the $10,000,000 amount in section 1202(b)(1), "(10) each of the $50,000,000 amounts in section 1202(d)(1),

"(11) the $50,000 amount in section 1244(b)(1), and

"(12) the $1,000,000 in section 1244(c)(3)(A).

"(c) ROUNDING.—

"(1) Any increase determined under paragraph (5), (9), or (10) of subsection (b) shall be rounded to the nearest multiple of $100,000.

"(2) Any increase determined under paragraph (1), (4), (11), or (12) of subsection (b) shall be rounded to the nearest multiple of $1,000.

"(3) Any increase determined under paragraph (2) of subsection (b) shall be rounded to the nearest multiple of $500.

"(4) Any increase determined under paragraph (3), (7), or (8) of subsection (b) shall be rounded to the nearest multiple of $100.

"(5) Any increase determined under paragraph (6) of subsection (b) shall be rounded to the nearest multiple of $5.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1202(b)(3) of such Code is amended by striking "paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000' " and in-

serting “the amount under paragraph (1)(A) shall be 50 percent of such dollar amount (determined without regard to this paragraph)”.

(2) Section 1244(b)(2) of such Code is amended by striking “$100,000” and inserting “200 percent of the amount under paragraph (1)”.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

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

SEC. 202. REPORT ON IMPROVEMENTS TO CUSTOMER SERVICE.

Not later than June 30, 2016, the Commissioner of Internal Revenue shall submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives a report detailing specific ways to improve customer service to small businesses, including objectively measurable goals for how to reduce response times.

SEC. 203. RETURN DUE DATE MODIFICATIONS.

(a) NEW DUE DATE FOR PARTNERSHIP FORM 1065, S CORPORATION FORM 1120S, AND C CORPORATION FORM 1120.—

(1) PARTNERSHIPS.—

(A) IN GENERAL.—Section 6072 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(f) RETURNS OF PARTNERSHIPS.—Returns of partnerships under section 6031 made on the basis of the calendar year shall be filed on or before the 15th day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year.".

(B) CONFORMING AMENDMENT.—Section 6072(a) of such Code is amended by striking "6017, or 6031" and inserting "or 6017".

(2) S CORPORATIONS.—

(A) IN GENERAL.—So much of subsection (b) of 6072 of such Code as precedes the second sentence thereof is amended to read as follows:

"(b) RETURNS OF CERTAIN CORPORATIONS.—Returns of S corporations under sections 6012 and 6037 made on the basis of the calendar year shall be filed on or before the 31st day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the last day of the third month following the close of the fiscal year.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 1362(b) of such Code is amended—

(I) by striking ''15th'' each place it appears and inserting ''last'',

(II) by striking ''2½'' each place it appears and inserting ''3'', and

(III) by striking ''2 months and 15 days'' in paragraph (4) and inserting ''3 months''.

(ii) Section 1362(d)(1)(C)(i) of such Code is amended by striking ''15th'' and inserting ''last''.

(iii) Section 1362(d)(1)(C)(ii) of such Code is amended by striking ''such 15th day'' and inserting ''the last day of the 3d month thereof''.

(3) CONFORMING AMENDMENTS RELATING TO C CORPORATIONS.—

(A) Section 170(a)(2)(B) of such Code is amended by striking ''third month'' and inserting ''4th month''.

(B) Section 563 of such Code is amended by striking ''third month'' each place it appears and inserting ''4th month''.

(C) Section 1354(d)(1)(B)(i) of such Code is amended by striking ''3d month'' and inserting ''4th month''.

(D) Subsection (a) and (c) of section 6167 of such Code are each amended by striking ''third month'' and inserting ''4th month''.

(E) Section 6425(a)(1) of such Code is amended by striking ''third month'' and inserting ''4th month''.

(F) Subsections (b)(2)(A), (g)(3), and (h)(1) of section 6655 of such Code are each amended by striking ''3rd month'' and inserting ''4th month''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns for taxable years beginning after December 31, 2015.

