

106TH CONGRESS
1ST SESSION

H. R. 2373

To amend the Internal Revenue Code of 1986 to provide for Start-up Success
Accounts.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1999

Mr. DEMINT (for himself and Mr. BAIRD) 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 provide
for Start-up Success 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 “Start-Up Success Ac-
5 counts Act of 1999”.

6 **SEC. 2. START-UP SUCCESS ACCOUNTS.**

7 (a) IN GENERAL.—Subpart C of part II of sub-
8 chapter E of chapter 1 of the Internal Revenue Code of
9 1986 (relating to taxable year for which deductions taken)

1 is amended by inserting after section 468B the following
2 new section:

3 **“SEC. 468C. START-UP SUCCESS ACCOUNTS.**

4 “(a) DEDUCTION ALLOWED.—In the case of an eligi-
5 ble small business, there shall be allowed as a deduction
6 for any taxable year the amount paid in cash by the tax-
7 payer during the taxable year to a Start-up Success Ac-
8 count (hereafter in this section also referred to as an
9 ‘SUSA Account’).

10 “(b) LIMITATION.—

11 “(1) IN GENERAL.—The amount which a tax-
12 payer may pay into the SUSA Account for any tax-
13 able year shall not exceed the lesser of—

14 “(A) 20 percent of so much of the taxable
15 income of the taxpayer (determined without re-
16 gard to this section) which is attributable (de-
17 termined in the manner applicable under sec-
18 tion 1301) to a trade or business, or

19 “(B) \$200,000.

20 “(2) DEDUCTION ALLOWED ONLY DURING
21 STARTUP PERIOD.—No deduction shall be allowed
22 under this section for any taxable year after the 5th
23 taxable year that the taxpayer (or any predecessor)
24 is engaged in a trade or business.

1 “(c) ELIGIBLE SMALL BUSINESS.—For purposes of
2 this section, the term ‘eligible small business’ means, with
3 respect to any taxable year, any person engaged in a trade
4 or business if for all prior taxable years beginning after
5 December 31, 1999, the taxpayer (or any predecessor) met
6 the \$5,000,000 gross receipts test of section 448(c).

7 “(d) START-UP SUCCESS ACCOUNT.—For purposes
8 of this section—

9 “(1) IN GENERAL.—The terms ‘Start-Up Suc-
10 cess Account’ and ‘SUSA Account’ mean a trust cre-
11 ated or organized in the United States for the exclu-
12 sive benefit of the taxpayer, but only if the written
13 governing instrument creating the trust meets the
14 following requirements:

15 “(A) No contribution will be accepted for
16 any taxable year in excess of the amount al-
17 lowed as a deduction under subsection (a) for
18 such year.

19 “(B) The trustee is a bank (as defined in
20 section 408(n)) or another person who dem-
21 onstrates to the satisfaction of the Secretary
22 that the manner in which such person will ad-
23 minister the trust will be consistent with the re-
24 quirements of this section.

1 “(C) The assets of the trust consist en-
2 tirely of cash or of obligations which have ade-
3 quate stated interest (as defined in section
4 1274(c)(2)) and which pay such interest not
5 less often than annually.

6 “(D) All income of the trust is distributed
7 currently to the grantor.

8 “(E) The assets of the trust will not be
9 commingled with other property except in a
10 common trust fund or common investment
11 fund.

12 “(2) ACCOUNT TAXED AS GRANTOR TRUST.—
13 The grantor of an SUSA Account shall be treated
14 for purposes of this title as the owner of such Ac-
15 count and shall be subject to tax thereon in accord-
16 ance with subpart E of part I of subchapter J of
17 this chapter (relating to grantors and others treated
18 as substantial owners).

19 “(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2), there shall be includible in the gross in-
22 come of the taxpayer for any taxable year—

23 “(A) any amount distributed from an
24 SUSA Account of the taxpayer during such tax-

1 able year (to the extent not previously included
2 in gross income), and

3 “(B) any deemed distribution under—

4 “(i) subsection (f)(1) (relating to de-
5 posits not distributed within 5 years),

6 “(ii) subsection (f)(2) (relating to ces-
7 sation in trade or business), and

8 “(iii) subparagraph (A) or (B) of sub-
9 section (f)(3) (relating to prohibited trans-
10 actions and pledging account as security).

11 “(2) EXCEPTIONS.—Gross income shall not in-
12 clude the distribution of any contribution paid dur-
13 ing a taxable year to an SUSA Account to the ex-
14 tent that such contribution exceeds the limitation
15 applicable under subsection (b) if requirements simi-
16 lar to the requirements of section 408(d)(4) are met.

17 “(3) EXCLUSION FROM SELF-EMPLOYMENT
18 TAX.—Amounts included in gross income under this
19 subsection shall not be included in determining net
20 earnings from self-employment under section 1402.

21 “(f) SPECIAL RULES.—

22 “(1) TAX ON DEPOSITS IN ACCOUNT WHICH
23 ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

1 “(A) IN GENERAL.—If, at the close of any
2 taxable year, there is a nonqualified balance in
3 any SUSA Account—

4 “(i) there shall be deemed distributed
5 from such Account during such taxable
6 year an amount equal to such balance, and

7 “(ii) the taxpayer’s tax imposed by
8 this chapter for such taxable year shall be
9 increased by 10 percent of such deemed
10 distribution.

11 The preceding sentence shall not apply if an
12 amount equal to such nonqualified balance is
13 distributed from such Account to the taxpayer
14 before the due date (including extensions) for
15 filing the return of tax imposed by this chapter
16 for such year (or, if earlier, the date the tax-
17 payer files such return for such year).

