

105TH CONGRESS  
1ST SESSION

# S. 576

To amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in corporate accounts.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 15, 1997

Mr. LEVIN (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in corporate 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 “Ending Double Stand-  
5       ards for Stock Options Act”.

1 **SEC. 2. REQUIREMENTS FOR CONSISTENT TREATMENT OF**  
2 **STOCK OPTIONS BY CORPORATIONS.**

3 (a) CONSISTENT TREATMENT FOR TAX DEDUC-  
4 TION.—Section 83(h) of the Internal Revenue Code of  
5 1986 (relating to deduction of employer) is amended by  
6 adding at the end the following new paragraph:

7 “(2) SPECIAL RULES FOR PROPERTY TRANS-  
8 FERRED PURSUANT TO STOCK OPTIONS.—

9 “(A) IN GENERAL.—In the case of prop-  
10 erty transferred in connection with a stock op-  
11 tion, the deduction otherwise allowable under  
12 paragraph (1) shall not exceed the amount the  
13 taxpayer has treated as an expense for the pur-  
14 pose of ascertaining income, profit, or loss in a  
15 report or statement to shareholders, partners,  
16 or other proprietors (or to beneficiaries). In no  
17 event shall such deduction be allowed before the  
18 taxable year described in paragraph (1).

19 “(B) EXCEPTION FOR BROAD-BASED OP-  
20 TION PROGRAMS.—Subparagraph (A) shall not  
21 apply to property transferred in connection with  
22 a stock option if, at the time the stock option  
23 was granted—

24 “(i) substantially all employees of the  
25 corporation issuing such stock option were

1 eligible to receive substantially similar  
2 stock options from such corporation,

3 “(ii) no individual performing services  
4 for such corporation received more than 20  
5 percent of the total number of stock op-  
6 tions granted by such corporation during  
7 the taxable year, and

8 “(iii) at least 50 percent of the total  
9 number of stock options granted by such  
10 corporation during such taxable year were  
11 issued to employees other than individuals  
12 performing executive or management serv-  
13 ices for such corporation.

14 “(C) EMPLOYEES COVERED.—For pur-  
15 poses of this paragraph, an employee shall be  
16 taken into account only if—

17 “(i) the employee is a full-time em-  
18 ployee, and

19 “(ii) substantially all of the services  
20 performed by the employee for the corpora-  
21 tion are performed within the United  
22 States.

23 “(D) SPECIAL RULES FOR CONTROLLED  
24 GROUPS.—The Secretary shall prescribe rules  
25 for the application of this paragraph in cases

1           where the stock option is granted by a parent  
2           or subsidiary corporation (within the meaning  
3           of section 424) of the employer corporation.”

4           (b) CONSISTENT TREATMENT FOR RESEARCH TAX  
5 CREDIT.—Section 41(b)(2)(D) of the Internal Revenue  
6 Code of 1986 (defining wages for purposes of credit for  
7 increasing research expenses) is amended by inserting at  
8 the end the following new clause:

9                           “(iv) SPECIAL RULE FOR STOCK OP-  
10                           TIONS AND STOCK-BASED PLANS.—The  
11                           term ‘wages’ shall not include any amount  
12                           of property transferred in connection with  
13                           a stock option and required to be included  
14                           in a report or statement under section  
15                           83(h)(2) until it is so included, and the  
16                           portion of such amount which may be  
17                           treated as wages for a taxable year shall  
18                           not exceed the amount of the deduction al-  
19                           lowed under section 83(h) for such taxable  
20                           year with respect to such amount.”

21           (c) CONFORMING AMENDMENTS.—Section 83(h) of  
22 the Internal Revenue Code of 1986 is amended by striking  
23 “In the case of” and inserting:

24                           “(1) IN GENERAL.—In the case of”.

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property transferred and wages  
3 provided on or after the date of the enactment of this Act,  
4 pursuant to stock options granted on or after such date.

○