

105TH CONGRESS  
2D SESSION

# S. 2130

To amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

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## IN THE SENATE OF THE UNITED STATES

JUNE 4 (legislative day, JUNE 2), 1998

Mr. GRAMS introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

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; REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Small Employer Nest Egg Act”.

6 (b) AMENDMENT 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  
9 to, or repeal of, a section or other provision, the reference

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

3 **SEC. 2. QUALIFIED SMALL EMPLOYER PLAN.**

4 (a) IN GENERAL.—Section 401 is amended by redese-  
5 ignating subsection (o) as subsection (p) and by inserting  
6 after subsection (n) the following new subsection:

7 “(o) QUALIFIED SMALL EMPLOYER PLAN.—

8 “(1) IN GENERAL.—A trust created or orga-  
9 nized in the United States and forming part of a  
10 small employer plan of a small employer for the ex-  
11 clusive benefit of its employees or their beneficiaries  
12 constitutes a qualified trust under subsection (a) if  
13 such plan meets the requirements of paragraph (2).

14 “(2) REQUIREMENTS.—A plan meets the re-  
15 quirements of this paragraph if—

16 “(A) such plan is the only qualified retire-  
17 ment plan of a small employer,

18 “(B) the plan year for such plan is the cal-  
19 endar year,

20 “(C) as of the 1st day of the plan year,  
21 such plan covers all eligible employees of the  
22 employer,

23 “(D) such plan meets the contribution re-  
24 quirements of paragraph (4),

1           “(E) such plan meets the vesting require-  
2           ments of paragraph (5),

3           “(F) such plan meets the funding require-  
4           ments of section 412, if applicable, and

5           “(G) such plan meets the other require-  
6           ments specified in paragraph (6).

7           “(3) ELIGIBLE EMPLOYEE.—For purposes of  
8           paragraph (2)(C), the term ‘eligible employee’ means  
9           an individual who—

10           “(A) has attained age 21, and

11           “(B) has completed not less than 1,000  
12           hours of service for the employer during the cal-  
13           endar year preceding the plan year.

14           “(4) CONTRIBUTIONS.—A plan meets the re-  
15           quirements of this paragraph and subsection (l)(2)  
16           (relating to permitted disparity) if—

17           “(A) employer contributions to the plan—

18           “(i) are not less than 3 percent, and  
19           do not in exceed 10 percent, of compensa-  
20           tion of all participants in the plan, and

21           “(ii) are allocated to all participants  
22           in the plan on a uniform basis, and

23           “(B) in the case of discretionary employer  
24           contributions—

1           “(i) such contributions made to the  
2           plan do not exceed 15 percent of com-  
3           pensation and are allocated to all partici-  
4           pants—

5                       “(I) as a level percentage of com-  
6                       pensation, or

7                       “(II) under a formula that meets  
8                       the requirements of subsection (l), or

9                       “(ii) are made to the same plan to an  
10                      arrangement meeting the requirements of  
11                      subsection (k), in which case the minimum  
12                      3 percent contribution referred to in sub-  
13                      paragraph (A)(i) shall be applied against  
14                      the matching contributions of subsection  
15                      (k)(12).

16           “(5) VESTING.—

17                       “(A) IN GENERAL.—A plan satisfies the  
18                       requirements of this paragraph if it satisfies the  
19                       requirements of either of the following clauses:

20                       “(i) 3-YEAR VESTING.—A plan satis-  
21                       fies the requirements of this clause if an  
22                       employee who has completed at least 3  
23                       years of service with the employer or em-  
24                       ployers maintaining the plan has a non-  
25                       forfeitable right to 100 percent of his ac-

1 accrued benefit derived from employer con-  
 2 tributions.

3 “(ii) 6-YEAR GRADED VESTING.—A  
 4 plan satisfies the requirements of this  
 5 clause if an employee has a nonforfeitable  
 6 right to a percentage of his accrued benefit  
 7 derived from employer contributions deter-  
 8 mined under the following table:

<b>Years of service</b>	<b>The nonforfeitable percentage is:</b>
2 .....	20
3 .....	40
4 .....	60
5 .....	80
6 or more .....	100.

9 “(B) CERTAIN RULES MADE APPLICA-  
 10 BLE.—Except to the extent inconsistent with  
 11 the provisions of this paragraph, the rules of  
 12 section 411 shall apply for purposes of this sub-  
 13 section.

