

110TH CONGRESS
2^D SESSION

H. R. 6422

To amend the Internal Revenue Code of 1986 to allow small businesses a refundable income tax credit to offset the cost of providing health care coverage for employees.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2008

Mr. SPACE 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 allow small businesses a refundable income tax credit to offset the cost of providing health care coverage for employees.

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 Health
5 Care Relief Act of 2008”.

1 **SEC. 2. REFUNDABLE CREDIT FOR SMALL BUSINESSES**
2 **WHICH PROVIDE HEALTH CARE COVERAGE**
3 **FOR EMPLOYEES.**

4 (a) IN GENERAL.—Subpart C of part IV of sub-
5 chapter A of chapter 1 of the Internal Revenue Code of
6 1986 (relating to refundable credits) is amended by redес-
7 ignating section 36 as section 37 and by inserting after
8 section 35 the following new section:

9 **“SEC. 36. SMALL BUSINESSES PROVIDING HEALTH CARE**
10 **COVERAGE FOR EMPLOYEES.**

11 “(a) IN GENERAL.—In the case of an eligible small
12 business, there shall be allowed as a credit against the tax
13 imposed by this subtitle for the taxable year an amount
14 equal to the applicable percentage of the expenses paid
15 or incurred by the taxpayer for qualified health care cov-
16 erage of eligible employees, their spouses, and dependents
17 (within the meaning of section 213(a)).

18 “(b) APPLICABLE PERCENTAGE.—For purposes of
19 this section, the term ‘applicable percentage’ means—

20 “(1) 50 percent if qualified health care coverage
21 is provided by the taxpayer to an average (on days
22 during the taxable year) of 10 or fewer eligible em-
23 ployees of the taxpayer,

24 “(2) 25 percent if qualified health care coverage
25 is provided by the taxpayer to an average (on such

1 days) of at least 10 but not more than 25 eligible
2 employees of the taxpayer, and

3 “(3) 15 percent if qualified health care coverage
4 is provided by the taxpayer to an average (on such
5 days) of more than 25 eligible employees of the tax-
6 payer.

7 “(c) ELIGIBLE SMALL BUSINESS.—For purposes of
8 this section, the term ‘eligible small business’ means any
9 taxpayer engaged in a trade or business if the taxpayer
10 meets the requirements of the following paragraphs:

11 “(1) 50 OR FEWER EMPLOYEES.—

12 “(A) IN GENERAL.—A taxpayer meets the
13 requirements of this paragraph if the taxpayer
14 employs an average of 50 or fewer employees on
15 business days during the preceding taxable
16 year.

17 “(B) TAXPAYER NOT IN EXISTENCE.—In
18 any case in which the taxpayer is an entity and
19 is not in existence throughout the preceding
20 taxable year, subparagraph (A) shall be applied
21 by substituting ‘taxable year’ for ‘preceding tax-
22 able year’.

23 “(2) GROSS RECEIPTS LIMITATION.—

24 “(A) IN GENERAL.—A taxpayer meets the
25 requirements of this paragraph if the gross re-

1 receipts of the taxpayer for the preceding taxable
2 year do not exceed \$10,000,000.

3 “(B) TAXPAYER NOT IN EXISTENCE.—In
4 any case in which the taxpayer is an entity and
5 is not in existence throughout the preceding
6 taxable year, subparagraph (A) shall be applied
7 by substituting ‘taxable year’ for ‘preceding tax-
8 able year’.

9 “(C) SPECIAL RULES.—For purposes of
10 subparagraph (A), the rules of subparagraphs
11 (B) and (C) of section 448(c)(3) shall apply.

12 “(3) PLAN OFFERING REQUIREMENT.—A tax-
13 payer meets the requirements of the paragraph if—

14 “(A) the taxpayer offers qualified health
15 coverage, on the same terms and conditions, to
16 at least 90 percent of the taxpayer’s eligible
17 employees, and

18 “(B) such offering is made at least annu-
19 ally and at such other times and in such man-
20 ner as the Secretary shall prescribe.

21 “(4) PLAN PARTICIPATION REQUIREMENT.—

22 “(A) IN GENERAL.—A taxpayer meets the
23 requirements of the paragraph if the average
24 daily percentage of eligible employees who are
25 provided with qualified health coverage by the

1 taxpayer during the taxable year is not less
2 than such average for the preceding taxable
3 year.

