

108TH CONGRESS
2D SESSION

H. R. 5355

To amend the Internal Revenue Code of 1986 to provide tax incentives
to encourage small business health plans.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2004

Mr. BOSWELL (for himself and Mr. OSBORNE) 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
tax incentives to encourage small business health plans.

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 “Health Care Relief
5 Act of 2004”.

6 **SEC. 2. FIRST \$2,000 OF HEALTH INSURANCE PREMIUMS**

7 **FULLY DEDUCTIBLE.**

8 (a) IN GENERAL.—Subsection (a) of section 213 of
9 the Internal Revenue Code of 1986 (relating to medical,
10 dental, etc., expenses) is amended to read as follows:

1 “(a) ALLOWANCE OF DEDUCTION.—There shall be
2 allowed as a deduction the following amounts not com-
3 pensated for by insurance or otherwise—

4 “(1) the amount by which the amount of ex-
5 penses paid during the taxable year (reduced by the
6 amount deductible under paragraph (2)) for medical
7 care of the taxpayer, the taxpayer’s spouse, and the
8 taxpayer’s dependents (as defined in section 152) ex-
9 ceeds 7.5 percent of adjusted gross income, plus

10 “(2) so much of the expenses paid during the
11 taxable year for insurance which constitutes medical
12 care under subsection (d)(1)(D) (other than for a
13 qualified long-term care insurance contract) for such
14 taxpayer, spouse, and dependents as does not exceed
15 \$2,000.”.

16 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-
17 PAYER ITEMIZES DEDUCTION.—Section 62(a) of the In-
18 ternal Revenue Code of 1986 (defining adjusted gross in-
19 come) is amended by inserting after paragraph (18) the
20 following new paragraph:

21 “(19) HEALTH INSURANCE PREMIUMS.—The
22 deduction allowed by section 213(a)(2).”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2003.

1 **SEC. 3. CREDIT FOR HEALTH INSURANCE EXPENSES OF**
2 **SMALL BUSINESSES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 (relating to business-related credits) is amended by
6 adding at the end the following:

7 **“SEC. 45G. SMALL BUSINESS HEALTH INSURANCE EX-**
8 **PENSES.**

9 “(a) GENERAL RULE.—For purposes of section 38,
10 in the case of a small employer, the health insurance credit
11 determined under this section for the taxable year is an
12 amount equal to the applicable percentage of the expenses
13 paid by the taxpayer during the taxable year for health
14 insurance coverage for such year provided under a new
15 health plan for employees of such employer.

16 “(b) APPLICABLE PERCENTAGE.—For purposes of
17 subsection (a), the applicable percentage is—

18 “(1) in the case of insurance purchased as a
19 member of a health benefit purchasing coalition (as
20 defined in regulations prescribed by the Secretary),
21 40 percent, and

22 “(2) in the case of insurance not described in
23 paragraph (1), 30 percent.

24 “(c) LIMITATIONS.—

25 “(1) PER EMPLOYEE DOLLAR LIMITATION.—

26 The amount of expenses taken into account under

1 subsection (a) with respect to any employee for any
2 taxable year shall not exceed—

3 “(A) in the case of insurance purchased as
4 a member of a coalition referred to in sub-
5 section (b)(1)—

6 “(i) \$800 in the case of self-only cov-
7 erage, and

8 “(ii) \$2,000 in the case of family cov-
9 erage, and

10 “(B) in any other case—

11 “(i) \$600 in the case of self-only cov-
12 erage, and

13 “(ii) \$1,500 in the case of family cov-
14 erage.

15 In the case of an employee who is covered by a new
16 health plan of the employer for only a portion of
17 such taxable year, the limitation under the preceding
18 sentence shall be an amount which bears the same
19 ratio to such limitation (determined without regard
20 to this sentence) as such portion bears to the entire
21 taxable year.

22 “(2) PERIOD OF COVERAGE.—Expenses may be
23 taken into account under subsection (a) only with
24 respect to coverage for the 4-year period beginning

1 on the date the employer establishes a new health
2 plan.

3 “(3) EMPLOYER MUST BEAR 65 PERCENT OF
4 COST.—Expenses may be taken into account under
5 subsection (a) only if at least 65 percent of the cost
6 of the coverage (without regard to this section) is
7 borne by the employer.

8 “(d) DEFINITIONS.—For purposes of this section—

9 “(1) HEALTH INSURANCE COVERAGE.—The
10 term ‘health insurance coverage’ has the meaning
11 given such term by section 9832(b)(1).