14 “(C) YEAR OF SERVICE.—For purposes of  
 15 subparagraph (A), years of service shall be de-  
 16 termined under the last sentence of section  
 17 410(a)(3)(A).

18 “(6) OTHER REQUIREMENTS.—

19 “(A) ARRANGEMENT MAY BE ONLY PLAN  
 20 OF EMPLOYER.—

21 “(i) IN GENERAL.—An arrangement  
 22 shall not be treated as a qualified small

1 employer plan for any year if the employer  
2 (or any predecessor employer) maintained  
3 a qualified plan with respect to which con-  
4 tributions were made, or benefits were ac-  
5 crued, for service in any year in the period  
6 beginning with the year such arrangement  
7 became effective and ending with the year  
8 for which the determination is being made.  
9 If only individuals other than employees  
10 described in subparagraph (A) or (B) of  
11 section 410(b)(3) are eligible to participate  
12 in such arrangement, then the preceding  
13 sentence shall be applied without regard to  
14 any qualified plan in which only employees  
15 so described are eligible to participate.

16 “(ii) QUALIFIED PLAN.—For purposes  
17 of this subparagraph, the term ‘qualified  
18 plan’ means a plan, contract, pension, or  
19 trust described in subparagraph (A) or (B)  
20 of section 219(g)(5).

21 “(iii) GRACE PERIOD.—In the case of  
22 an employer who establishes and maintains  
23 a plan under this subsection for 1 or more  
24 years and who fails to meet any require-  
25 ment of this subsection for any subsequent

1 year due to any acquisition, disposition, or  
2 similar transaction involving another such  
3 employer, rules similar to the rules of sec-  
4 tion 410(b)(6)(C) shall apply for purposes  
5 of this subsection.

6 “(iv) RULE OF CONSTRUCTION.—  
7 Clauses (i), (ii), and (iii) shall not be con-  
8 strued to prevent a rollover contribution  
9 that meets the requirements of section  
10 402(c) or to prevent the adoption of the  
11 qualified small employer plan as a succes-  
12 sor plan.

13 “(B) PLAN MAY NOT BE ESOP.—A small  
14 employer plan does not meet the requirements  
15 of paragraph (1) if such plan is—

16 “(i) a tax credit employee stock own-  
17 ership plan (as defined in section 409(a)),  
18 or

19 “(ii) an employee stock ownership  
20 plan (as defined in section 4975(e)(7)).

21 “(C) OTHER APPLICABLE PROVISIONS.—A  
22 plan shall not be treated as a qualified small  
23 employer plan unless the plan meets the re-  
24 quirements of the following:

1                   “(i) paragraphs (1), (2), (9), (11),  
2                   (12), (13), (14), (15), (16), (17), (19),  
3                   (20), (22), (23), (27), (30), and (31) of  
4                   subsection (a), and

5                   “(ii) subsections (b), (c), and (d).

6                   “(7) COMPENSATION DEFINED.—For purposes  
7                   of this subsection, the term ‘compensation’ has the  
8                   meaning given such term by section  
9                   404(a)(3)(A)(v).”.

10                  (b) DEFINITION OF SMALL EMPLOYER.—

11                   (1) IN GENERAL.—Section 414 (relating to  
12                   definitions and special rules) is amended by adding  
13                   at the end the following new subsection:

14                   “(v) SMALL EMPLOYER.—For purposes of this part,  
15                   the term ‘small employer’ means an employer (including  
16                   a professional service organization) that, on the 1st day  
17                   of the plan year, has 100 or fewer employees.”.

18                  (2) CONFORMING AMENDMENTS.—

19                   (A) Subsections (b) and (c) of section 414  
20                   are each amended by inserting “subsection (v)  
21                   and” after “For purposes of”.

22                   (B) Paragraph (3) of section 414(n) is  
23                   amended by striking “and” at the end of sub-  
24                   paragraph (B), by striking the period at the  
25                   end of subparagraph (C) and inserting “, and”,

1 and by adding at the end the following new sub-  
2 paragraph:

3 “(D) subsection (v).”.

4 (c) DEDUCTION FOR CONTRIBUTIONS OF EM-  
5 PLOYER.—Clause (i) of section 404(a)(3)(A) is amended  
6 by striking “or” at the end of subclause (I), by striking  
7 the period at the end of subclause (II) and inserting  
8 “, or”, and by adding at the end the following new sub-  
9 clause:

10 “(III) the amount such employer is al-  
11 lowed to contribute to such trust under  
12 section 401(o) for such year, but not more  
13 than 25 percent of aggregate compensa-  
14 tion.”.

