

103D CONGRESS
1ST SESSION

H. R. 104

To amend the Internal Revenue Code of 1986 to promote investment in small businesses by providing Federal tax relief and simplification for such businesses and their investors.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. MICHEL (for himself, Mr. ARCHER, and Mrs. MEYERS of Kansas) 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 promote investment in small businesses by providing Federal tax relief and simplification for such businesses and their investors.

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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Business Investment Act of 1993”.

6 (b) AMENDMENTS OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or other provi-
3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. PURPOSE.**

5 It is the purpose of this Act to simplify Federal tax
6 laws applicable to small businesses. The resulting decrease
7 in operating costs and increase in economic return will
8 stimulate small business investment and create new jobs.

9 **SEC. 3. EFFECTIVE DATE.**

10 Except as otherwise provided, the amendments made
11 by this Act shall apply to taxable years beginning after
12 December 31, 1992.

13 **TITLE I—INVESTMENT**
14 **INCENTIVES**

15 **SEC. 101. INCREASE IN SMALL BUSINESS EXPENSING AL-**
16 **LOWANCE.**

17 Section 179(b)(1) (relating to dollar limitation) is
18 amended by striking “\$10,000” and inserting “\$25,000”.

19 **SEC. 102. ELECTION TO EXPENSE SMALL BUSINESS START-**
20 **UP EXPENDITURES.**

21 (a) GENERAL RULE.—Section 195 (relating to treat-
22 ment of start-up expenditures) is amended by redesignat-
23 ing subsections (c) and (d) as subsections (d) and (e), re-
24 spectively, and by inserting after subsection (b) the follow-
25 ing new subsection:

1 “(c) ELECTION TO EXPENSE.—

2 “(1) GENERAL RULE.—Notwithstanding sub-
3 section (a), start-up expenditures may, at the elec-
4 tion of a qualified taxpayer, be allowed as a deduc-
5 tion for the taxable year in which the active trade
6 or business begins. The amount of start-up expendi-
7 tures allowed as a deduction under the preceding
8 sentence to any taxpayer shall not exceed \$2,500.

9 “(2) QUALIFIED TAXPAYER.—A taxpayer is a
10 qualified taxpayer if the taxpayer reasonably expects
11 or knows (as of the due date, determined with re-
12 gard to extensions, for filing its return for the tax-
13 able year in which the active trade or business be-
14 gins) that the taxpayer’s gross receipts for the 12-
15 month period beginning with the month in which the
16 active trade or business begins will not exceed (or
17 has not exceeded) \$500,000.

18 “(3) IN ADDITION TO ELECTION TO AMOR-
19 TIZE.—If the taxpayer makes an election under
20 paragraph (1), start-up expenses that exceed \$2,500
21 may, at the election of the taxpayer, be treated as
22 deferred expenses as provided in subsection (b).

23 “(4) AGGREGATION RULES.—All persons treat-
24 ed as a single employer under subsection (a) or (b)

1 of section 52 shall be treated as one person for pur-
2 poses of this subsection.”.

3 (b) CONFORMING AMENDMENT.—Paragraph (1) of
4 section 195(e) (as redesignated by subsection (a)) is
5 amended by striking “subsection (b)” and inserting “sub-
6 section (b) or (c)”.

7 **SEC. 103. SMALL BUSINESS AMT EXCEPTIONS.**

8 (a) GENERAL RULE.—Part VI of subchapter A of
9 chapter 1 is amended by inserting after section 58 the fol-
10 lowing new section:

11 **“SEC. 58A. SPECIAL EXCEPTIONS FOR SMALL BUSINESSES.**

12 “(a) GENERAL RULE.—For purposes of this part—

13 “(1) the adjustments listed in subsection (b),

14 and

15 “(2) the preferences listed in subsection (c),

16 shall not be taken into account for any purpose in comput-
17 ing alternative minimum taxable income from any quali-
18 fied small business activity of the taxpayer.

19 “(b) ADJUSTMENTS NOT TAKEN INTO ACCOUNT BY
20 QUALIFIED SMALL BUSINESS TAXPAYERS.—The adjust-
21 ments listed in this subsection are the adjustments pro-
22 vided by the following provisions:

23 “(1) Section 56(a)(1) (relating to depreciation).

24 “(2) Section 56(a)(2) (relating to mining explo-
25 ration and development costs).

1 “(3) Section 56(a)(3) (relating to long-term
2 contracts).

3 “(4) Section 56(a)(5) (relating to pollution con-
4 trol facilities).

5 “(5) Section 56(a)(6) (relating to installment
6 sales).