12 “(2) NEW HEALTH PLAN.—

13 “(A) IN GENERAL.—The term ‘new health
14 plan’ means any arrangement of the employer
15 which provides health insurance coverage to em-
16 ployees if—

17 “(i) such employer (and any prede-
18 cessor employer) did not establish or main-
19 tain such arrangement (or any similar ar-
20 rangement) at any time during the 2 tax-
21 able years ending prior to the taxable year
22 in which the credit under this section is
23 first allowed, and

24 “(ii) such arrangement provides
25 health insurance coverage to at least 70

1 percent of the qualified employees of such
2 employer.

3 “(B) QUALIFIED EMPLOYEE.—

4 “(i) IN GENERAL.—The term ‘quali-
5 fied employee’ means any employee of an
6 employer and shall include a leased em-
7 ployee within the meaning of section
8 414(n).

9 “(3) SMALL EMPLOYER.—The term ‘small em-
10 ployer’ has the meaning given to such term by sec-
11 tion 4980D(d)(2); except that—

12 “(A) only qualified employees shall be
13 taken into account, and

14 “(B) such section shall be applied by sub-
15 stituting ‘100 employees’ for ‘50 employees’.

16 “(e) SPECIAL RULES.—

17 “(1) CERTAIN RULES MADE APPLICABLE.—For
18 purposes of this section, rules similar to the rules of
19 section 52 shall apply.

20 “(2) AMOUNTS PAID UNDER SALARY REDUC-
21 TION ARRANGEMENTS.—No amount paid or incurred
22 pursuant to a salary reduction arrangement shall be
23 taken into account under subsection (a).

24 “(3) INFLATION ADJUSTMENT.—In the case of
25 any taxable year beginning in a calendar year after

1 2004, each dollar amount contained in subsections
2 (c)(1) and (d)(2)(B) shall be increased by an
3 amount equal to—

4 “(A) such dollar amount, multiplied by

5 “(B) the cost-of-living adjustment deter-
6 mined under section 1(f)(3) for the calendar
7 year in which the taxable year begins, deter-
8 mined by substituting ‘calendar year 2003’ for
9 ‘calendar year 1992’ in subparagraph (B)
10 thereof.

11 Any increase determined under the preceding sen-
12 tence shall be rounded to the nearest multiple of
13 \$50.

14 “(f) TERMINATION.—This section shall not apply to
15 expenses paid or incurred by an employer with respect to
16 any arrangement established on or after January 1,
17 2010.”.

18 (b) CREDIT TO BE PART OF GENERAL BUSINESS
19 CREDIT.—Section 38(b) of such Code (relating to current
20 year business credit) is amended by striking “plus” at the
21 end of paragraph (13), by striking the period at the end
22 of paragraph (14) and inserting “, plus”, and by adding
23 at the end the following:

1 “(15) in the case of a small employer (as de-
2 fined in section 45G(d)(3)), the health insurance
3 credit determined under section 45G(a).”.

4 (c) NO CARRYBACKS.—Subsection (d) of section 39
5 of such Code (relating to carryback and carryforward of
6 unused credits) is amended by adding at the end the fol-
7 lowing:

8 “(11) NO CARRYBACK OF SECTION 45G CREDIT
9 BEFORE EFFECTIVE DATE.—No portion of the un-
10 used business credit for any taxable year which is
11 attributable to the employee health insurance ex-
12 penses credit determined under section 45G may be
13 carried back to a taxable year beginning before Jan-
14 uary 1, 2004.”.

15 (d) DENIAL OF DOUBLE BENEFIT.—Section 280C of
16 such Code is amended by adding at the end the following
17 new subsection:

18 “(d) CREDIT FOR SMALL BUSINESS HEALTH INSUR-
19 ANCE EXPENSES.—

20 “(1) IN GENERAL.—No deduction shall be al-
21 lowed for that portion of the expenses (otherwise al-
22 lowable as a deduction) taken into account in deter-
23 mining the credit under section 45G for the taxable
24 year which is equal to the amount of the credit de-

1 terminated for such taxable year under section
2 45G(a).

3 “(2) CONTROLLED GROUPS.—Persons treated
4 as a single employer under subsection (a) or (b) of
5 section 52 shall be treated as 1 person for purposes
6 of this section.”.

7 (e) CLERICAL AMENDMENT.—The table of sections
8 for subpart D of part IV of subchapter A of chapter 1
9 of such Code is amended by adding at the end the fol-
10 lowing:

 “Sec. 45G. Small business health insurance expenses.”.

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to amounts paid or incurred in tax-
13 able years beginning after December 31, 2003, for ar-
14 rangements established after the date of the enactment
15 of this Act.