15 (d) SINGLE ANNUAL ENTRY DATE.—

16 (1) DEFINITION OF YEAR OF SERVICE.—Sub-  
17 paragraph (A) of section 410(a)(3) of such Code (re-  
18 lating to general rule for definition of year of serv-  
19 ice) is amended by adding at the end the following:  
20 “In the case of service for an employer who has in  
21 effect a qualified small employer plan under section  
22 401(o), computation of any 12-month period shall be  
23 made with reference to the first day of the calendar  
24 year in which employment of the employee com-  
25 menced.”.

1           (2) TIME OF PARTICIPATION.—Paragraph (4)  
2 of section 410(a) (relating to time of participation)  
3 is amended by adding at the end the following: “In  
4 the case of a qualified small employer plan under  
5 section 401(o), the preceding sentence shall be ap-  
6 plied without regard to subparagraph (B).”.

7           (e) REPEAL OF TOP-HEAVY PROVISIONS.—

8           (1) IN GENERAL.—Section 416 is repealed, and  
9 the table of sections for subpart B of part 1 of sub-  
10 chapter D of chapter 1 is amended by striking the  
11 item relating to section 416.

12           (2) CONFORMING AMENDMENTS.—

13           (A) Section 414 is amended by adding at  
14 the end the following:

15           “(w) KEY EMPLOYEE.—

16           “(1) IN GENERAL.—The term ‘key employee’  
17 means an employee who, at any time during the plan  
18 year or any of the 4 preceding plan years, is—

19           “(A) an officer of the employer having an  
20 annual compensation greater than 50 percent of  
21 the amount in effect under section 415(b)(1)(A)  
22 for any such plan year,

23           “(B) 1 of the 10 employees having annual  
24 compensation from the employer of more than  
25 the limitation in effect under section

1           415(c)(1)(A) and owning (or considered as own-  
2           ing within the meaning of section 318) the larg-  
3           est interests in the employer,

4                   “(C) a 5-percent owner of the employer, or

5                   “(D) a 1-percent owner of the employer  
6           having an annual compensation from the em-  
7           ployer of more than \$150,000.

8           For purposes of subparagraph (A), no more than 50  
9           employees (or, if lesser, the greater of 3 or 10 per-  
10          cent of the employees) shall be treated as officers.

11          For purposes of subparagraph (B), if 2 employees  
12          have the same interest in the employer, the employee  
13          having greater annual compensation from the em-  
14          ployer shall be treated as having a larger interest.

15          Such term shall not include any officer or employee  
16          of an entity referred to in section 414(d) (relating  
17          to governmental plans). For purposes of determining  
18          the number of officers taken into account under sub-  
19          paragraph (A), employees described in section  
20          414(q)(5) shall be excluded.

21                   “(2) PERCENTAGE OWNERS.—

22                   “(A) 5-PERCENT OWNER.—For purposes of  
23                   this subsection, the term ‘5-percent owner’  
24                   means—

1           “(i) if the employer is a corporation,  
2           any person who owns (or is considered as  
3           owning within the meaning of section 318)  
4           more than 5 percent of the outstanding  
5           stock of the corporation or stock possess-  
6           ing more than 5 percent of the total com-  
7           bined voting power of all stock of the cor-  
8           poration, or

9           “(ii) if the employer is not a corpora-  
10          tion, any person who owns more than 5  
11          percent of the capital or profits interest in  
12          the employer.

13          “(B) 1-PERCENT OWNER.—For purposes  
14          of this paragraph, the term ‘1-percent owner’  
15          means any person who would be described in  
16          subparagraph (A) if ‘1 percent’ were sub-  
17          stituted for ‘5 percent’ each place it appears in  
18          subparagraph (A).

19          “(C) CONSTRUCTIVE OWNERSHIP  
20          RULES.—For purposes of this paragraph and  
21          paragraph (1)(B)—

22                 “(i) subparagraph (C) of section  
23                 318(a)(2) shall be applied by substituting  
24                 ‘5 percent’ for ‘50 percent’, and

1           “(ii) in the case of any employer  
2           which is not a corporation, ownership in  
3           such employer shall be determined in ac-  
4           cordance with regulations prescribed by the  
5           Secretary which shall be based on prin-  
6           ciples similar to the principles of section  
7           318 (as modified by subclause (I)).