4 “(B) EXCEPTIONS.—

5 “(i) NOT IN EXISTENCE.—Subpara-
6 graph (A) shall not apply if the trade or
7 business was not in existence throughout
8 the preceding taxable year.

9 “(ii) BUSINESS DECLINE.—Under
10 regulations prescribed by the Secretary,
11 subparagraph (A) shall not apply to the
12 extent that any reduction in such percent-
13 age is the result of a reduction in the num-
14 ber of employees of the taxpayer on ac-
15 count of a reduction in the gross receipts
16 of the taxpayer.

17 “(5) MINIMUM EMPLOYER PAYMENT.—A tax-
18 payer meets the requirements of the paragraph if at
19 least 65 percent of the cost of qualified health cov-
20 erage provided to each eligible employee is borne by
21 the employer (determined without regard to this sec-
22 tion).

23 “(d) ELIGIBLE EMPLOYEES.—For purposes of this
24 section, the term ‘eligible employee’ means any employee
25 of the taxpayer if—

1 “(1) such employee is not covered under—

2 “(A) any health plan of the employee’s
3 spouse,

4 “(B) title XVIII, XIX, or XXI of the So-
5 cial Security Act,

6 “(C) chapter 17 of title 38, United States
7 Code,

8 “(D) chapter 55 of title 10, United States
9 Code,

10 “(E) chapter 89 of title 5, United States
11 Code, or

12 “(F) any other provision of law, and

13 “(2) such employee is not a part-time or sea-
14 sonal employee.

15 “(e) QUALIFIED HEALTH COVERAGE.—For purposes
16 of this section, the term ‘qualified health coverage’ means
17 coverage under a health plan provided by the employer
18 which is substantially equivalent on an actuarial basis to
19 coverage provided chapter 89 of title 5, United States
20 Code.

21 “(f) SPECIAL RULES.—For purposes of this sec-
22 tion—

23 “(1) TREATMENT OF PREDECESSORS.—Any
24 reference in paragraphs (1), (2), and (4) of sub-

1 section (c) to an entity shall include a reference to
2 any predecessor of such entity.

3 “(2) CONTROLLED GROUPS.—All persons treat-
4 ed as a single employer under subsection (b) or (c)
5 of section 52 shall be treated as 1 person.

6 “(3) MERGERS AND ACQUISITIONS.—Rules
7 similar to the rules of subparagraphs (A) and (B) of
8 section 41(f)(3) shall apply.

9 “(4) EMPLOYEE TO INCLUDE SELF-EM-
10 PLOYED.—The term ‘employee’ includes an indi-
11 vidual who is an employee within the meaning of
12 section 401(c)(1) (relating to self-employed individ-
13 uals).

14 “(5) EXCEPTION FOR AMOUNTS PAID UNDER
15 SALARY REDUCTION ARRANGEMENTS.—No amount
16 paid or incurred pursuant to a salary reduction ar-
17 rangement shall be taken into account under sub-
18 section (a).”.

19 (b) DENIAL OF DOUBLE BENEFIT.—Section 280C of
20 such Code is amended by adding at the end the following
21 new subsection:

22 “(h) CREDIT FOR SMALL BUSINESS HEALTH INSUR-
23 ANCE EXPENSES.—

24 “(1) IN GENERAL.—No deduction shall be al-
25 lowed for that portion of the expenses (otherwise al-

1 lowable as a deduction) taken into account in deter-
2 mining the credit under section 36 for the taxable
3 year which is equal to the amount of the credit al-
4 lowed for such taxable year under section 36(a).

5 “(2) CONTROLLED GROUPS.—Paragraph (3) of
6 subsection (b) shall apply for purposes of this sub-
7 section.”.

8 (c) TECHNICAL AMENDMENTS.—

9 (1) Paragraph (2) of section 1324(b) of title
10 31, United States Code, is amended by inserting “or
11 36” after “section 35”.

12 (2) The table of sections for subpart C of part
13 IV of subchapter A of chapter 1 of the Internal Rev-
14 enue Code of 1986 is amended by striking the item
15 relating to section 36 and inserting the following
16 new items:

“Sec. 36. Small businesses providing health care coverage for employees.
“Sec. 37. Overpayments of tax.”.

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

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