18 “(B) NONQUALIFIED BALANCE.—For pur-
19 poses of subparagraph (A), the term ‘non-
20 qualified balance’ means any balance in the Ac-
21 count on the last day of the taxable year which
22 is attributable to amounts deposited in such Ac-
23 count before the 4th preceding taxable year.

24 “(C) ORDERING RULE.—For purposes of
25 this paragraph, distributions from an SUSA

1 Account shall be treated as made from deposits
2 in the order in which such deposits were made,
3 beginning with the earliest deposits.

4 “(2) CESSATION IN TRADE OR BUSINESS.—At
5 the close of the first disqualification period after a
6 period for which the taxpayer was engaged in the
7 trade or business referred to in subsection (a), there
8 shall be deemed distributed from the SUSA Account
9 (if any) of the taxpayer an amount equal to the bal-
10 ance in such Account at the close of such disquali-
11 fication period. For purposes of the preceding sen-
12 tence, the term ‘disqualification period’ means any
13 period of 2 consecutive taxable years for which the
14 taxpayer is not engaged in the trade or business re-
15 ferred to in subsection (a).

16 “(3) CERTAIN RULES TO APPLY.—Rules similar
17 to the following rules shall apply for purposes of this
18 section:

19 “(A) Section 408(e)(2) (relating to loss of
20 exemption of account where individual engages
21 in prohibited transaction).

22 “(B) Section 408(e)(4) (relating to effect
23 of pledging account as security).

24 “(C) Section 408(g) (relating to commu-
25 nity property laws).

1 “(D) Section 408(h) (relating to custodial
2 accounts).

3 “(4) TIME WHEN PAYMENTS DEEMED MADE.—

4 For purposes of this section, a taxpayer shall be
5 deemed to have made a payment to an SUSA Ac-
6 count on the last day of a taxable year if such pay-
7 ment is made on account of such taxable year and
8 is made within 3½ months after the close of such
9 taxable year.

10 “(5) INDIVIDUAL.—For purposes of this sec-
11 tion, the term ‘individual’ shall not include an estate
12 or trust.

13 “(g) REPORTS.—The trustee of an SUSA Account
14 shall make such reports regarding such Account to the
15 Secretary and to the person for whose benefit the Account
16 is maintained with respect to contributions, distributions,
17 and such other matters as the Secretary may require
18 under regulations. The reports required by this subsection
19 shall be filed at such time and in such manner and fur-
20 nished to such persons at such time and in such manner
21 as may be required by those regulations.”.

22 (b) TAX ON EXCESS CONTRIBUTIONS.—

23 (1) Subsection (a) of section 4973 of such Code
24 (relating to tax on certain excess contributions) is
25 amended by striking “or” at the end of paragraph

1 (3), by redesignating paragraph (4) as paragraph
2 (5), and by inserting after paragraph (3) the fol-
3 lowing new paragraph:

4 “(4) an SUSA Account (within the meaning of
5 section 468C(d)), or”.

6 (2) Section 4973 of such Code is amended by
7 adding at the end the following new subsection:

8 “(g) EXCESS CONTRIBUTIONS TO SUSAC-
9 COUNTS.—For purposes of this section, in the case of
10 SUSACOUNTS (within the meaning of section 468C(d)),
11 the term ‘excess contributions’ means the amount by
12 which the amount contributed for the taxable year to the
13 Account exceeds the amount which may be contributed to
14 the Account under section 468C(b) for such taxable year.
15 For purposes of this subsection, any contribution which
16 is distributed out of the SUSACOUNT in a distribution
17 to which section 468C(e)(2)(B) applies shall be treated as
18 an amount not contributed.”.

19 (c) TAX ON PROHIBITED TRANSACTIONS.—

20 (1) Subsection (c) of section 4975 of such Code
21 (relating to prohibited transactions) is amended by
22 adding at the end the following new paragraph:

23 “(6) SPECIAL RULE FOR SUSACOUNTS.—A
24 person for whose benefit an SUSACOUNT (within
25 the meaning of section 468C(d)) is established shall

1 be exempt from the tax imposed by this section with
2 respect to any transaction concerning such Account
3 (which would otherwise be taxable under this sec-
4 tion) if, with respect to such transaction, the ac-
5 count ceases to be an SUSAs Account by reason of
6 the application of section 468C(f)(3)(A) to such Ac-
7 count.”.

8 (2) Paragraph (1) of section 4975(e) of such
9 Code is amended by redesignating subparagraphs
10 (E) and (F) as subparagraphs (F) and (G), respec-
11 tively, and by inserting after subparagraph (D) the
12 following new subparagraph:

13 “(E) an SUSAs Account described in sec-
14 tion 468C(d),”.

15 (d) FAILURE TO PROVIDE REPORTS ON SUSAs AC-
16 COUNTS.—Paragraph (2) of section 6693(a) of such Code
17 (relating to failure to provide reports on certain tax-fa-
18 vored accounts or annuities) is amended by redesignating
19 subparagraphs (C) and (D) as subparagraphs (D) and
20 (E), respectively, and by inserting after subparagraph (B)
21 the following new subparagraph:

22 “(C) section 468C(g) (relating to SUSAs
23 Accounts),”.

24 (e) CLERICAL AMENDMENT.—The table of sections
25 for subpart C of part II of subchapter E of chapter 1 of

1 such Code is amended by inserting after the item relating
2 to section 468B the following new item:

“Sec. 468C. Start-up Success Accounts.”.

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

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