8           “(3) AGGREGATION RULES DO NOT APPLY FOR  
9           PURPOSES OF DETERMINING OWNERSHIP IN THE  
10          EMPLOYER.—The rules of subsections (b), (c), and  
11          (m) of section 414 shall not apply for purposes of  
12          determining ownership in the employer.

13          “(4) COMPENSATION.—For purposes of this  
14          paragraph, the term ‘compensation’ has the meaning  
15          given such term by section 414(q)(4).”.

16                 (B) Subparagraph (B) of section 45A(e)(5)  
17                 is amended by striking “section 416(i)(1)(B)”  
18                 and inserting “section 414(w)(2)”.

19                 (C) Section 72 is amended—

20                         (i) in subsection (m)(5)(C) by striking  
21                         “section 416(i)(1)(B)” and inserting “sec-  
22                         tion 414(w)(2)”, and

23                         (ii) in subsection (p)(3)(B)(i) by strik-  
24                         ing “section 416(i)” and inserting “section  
25                         414(w)”.

1           (D) Paragraph (6) of section 79(d) is  
2 amended by striking “section 416(i)” and in-  
3 serting “section 414(w)”.

4           (E) Paragraph (2) of section 125(b) is  
5 amended by striking “section 416(i)(1)” and in-  
6 serting “section 414(w)”.

7           (F) Clause (i) of section 280F(6)(D) is  
8 amended by striking “section 416(i)(1)(B)(i)”  
9 and inserting “section 414(w)(2)(A)”.

10          (G) Section 401 is amended—

11           (i) in subclause (I) of subsection  
12 (a)(9)(C)(ii) by striking “section 416” and  
13 inserting “section 414(w)”.

14           (ii) in subsection (a)(10) by striking  
15 subparagraph (B),

16           (iii) in subsection (h) by striking “sec-  
17 tion 416(i)” and inserting “section  
18 414(w)”, and

19           (iv) by amending subparagraph (D) of  
20 subsection (k)(11) to read as follows:

21           “(D) DEFINITIONS.—For purposes of this  
22 paragraph, any term used in this paragraph  
23 which is also used in section 408(p) shall have  
24 the meaning given such term by such section.”.

1 (H) Paragraph (1) of section 408(k) is  
2 amended by striking “annuity—” and all that  
3 follows and inserting “annuity with respect to  
4 which the requirements of paragraphs (2), (3),  
5 (4), and (5) of this subsection are met.”.

6 (I) Section 414 is amended—

7 (i) in subsections (b), (c), (m)(4), and  
8 (n)(3)(B) by striking “415, and 416,”  
9 each place it appears and inserting “and  
10 415”,

11 (ii) in subsection (o) by striking  
12 “which has no top-heavy plans (within the  
13 meaning of section 416(g)) and”,

14 (iii) in subsection (q)(2) by striking  
15 “section 416(i)(1)” and inserting “section  
16 414(w)”, and

17 (iv) in subsection (u)(1)(C) by strik-  
18 ing “410(b), or 416” and inserting “or  
19 410(b)”.

20 (J) Clause (ii) of section 415(k)(2)(F) is  
21 amended to read as follows:

22 “(ii) KEY EMPLOYEE.—For purposes  
23 of this subparagraph, the term ‘key em-  
24 ployee’ has the meaning given such term  
25 by section 414(w), except that such term

1 shall not include an individual who is a key  
2 employee solely by reason of section  
3 414(w)(1)(A).”.

4 (K) Paragraph (3) of section 419A(d) is  
5 amended by striking “section 416(i)” and in-  
6 serting “section 414(w)”.

7 (L) Subparagraph (D) of section 420(e)(1)  
8 is amended by striking “section 416(i)(1)” and  
9 inserting “section 414(w)”.

10 (M) Clause (ii) of section 469(c)(7)(D) is  
11 amended by striking “section 416(i)(1)(B)” and  
12 inserting “section 414(w)(2)”.

13 (N) Subparagraph (B) of section  
14 1396(d)(2) is amended by striking “section  
15 416(i)(1)(B)” and inserting “section  
16 414(w)(2)”.