(b) MODIFICATION OF DUE DATES BY REGULATION.—In the case of returns for taxable years beginning after December 31, 2013, the Secretary of the Treasury or the Secretary's delegate shall modify appropriate regulations to provide as follows:

(1) The maximum extension for the returns of partnerships filing Form 1065 shall be a 6-month period beginning on the due date for filing the return (without regard to any extensions).

(2) The maximum extension for the returns of trusts and estates filing Form 1041 shall be a 5½-month period beginning on the due date for filing the return (without regard to any extensions).

(3) The maximum extension for the returns of employee benefit plans filing Form 5500 shall be an automatic 3½-month period beginning on the due date for filing the return (without regard to any extensions).

(4) The maximum extension for the Forms 990 (series) returns of organizations exempt from income tax shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(5) The maximum extension for the returns of organizations exempt from income tax that are required to file Form 4720 returns of excise taxes shall be an automatic 6-month period beginning on

the due date for filing the return (without regard to any extensions).

(6) The maximum extension for the returns of trusts required to file Form 5227 shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(7) The maximum extension for the returns of Black Lung Benefit Trusts required to file Form 6069 returns of excise taxes shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(8) The maximum extension for a taxpayer required to file Form 8870 shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(9) The due date of Form 3520–A, Annual Information Return of a Foreign Trust with a United States Owner, shall be the 15th day of the 4th month after the close of the trust's taxable year, and the maximum extension shall be a 6-month period beginning on such day.

(10) The due date of FinCEN Form 114 (relating to Report of Foreign Bank and Financial Accounts) shall be April 15 with a maximum extension for a 6-month period ending on October 15, and

with provision for an extension under rules similar to the rules of 26 C.F.R. 1.6081–5. For any taxpayer required to file such form for the first time, the Secretary of the Treasury may waive any penalty for failure to timely request or file an extension.

(11) Taxpayers filing Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, shall be allowed to extend the time for filing such form separately from the income tax return of the taxpayer, for an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

(c) CORPORATIONS PERMITTED STATUTORY AUTOMATIC 6-MONTH EXTENSION OF INCOME TAX RETURNS.—

(1) IN GENERAL.—Section 6081(b) of the Internal Revenue Code of 1986 is amended by striking ‘‘3 months’’ and inserting ‘‘6 months’’.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to returns for taxable years beginning after December 31, 2015.

TITLE III—PROVISIONS RELATED TO START-UP BUSINESSES

SEC. 301. REDUCTION IN HOLDING PERIOD FOR QUALIFIED SMALL BUSINESS STOCK.

(a) IN GENERAL.—Paragraph (1) of section 1202(a) of the Internal Revenue Code of 1986 is amended by striking ''5 years'' and inserting ''3 years''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1202(b) of such Code is amended by striking ''5 years'' and inserting ''3 years''

(2) Subparagraph (A) of section 1202(g)(2) of such Code is amended by striking ''5 years'' and inserting ''3 years'',

(3) Subparagraph (C) of section 1202(h)(2) of such Code is amended by striking ''5-year'' and inserting ''3-year'', and

(4) Subparagraph (A) of section 1202(j)(1) of such Code is amended by striking ''5 years'' and inserting ''3 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

SEC. 302. EXTENSION OF ROLLOVER PERIOD FOR QUALIFIED SMALL BUSINESS STOCK.

(a) IN GENERAL.—Paragraph (1) of section 1045(a) of the Internal Revenue Code of 1986 is amended by striking ''60-day period'' and inserting ''1-year period''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1045(b) of such Code is amended by striking ''60-day period'' and inserting ''1-year period''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

TITLE IV—PROMOTION AND EXPANSION OF PRIVATE EMPLOYEE OWNERSHIP

SEC. 401. SHORT TITLE.

This title may be cited as the ''Promotion and Expansion of Private Employee Ownership Act of 2015''.

SEC. 402. FINDINGS.