7 “(6) Section 56(b)(2) (relating to circulation
8 and research expenditures).

9 “(7) Section 56(c) (relating to special adjust-
10 ments for corporations).

11 “(c) PREFERENCES NOT TAKEN INTO ACCOUNT BY
12 QUALIFIED SMALL BUSINESSES.—The preferences listed
13 in this subsection are the preferences provided by the fol-
14 lowing provisions:

15 “(1) Section 57(a)(1) (relating to depletion).

16 “(2) Section 57(a)(2) (relating to intangible
17 drilling costs).

18 “(3) Section 57(a)(4) (relating to bad debts re-
19 serve).

20 “(4) Section 57(a)(7) (relating to accelerated
21 depreciation or amortization).

22 “(d) DEFINITIONS.—

23 “(1) QUALIFIED SMALL BUSINESS ACTIVITY.—
24 For purposes of this section, the term ‘qualified
25 small business activity’ means any trade or business

1 activity conducted by an individual or by a corpora-
2 tion or partnership if such individual or entity (as
3 the case may be) meets the \$1,000,000 gross re-
4 ceipts test of paragraph (3) for all prior taxable
5 years beginning after December 31, 1991.

6 “(2) \$1,000,000 GROSS RECEIPTS TEST.—For
7 purposes of paragraph (1)—

8 “(A) IN GENERAL.—An individual or en-
9 tity meets the \$1,000,000 gross receipts test of
10 this subsection for any prior taxable year if the
11 average annual gross receipts of such person or
12 entity for the 3-taxable year period ending with
13 such prior taxable year does not exceed
14 \$1,000,000.

15 “(B) AGGREGATION AND SPECIAL
16 RULES.—For purposes of subparagraph (A),
17 aggregation and special rules similar to the
18 rules of paragraphs (2) and (3) of section
19 448(c) shall apply in determining whether an
20 individual or entity satisfies the \$1,000,000
21 gross receipts test.

22 “(e) FRESH START TRANSITIONAL RULES FOR AN
23 ACTIVITY THAT CEASES TO BE A QUALIFIED SMALL
24 BUSINESS ACTIVITY.—

1 “(1) IN GENERAL.—If an activity ceases to be
2 a qualified small business activity, the adjustments
3 and preferences with respect to the activity listed in
4 subsections (b) and (c) shall be applied in computing
5 alternative minimum taxable income for the taxable
6 year of the cessation and subsequent taxable years
7 by substituting the last day of the last taxable year
8 in which the activity was as a qualified small busi-
9 ness activity for December 31, 1986, and December
10 31, 1989. Any references to January 1, 1987, or
11 January 1, 1990, in sections 56 and 57 shall be
12 treated as if such references were to the first day of
13 the taxable year in which the activity ceased to be
14 a qualified small business activity.

15 “(2) EFFECT OF ADJUSTMENTS PRIOR TO THE
16 ENACTMENT OF THIS SECTION.—

17 “(A) IN GENERAL.—In determining the
18 amount of any adjustments or preferences with
19 respect to an activity in a taxable year in which
20 (or after) the activity ceases to be a qualified
21 small business activity, any of the adjustments
22 listed in subsection (b) and previously taken
23 into account with respect to the activity in a
24 taxable year beginning on or before December
25 31, 1992, shall be disregarded.

1 “(B) FRESH START BASIS.—As of the first
2 day of the taxable year in which an activity
3 ceases to be a qualified small business activity,
4 the basis of the activity’s assets for purposes of
5 determining the regular tax shall be used in
6 computing the adjustments and preferences re-
7 quired under sections 56 and 57.

8 “(f) ELECTION TO BE TREATED AS OTHER THAN
9 A QUALIFIED SMALL BUSINESS ACTIVITY.—An activity
10 may elect to be treated for all taxable years as other than
11 a qualified small business activity. Such election shall be
12 made on or before the due date of the activity’s return
13 (determined without regard to extensions) for the later
14 of—

15 “(1) the first taxable year that the activity is
16 a qualified small business activity, or

17 “(2) the first taxable year beginning after De-
18 cember 31, 1992.

19 “(g) REGULATIONS.—The Secretary shall prescribe
20 such regulations as may be necessary or appropriate to
21 carry out the purposes of this section.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for part VI of subchapter A of chapter 1 is amended by
24 inserting after the item relating to section 58 the following
25 new item:

 “Sec. 58A. Special exceptions for small businesses.”