17 (f) COMPENSATION.—Subparagraph (A) of section  
18 404(a)(3) (relating to stock bonus and profit-sharing  
19 trusts) is amended by redesignating clause (v) as clause  
20 (vi) and by inserting after clause (iv) the following new  
21 clause:

22 “(v) COMPENSATION DEFINED.—For  
23 purposes of this paragraph, the term ‘com-  
24 pensation’ means a participant’s com-

1                   pensation (as defined by section  
2                   415(c)(3))”.

3           (g) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to years beginning after December  
5 31, 1998.

6 **SEC. 3. CREDIT FOR EMPLOYER EXPENSES IN ESTABLISH-**  
7 **ING QUALIFIED SMALL EMPLOYER RETIRE-**  
8 **MENT PLANS.**

9           (a) GENERAL RULE.—Subpart D of part IV of sub-  
10 chapter A of chapter 1 is amended by adding at the end  
11 the following new section:

12 **“SEC. 45D. EXPENSES IN ESTABLISHING QUALIFIED SMALL**  
13 **EMPLOYER RETIREMENT PLANS.**

14           “(a) GENERAL RULE.—For purposes of section 38,  
15 the qualified small employer retirement plan credit deter-  
16 mined under this section for the taxable year is an amount  
17 equal to 50 percent of the qualified retirement plan ex-  
18 penses paid or incurred in the taxable year by an eligible  
19 small employer.

20           “(b) LIMITATION.—The credit allowed under sub-  
21 section (a) shall not exceed—

22                   “(1) \$2,000 for the taxable year in which the  
23                   qualified small employer retirement plan is adopted,  
24                   and

1           “(2) \$1,000 for each of the 4 years following  
2 the year in which such plan was adopted and zero  
3 thereafter.

4           “(c) DEFINITIONS.—For purposes of subsection  
5 (a)—

6           “(1) QUALIFIED RETIREMENT PLAN EX-  
7 PENSE.—The term ‘qualified retirement plan ex-  
8 pense’ means an expense—

9           “(A) for establishing, maintaining, and ad-  
10 ministering a qualified small employer retire-  
11 ment plan, and

12           “(B) for educating employees with respect  
13 to such plan.

14           “(2) ELIGIBLE SMALL EMPLOYER.—The term  
15 ‘eligible small employer’ means a small employer (as  
16 defined in section 414(v)) who has in effect a quali-  
17 fied small employer retirement plan on or before De-  
18 cember 31, 2000.

19           “(3) QUALIFIED SMALL EMPLOYER RETIRE-  
20 MENT PLAN.—The term ‘qualified small employer  
21 retirement plan’ means a small employer plan estab-  
22 lished under section 401(o).”.

23           (b) CREDIT MADE PART OF GENERAL BUSINESS  
24 CREDIT.—Subsection (b) of section 38 is amended by  
25 striking “plus” at the end of paragraph (11), by striking

1 the period at the end of paragraph (12) and inserting “,  
2 plus”, and by adding at the end thereof the following new  
3 paragraph:

4 “(13) the qualified small employer retirement  
5 plan credit determined under section 45D(a).”.

6 (c) CREDIT ALLOWED AGAINST REGULAR AND MINI-  
7 MUM TAX.—

8 (1) IN GENERAL.—Subsection (c) of section 38  
9 (relating to limitation based on amount of tax) is  
10 amended by redesignating paragraph (3) as para-  
11 graph (4) and by inserting after paragraph (2) the  
12 following new paragraph:

13 “(3) SPECIAL RULES FOR QUALIFIED SMALL  
14 EMPLOYER RETIREMENT PLAN CREDIT.—

15 “(A) IN GENERAL.—In the case of the  
16 qualified small employer retirement plan cred-  
17 it—

18 “(i) this section and section 39 shall  
19 be applied separately with respect to the  
20 credit, and

21 “(ii) in applying paragraph (1) to the  
22 credit—

23 “(I) subparagraph (A) thereof  
24 shall not apply, and

1                   “(II) the limitation under para-  
2                   graph (1) (as modified by subclause  
3                   (I)) shall be reduced by the credit al-  
4                   lowed under subsection (a) for the  
5                   taxable year (other than the qualified  
6                   small employer retirement plan cred-  
7                   it).

8                   “(B) QUALIFIED SMALL EMPLOYER RE-  
9                   TIREMENT PLAN CREDIT.—For purposes of this  
10                  subsection, the term ‘qualified small employer  
11                  retirement plan credit’ means the credit allow-  
12                  able under subsection (a) by reason of section  
13                  45D(a).”.