16 **SEC. 4. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.**

17 (a) ALLOWANCE OF CREDIT.—

18 (1) IN GENERAL.—Subpart C of part IV of sub-
19 chapter A of chapter 1 of the Internal Revenue Code
20 of 1986 (relating to refundable personal credits) is
21 amended by redesignating section 36 as section 37
22 and by inserting after section 35 the following new
23 section:

1 **“SEC. 36. HEALTH INSURANCE COSTS FOR UNINSURED IN-**
2 **DIVIDUALS.**

3 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
4 dividual, there shall be allowed as a credit against the tax
5 imposed by this subtitle for the taxable year an amount
6 equal to the amount paid by the taxpayer during such tax-
7 able year for qualified health insurance for the taxpayer
8 and the taxpayer’s spouse and dependents.

9 “(b) LIMITATION.—The amount allowed as a credit
10 under subsection (a) for a taxable year shall not exceed
11 \$500.

12 “(c) QUALIFIED HEALTH INSURANCE.—For pur-
13 poses of this section, the term ‘qualified health insurance’
14 means health insurance coverage (as defined in section
15 9832(b)(1)).

16 “(d) SPECIAL RULES.—

17 “(1) COORDINATION WITH MEDICAL EXPENSE
18 DEDUCTION.—The amount which would (but for this
19 paragraph) be taken into account by the taxpayer
20 under section 213 for the taxable year shall be re-
21 duced by the credit (if any) allowed by this section
22 to the taxpayer for such year.

23 “(2) COORDINATION WITH DEDUCTION FOR
24 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-
25 DIVIDUALS.—In the case of a taxpayer who is eligi-
26 ble to deduct any amount under section 162(l) for

1 the taxable year, this section shall apply only if the
2 taxpayer elects not to claim any amount as a deduc-
3 tion under such section for such year.

4 “(3) COORDINATION WITH DEDUCTION FOR AR-
5 CHER MSAS AND HSAS.—In the case of a taxpayer
6 who is eligible to deduct any amount under section
7 220 or 223 for the taxable year, this section shall
8 apply only if the taxpayer elects not to claim any
9 amount as a deduction under such section for such
10 year.

11 “(4) DENIAL OF CREDIT TO DEPENDENTS.—No
12 credit shall be allowed under this section to any indi-
13 vidual with respect to whom a deduction under sec-
14 tion 151 is allowable to another taxpayer for a tax-
15 able year beginning in the calendar year in which
16 such individual’s taxable year begins.

17 “(5) COORDINATION WITH SECTION 35.—If a
18 taxpayer is eligible for the credit allowed under this
19 section and section 35 for any taxable year, the tax-
20 payer shall elect which credit is to be allowed.

21 “(e) EXPENSES MUST BE SUBSTANTIATED.—A pay-
22 ment for insurance to which subsection (a) applies may
23 be taken into account under this section only if the tax-
24 payer substantiates such payment in such form as the Sec-
25 retary may prescribe.

1 “(f) REGULATIONS.—The Secretary may prescribe
2 such regulations as may be necessary to carry out the pur-
3 poses of this section.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 162(l) of the Internal Revenue Code
6 of 1986 is amended by adding at the end the fol-
7 lowing:

8 “(6) ELECTION TO HAVE SUBSECTION
9 APPLY.—No deduction shall be allowed under para-
10 graph (1) for a taxable year unless the taxpayer
11 elects to have this subsection apply for such year.”.

12 (2) Section 220(b) of such Code is amended by
13 adding at the end the following:

14 “(8) ELECTION TO HAVE SUBSECTION
15 APPLY.—No deduction shall be allowed under sub-
16 section (a) for a taxable year unless the taxpayer
17 elects to have this section apply for such year.”.

18 (3) Section 223(b) of such Code is amended by
19 adding at the end the following:

20 “(8) ELECTION TO HAVE SUBSECTION
21 APPLY.—No deduction shall be allowed under sub-
22 section (a) for a taxable year unless the taxpayer
23 elects to have this section apply for such year.”.

1 (4) Paragraph (2) of section 1324(b) of title
2 31, United States Code, is amended by inserting be-
3 fore the period “, or from section 36 of such Code”.

4 (5) The table of sections for subpart C of part
5 IV of subchapter A of chapter 1 of the Internal Rev-
6 enue Code of 1986 is amended by striking the last
7 item and inserting the following:

“Sec. 36. Health insurance costs for uninsured individuals.

“Sec. 37. Overpayments of tax.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2003.

○