1 **SEC. 104. INCREASE IN PERMITTED NUMBER OF SUB-**
2 **CHAPTER S SHAREHOLDERS.**

3 Subparagraph (A) of section 1361(b)(1) (defining
4 small business corporation) is amended by striking “35”
5 and inserting “50”.

6 **TITLE II—ACCOUNTING**
7 **PROVISIONS**

8 **SEC. 201. INFLATION-ADJUSTED FIFO INVENTORY METHOD**
9 **FOR CERTAIN SMALL BUSINESSES.**

10 (a) GENERAL RULE.—Subpart D of part II of
11 subchapter E of chapter 1 (relating to inventories) is
12 amended by adding at the end thereof the following new
13 section:

14 **“SEC. 475. INFLATION-ADJUSTED FIFO INVENTORY METH-**
15 **OD FOR CERTAIN SMALL BUSINESSES.**

16 “(a) GENERAL RULE.—An eligible small business
17 may elect to use the inflation-adjusted FIFO inventory
18 method for purposes of valuing all of its inventories.

19 “(b) INFLATION-ADJUSTED FIFO INVENTORY
20 METHOD OF VALUING INVENTORIES.—For purposes of
21 this section—

22 “(1) IN GENERAL.—The inflation-adjusted
23 FIFO inventory method of valuing inventories is a
24 method of valuing inventories under which—

1 “(A) the taxpayer maintains its inventory
2 under the first-in, first-out method authorized
3 by section 471, and

4 “(B) cost of goods sold is increased each
5 taxable year by an amount computed by mul-
6 tiplying the applicable Consumer Price Index
7 increase by so much of the total beginning of
8 the year FIFO inventory (computed in subpara-
9 graph (A)) as does not exceed the total ending
10 of the year FIFO inventory.

11 “(2) APPLICABLE CONSUMER PRICE INDEX IN-
12 CREASE.—The term ‘applicable Consumer Price
13 Index increase’ means the percentage increase (if
14 any) in the Consumer Price Index for all-urban con-
15 sumers published by the Department of Labor dur-
16 ing the calendar year ending with or within the tax-
17 able year of the taxpayer.

18 “(c) ELIGIBLE SMALL BUSINESS.—For purposes of
19 this section, a taxpayer is an eligible small business for
20 any taxable year if the average annual gross receipts of
21 the taxpayer for the 3 preceding taxable years do not ex-
22 ceed \$10,000,000. For purposes of the preceding sentence,
23 rules similar to the rules of paragraphs (2) and (3) of sec-
24 tion 448(c) shall apply.

1 “(d) 6-YEAR AVERAGING FOR INCREASES IN INVEN-
2 TORY VALUE.—The beginning inventory for the first tax-
3 able year for which the method described in subsection (b)
4 is used (and for all subsequent years that the method is
5 used) shall be valued at cost. Any change in the inventory
6 amount resulting from the application of the preceding
7 sentence shall be taken into account ratably in each of
8 the 6 taxable years beginning with the first taxable year
9 for which the method described in subsection (b) is first
10 used.

11 “(e) SPECIAL RULES.—For purposes of this sec-
12 tion—

13 “(1) ELECTION.—

14 “(A) IN GENERAL.—The election under
15 this section may be made without the consent
16 of the Secretary.

17 “(B) PERIOD TO WHICH ELECTION AP-
18 PLIES.—The election under this section shall
19 apply—

20 “(i) to the taxable year for which it is
21 made, and

22 “(ii) to all subsequent taxable years
23 for which the taxpayer is an eligible small
24 business, unless the taxpayer secures the

1 consent of the Secretary to the revocation
2 of such election.

3 “(2) CHANGES IN METHOD OF ACCOUNTING.—

4 “(A) TAXPAYERS CHANGING FROM LIFO
5 TO THE METHOD UNDER THIS SECTION.—In
6 the case of a change from a LIFO method
7 under section 472 or 474 to an election under
8 this section—

9 “(i) beginning inventory shall be re-
10 stated to FIFO as described in subsection
11 (b), and

12 “(ii) the difference between restated
13 inventory computed in clause (i) and the
14 basis of the taxpayer’s inventory computed
15 under LIFO will be treated as an increase
16 to basis of inventory with no corresponding
17 increase to income.

18 “(B) TAXPAYERS CHANGING FROM THE
19 METHOD UNDER THIS SECTION TO LIFO.—A
20 taxpayer changing its method of accounting to
21 LIFO from the method prescribed in this sec-
22 tion—

23 “(i) may change its method of ac-
24 counting without the consent of the Com-
25 missioner, provided the taxpayer has not

1 used the LIFO method within the past six
2 taxable years, and

3 “(ii) must comply with section 472
4 and the regulations thereunder regarding
5 the adoption of LIFO.