14                  (2) CONFORMING AMENDMENT.—Subclause (II)  
15                  of section 38(c)(2)(A)(ii) is amended by inserting  
16                  “or the qualified small employer retirement plan  
17                  credit” after “employment credit”.

18                  (d) LIMITATION ON CARRYBACK.—Subsection (d) of  
19                  section 39 is amended by adding at the end thereof the  
20                  following new paragraph:

21                         “(7) NO CARRYBACK OF QUALIFIED SMALL EM-  
22                         PLOYER RETIREMENT PLAN CREDIT BEFORE EFFEC-  
23                         TIVE DATE.—No portion of the unused business  
24                         credit for any taxable year which is attributable to  
25                         the credit determined under section 45D may be

1 carried back to any taxable year ending before the  
2 date of the enactment of section 45D.”.

3 (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
4 CREDITS.—Subsection (c) of section 196 is amended by  
5 striking “and” at the end of paragraph (6), by striking  
6 the period at the end of paragraph (7) and inserting “,  
7 and”, and by adding after paragraph (7) the following new  
8 paragraph:

9 “(8) the qualified small employer retirement  
10 plan credit determined under section 45D.”.

11 (f) DENIAL OF DOUBLE BENEFIT.—Section 280C is  
12 amended by adding at the end thereof the following new  
13 subsection:

14 “(d) CREDIT FOR QUALIFIED SMALL EMPLOYER RE-  
15 TIREMENT PLAN EXPENSES.—No deduction shall be al-  
16 lowed for that portion of the expenses referred to in sec-  
17 tion 45D(c)(1) otherwise allowable as a deduction for the  
18 taxable year which is equal to the amount of the credit  
19 determined for such taxable year under section 45D(a).”.

20 (g) CLERICAL AMENDMENT.—The table of sections  
21 for subpart D of part IV of subchapter A of chapter 1  
22 is amended by adding at the end the following new item:

“Sec. 45D. Expenses in establishing qualified small employer re-  
tirement plans.”.

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

4 **SEC. 4. IMPLEMENTATION.**

5 (a) MODEL PLAN.—Not later than 6 months after  
6 the date of the enactment of this Act, the Secretary of  
7 the Treasury shall issue a model small employer retire-  
8 ment plan that meets the requirements of section 401(o)  
9 of the Internal Revenue Code of 1986.

10 (b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR  
11 OWNERS AND THEIR SPOUSES.—

12 (1) IN GENERAL.—The Secretary of the Treas-  
13 ury shall modify the requirements for filing annual  
14 returns with respect to one-participant retirement  
15 plans to ensure that such plans with assets of  
16 \$500,000 or less as of the close of the plan year  
17 need not file a return for that year.

18 (2) ONE-PARTICIPANT RETIREMENT PLAN DE-  
19 FINED.—For purposes of this subsection, the term  
20 “one-participant retirement plan” means a retire-  
21 ment plan that—

22 (A) on the first day of the plan year—

23 (i) covered only the employer (and the  
24 employer’s spouse) and the employer

1 owned the entire business (whether or not  
2 incorporated), or

3 (ii) covered only one or more partners  
4 (and their spouses) in a business partner-  
5 ship,

6 (B) meets the minimum coverage require-  
7 ments of section 410(b) of the Internal Revenue  
8 Code of 1986 without being combined with any  
9 other plan of the business that covers the em-  
10 ployees of the business,

11 (C) does not provide benefits to anyone ex-  
12 cept the employer (and the employer's spouse)  
13 or the partners (and their spouses),

14 (D) does not cover a business that is a  
15 member of an affiliated service group, a con-  
16 trolled group of corporations, or a group of  
17 businesses under common control, and

18 (E) does not cover a business that leases  
19 employees.

20 (3) OTHER DEFINITIONS.—Terms used in para-  
21 graph (2) which are also used in section 414 of the  
22 Internal Revenue Code of 1986 shall have the re-  
23 spective meanings given such terms by such section.

24 (c) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR  
25 PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case

1 of a retirement plan which covers less than 25 employees  
2 on the 1st day of the plan year and meets the require-  
3 ments described in subparagraphs (B), (D), and (E) of  
4 subsection (b)(2), the Secretary of the Treasury shall pro-  
5 vide for the filing of a simplified annual return that is  
6 substantially similar to the annual return required to be  
7 filed by a one-participant retirement plan.

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