Congress finds that—

(1) on January 1, 1998—nearly 25 years after the Employee Retirement Income Security Act of 1974 was enacted and the employee stock ownership plan (hereafter in this section referred to as an ''ESOP'') was created—employees were first permitted to be owners of subchapter S corporations

pursuant to the Small Business Job Protection Act of 1996 (Public Law 104–188);

(2) with the passage of the Taxpayer Relief Act of 1997 (Public Law 105–34), Congress designed incentives to encourage businesses to become ESOP-owned S corporations;

(3) since that time, several thousand companies have become ESOP-owned S corporations, creating an ownership interest for several million Americans in companies in every State in the country, in industries ranging from heavy manufacturing to technology development to services;

(4) while estimates show that 40 percent of working Americans have no formal retirement account at all, every United States worker who is an employee-owner of an S corporation company through an ESOP has a valuable qualified retirement savings account;

(5) recent studies have shown that employees of ESOP-owned S corporations enjoy greater job stability than employees of comparable companies;

(6) studies also show that employee-owners of S corporation ESOP companies have amassed meaningful retirement savings through their S ESOP ac-

counts that will give them the means to retire with dignity;

(7) under the Small Business Act (15 U.S.C. 631 et seq.) and the regulations promulgated by the Administrator of the Small Business Administration, a small business concern that was eligible under the Small Business Act for the numerous preferences of the Act is denied treatment as a small business concern after an ESOP acquires more than 49 percent of the business, even if the number of employees, the revenue of the small business concern, and the racial, gender, or other criteria used under the Act to determine whether the small business concern is eligible for benefits under the Act remain the same, solely because of the acquisition by the ESOP; and

(8) it is the goal of Congress to both preserve and foster employee ownership of S corporations through ESOPs.

SEC. 403. DEFERRAL OF TAX FOR CERTAIN SALES OF EMPLOYER STOCK TO EMPLOYEE STOCK OWNERSHIP PLAN SPONSORED BY S CORPORATION.

(a) IN GENERAL.—Subparagraph (A) of section 1042(c)(1) of the Internal Revenue Code of 1986 is amended by striking "domestic C corporation" and inserting "domestic corporation".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the date of the enactment of this Act.

SEC. 404. DEPARTMENT OF TREASURY TECHNICAL ASSISTANCE OFFICE.

(a) ESTABLISHMENT REQUIRED.—Before the end of the 90-day period beginning on the date of enactment of this Act, the Secretary of Treasury shall establish the S Corporation Employee Ownership Assistance Office to foster increased employee ownership of S corporations.

(b) DUTIES OF THE OFFICE.—The S Corporation Employee Ownership Assistance Office shall provide—

(1) education and outreach to inform companies and individuals about the possibilities and benefits of employee ownership of S corporations; and

(2) technical assistance to assist S corporations in sponsoring employee stock ownership plans.

SEC. 405. SMALL BUSINESS AND EMPLOYEE STOCK OWNERSHIP.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 47 as section 48; and

(2) by inserting after section 46 the following:

"SEC. 47. EMPLOYEE STOCK OWNERSHIP PLANS.

"(a) DEFINITIONS.—In this section—

"(1) the term 'ESOP' means an employee stock ownership plan, as defined in section 4975(e)(7) of the Internal Revenue Code of 1986, as amended; and

"(2) the term 'ESOP business concern' means a business concern that was a small business concern eligible for a loan, preference, or other program under this Act before the date on which more than 49 percent of the business concern was acquired by an ESOP.

"(b) CONTINUED ELIGIBILITY.—In determining whether an ESOP business concern qualifies as a small business concern for purposes of a loan, preference, or other program under this Act, each ESOP participant shall be treated as directly owning his or her proportionate share of the stock in the ESOP business concern owned by the ESOP.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1 of the first calendar year beginning after the date of the enactment of this Act.

Calendar No. 226

114TH CONGRESS
1ST SESSION

S. RES. 252

RESOLUTION

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SEPTEMBER 15, 2015

Placed on the calendar