6 “(C) TAXPAYERS CHANGING FROM THE
7 METHOD UNDER THIS SECTION TO FIFO.—A
8 taxpayer changing its method of accounting to
9 FIFO from the method prescribed in this sec-
10 tion may change its method of accounting with-
11 out the consent of the Commissioner.

12 “(f) REGULATIONS.—The Secretary shall be author-
13 ized to prescribe regulations necessary to carry out the
14 purposes of this section.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for subpart D of part II of subchapter E of chapter 1
17 is amended by adding at the end thereof the following new
18 item:

“Sec. 475. Inflation-adjusted FIFO method for certain small busi-
nesses.”

19 **SEC. 202. EXEMPT SMALL BUSINESS FROM THE UNIFORM**
20 **CAPITALIZATION RULES.**

21 (a) AMENDMENTS TO SECTION 263A.—

22 (1) IN GENERAL.—Subsection (c) of section
23 263A is amended by adding at the end thereof the
24 following new paragraph:

1 “(7) TAXPAYERS WITH GROSS RECEIPTS OF
2 \$10,000,000 OR LESS.—

3 “(A) IN GENERAL.—This section shall not
4 apply to any taxpayer if the average annual
5 gross receipts of the taxpayer (or any prede-
6 cessor) for the 3-taxable year period ending
7 with the taxable year preceding such taxable
8 year do not exceed \$10,000,000. For purposes
9 of the preceding sentence, rules similar to the
10 rules of paragraphs (2) and (3) of section
11 448(c) shall apply.

12 “(B) CHANGES IN METHOD OF ACCOUNT-
13 ING.—Except as otherwise provided by the Sec-
14 retary through regulations (or other administra-
15 tive guidance), a taxpayer changing its method
16 of accounting by reason of satisfying or failing
17 to satisfy the \$10,000,000 average annual gross
18 receipts test in subparagraph (A) must obtain
19 the consent of the Secretary to change its meth-
20 od of accounting.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Paragraph 2 of section 263A(b) is
23 amended to read as follows:

1 “(2) PROPERTY ACQUIRED FOR RESALE.—Real
2 or personal property described in section 1221(1)
3 which is acquired by the taxpayer for resale.”

4 (B) Subsection (i)(2) of section 263A is
5 amended by striking “in the case of property
6 described in subsection (b)(2)”.

7 (b) AMENDMENT TO SECTION 471.—Section 471 (re-
8 lating to general rules for inventories) is amended by re-
9 designating subsection (b) as subsection (c) and inserting
10 after subsection (a) the following new subsection:

11 “(b) COST CAPITALIZATION FOR TAXPAYERS WITH
12 GROSS RECEIPTS THAT DO NOT EXCEED \$1,000,000.—

13 “(1) IN GENERAL.—If a taxpayer’s average an-
14 nual gross receipts for its immediately preceding
15 three taxable years do not exceed \$1,000,000 the
16 taxpayer shall not be required to include in its in-
17 ventory costs any indirect costs incurred. For pur-
18 poses of the preceding sentence, indirect costs in-
19 clude all costs other than direct costs of acquiring
20 or producing the inventory. For purposes of this
21 subsection, rules similar to the rules of paragraphs
22 (2) and (3) of section 448(c) shall apply in deter-
23 mining whether a taxpayer has average annual gross
24 receipts that do not exceed \$1,000,000.

1 “(2) CHANGES IN METHOD OF ACCOUNTING.—
2 Except as otherwise provided by the Secretary
3 through regulations (or other administrative guid-
4 ance), a taxpayer changing its method of accounting
5 by reason of satisfying or failing the \$1,000,000 av-
6 erage annual gross receipts test in paragraph (1)
7 must obtain the consent of the Secretary to change
8 its method of accounting for indirect costs under
9 paragraph (1).”.

10 (c) AMENDMENT TO SECTION 263.—Section 263 (re-
11 lating to capital expenditures) is amended by adding at
12 the end thereof the following new subsection:

13 “(j) COST CAPITALIZATION FOR TAXPAYERS WITH
14 GROSS RECEIPTS THAT DO NOT EXCEED \$1,000,000.—
15 If a taxpayer’s average annual gross receipts for its imme-
16 diately preceding 3 taxable years do not exceed
17 \$1,000,000, the taxpayer shall not be required to capital-
18 ize any indirect costs incurred in the taxpayer’s current
19 taxable year to its capital expenditures. For purposes of
20 the preceding sentence, indirect costs include all costs
21 other than direct costs. For purposes of this subsection,
22 rules similar to the rules of paragraphs (2) and (3) of sec-
23 tion 448(c) shall apply in determining whether a taxpayer
24 has average annual gross receipts that do not exceed
25 \$1,000,000.”.

1 (d) EFFECTIVE DATES.—

2 (1) SPECIAL RULE APPLICABLE TO INVENTORY
3 PROPERTY.—

4 (A) IN GENERAL.—The amendments made
5 by subsections (a) and (b) shall apply to taxable
6 years beginning after December 31, 1992.

7 (B) CHANGE IN METHOD OF ACCOUNT-
8 ING.—If the taxpayer is permitted by the
9 amendments made by this section to change its
10 method of accounting with respect to inventory
11 for its 1st taxable year beginning after Decem-
12 ber 31, 1992—

13 (i) such change shall be treated as ini-
14 tiated by the taxpayer,

15 (ii) such change shall be treated as
16 made with the consent of the Secretary,

17 (iii) the net amount of adjustments
18 required by section 481 of the Internal
19 Revenue Code of 1986 shall be taken into
20 account over a period not longer than 3
21 years.

22 In applying clause (iii), however, the Secretary
23 may prescribe any other administrative proce-
24 dures (for example, a cut-off method) for
25 effecting the permitted method change which

1 would prevent duplications or omissions of in-
2 come or deductions, and thus make adjustments
3 under section 481 unnecessary.

4 (2) NONINVENTORY EFFECTIVE DATE.—The
5 amendments made by subsection (c) shall apply with
6 respect to costs incurred in taxable years beginning
7 after December 31, 1992.

8 **SEC. 203. EXEMPTION OF SMALL BUSINESSES FROM LONG-**
9 **TERM CONTRACT RULES.**

10 (a) GENERAL RULE.—

11 (1) Paragraph (1) of section 460(e) is amended
12 to read as follows:

13 “(1) IN GENERAL.—

14 “(A) Subsections (a), (b), and (c) (1) and
15 (2) shall not apply to any home construction
16 contract.

17 “(B) This section shall not apply to any
18 other contract entered into by a taxpayer whose
19 average annual gross receipts for the 3 taxable
20 years immediately preceding the taxable year in
21 which such contract is entered into do not ex-
22 ceed \$10,000,000.

23 In the case of a home construction contract with re-
24 spect to which the requirements of subparagraph

1 (B) are not met, section 263A shall apply notwith-
2 standing subsection (c)(4) thereof.”.

3 (2) The subsection heading for subsection (e) of
4 section 460 is amended by striking “CONSTRUC-
5 TION”.

6 (b) AMT EXCEPTION FOR SMALL CONTRACTORS.—
7 Paragraph (3) of section 56(a) is amended to read as fol-
8 lows:

9 “(3) TREATMENT OF CERTAIN LONG-TERM
10 CONTRACTS.—In the case of any long-term contract
11 entered into by the taxpayer on or after March 1,
12 1986, the taxable income from such contract shall be
13 determined under the percentage of completion
14 method of accounting (as modified by section
15 460(b)). The preceding sentence shall not apply to
16 any contract described in section 460(e)(1).”.

17 (c) AMENDMENTS TO SECTION 451.—Section 451 is
18 amended by adding at the end thereof the following new
19 subsection:

20 “(h) SPECIAL RULE FOR DETERMINING INCOME
21 FROM A LONG-TERM CONTRACT FOR ELIGIBLE TAX-
22 PAYERS.—

23 “(1) IN GENERAL.—A taxpayer shall not be re-
24 quired to allocate indirect costs to any long-term

1 contract entered into during a taxable year for which
2 the taxpayer is an eligible taxpayer.

3 “(2) ELIGIBLE TAXPAYER.—For purposes of
4 this subsection, an ‘eligible taxpayer’ is a taxpayer
5 whose average annual gross receipts for the 3 tax-
6 able years immediately preceding the current taxable
7 year do not exceed \$1,000,000. For purposes of the
8 preceding sentence, rules similar to the rules of
9 paragraphs (2) and (3) of section 448(c) shall apply
10 in determining whether a taxpayer has average an-
11 nual gross receipts that do not exceed \$1,000,000.

12 “(3) INDIRECT COSTS.—For purposes of this
13 subsection, indirect costs are all costs other than di-
14 rect costs.”

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to contracts entered into in taxable
17 years beginning after December 31, 1992.

○

HR 104 IH—2