

108TH CONGRESS
2D SESSION

S. 2245

To amend the Internal Revenue Code of 1986 to provide a small business health tax credit.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2004

Mr. DASCHLE 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 a small business health tax credit.

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 Tax Credit Act”.

6 **SEC. 2. SMALL BUSINESS TAX CREDIT FOR 50 PERCENT OF**
7 **HEALTH PREMIUMS.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by
 2 adding at the end the following:

3 **“SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.**

4 “(a) GENERAL RULE.—For purposes of section 38,
 5 in the case of a qualified small employer, the employee
 6 health insurance expenses credit determined under this
 7 section is an amount equal to the applicable percentage
 8 of the amount paid by the taxpayer during the taxable
 9 year for qualified employee health insurance expenses.

10 “(b) APPLICABLE PERCENTAGE.—For purposes of
 11 subsection (a), the applicable percentage is equal to—

12 “(1) 50 percent in the case of an employer with
 13 less than 26 qualified employees,

14 “(2) 40 percent in the case of an employer with
 15 more than 25 but less than 36 qualified employees,
 16 and

17 “(3) 30 percent in the case of an employer with
 18 more than 35 but less than 51 qualified employees.

19 “(c) PER EMPLOYEE DOLLAR LIMITATION.—The
 20 amount of qualified employee health insurance expenses
 21 taken into account under subsection (a) with respect to
 22 any qualified employee for any taxable year shall not ex-
 23 ceed the maximum employer contribution for self-only cov-
 24 erage or family coverage (as applicable) determined under

1 section 8906(a) of title 5, United States Code, for the cal-
 2 endar year in which such taxable year begins.

3 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
 4 poses of this section—

5 “(1) QUALIFIED SMALL EMPLOYER.—

6 “(A) IN GENERAL.—The term ‘qualified
 7 small employer’ means any small employer
 8 which provides eligibility for health insurance
 9 coverage (after any waiting period (as defined
 10 in section 9801(b)(4))) to all qualified employ-
 11 ees of the employer.

12 “(B) SMALL EMPLOYER.—

13 “(i) IN GENERAL.—For purposes of
 14 this paragraph, the term ‘small employer’
 15 means, with respect to any calendar year,
 16 any employer if such employer employed
 17 an average of not less than 2 and not more
 18 than 50 qualified employees on business
 19 days during either of the 2 preceding cal-
 20 endar years. For purposes of the preceding
 21 sentence, a preceding calendar year may be
 22 taken into account only if the employer
 23 was in existence throughout such year.

24 “(ii) EMPLOYERS NOT IN EXISTENCE
 25 IN PRECEDING YEAR.—In the case of an

1 employer which was not in existence
2 throughout the 1st preceding calendar
3 year, the determination under clause (i)
4 shall be based on the average number of
5 qualified employees that it is reasonably
6 expected such employer will employ on
7 business days in the current calendar year.

8 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-
9 ANCE EXPENSES.—

10 “(A) IN GENERAL.—The term ‘qualified
11 employee health insurance expenses’ means any
12 amount paid by an employer for health insur-
13 ance coverage to the extent such amount is at-
14 tributable to coverage provided to any employee
15 while such employee is a qualified employee.

16 “(B) EXCEPTION FOR AMOUNTS PAID
17 UNDER SALARY REDUCTION ARRANGEMENTS.—
18 No amount paid or incurred for health insur-
19 ance coverage pursuant to a salary reduction
20 arrangement shall be taken into account under
21 subparagraph (A).

22 “(C) HEALTH INSURANCE COVERAGE.—
23 The term ‘health insurance coverage’ has the
24 meaning given such term by paragraph (1) of
25 section 9832(b) (determined by disregarding

1 the last sentence of paragraph (2) of such sec-
2 tion).

3 “(3) QUALIFIED EMPLOYEE.—The term ‘quali-
4 fied employee’ means an employee of an employer
5 who, with respect to any period, is not provided
6 health insurance coverage under—

7 “(A) a health plan of the employee’s
8 spouse,

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

11 “(C) chapter 17 of title 38, United States
12 Code,

13 “(D) chapter 55 of title 10, United States
14 Code,

15 “(E) chapter 89 of title 5, United States
16 Code, or

17 “(F) any other provision of law.

18 “(4) EMPLOYEE.—The term ‘employee’—

19 “(A) means any individual, with respect to
20 any calendar year, who is reasonably expected
21 to receive at least \$5,000 of compensation from
22 the employer during such year,

23 “(B) does not include an employee within
24 the meaning of section 401(c)(1), and

1 “(C) includes a leased employee within the
2 meaning of section 414(n).

3 “(5) COMPENSATION.—The term ‘compensa-
4 tion’ means amounts described in section
5 6051(a)(3).

6 “(e) CERTAIN RULES MADE APPLICABLE.—For pur-
7 poses of this section, rules similar to the rules of section
8 52 shall apply.

9 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
10 or credit under any other provision of this chapter shall
11 be allowed with respect to qualified employee health insur-
12 ance expenses taken into account under subsection (a).”.

13 (b) CREDIT TO BE PART OF GENERAL BUSINESS
14 CREDIT.—Section 38(b) of the Internal Revenue Code of
15 1986 (relating to current year business credit) is amended
16 by striking “plus” at the end of paragraph (14), by strik-
17 ing the period at the end of paragraph (15) and inserting
18 “, plus”, and by adding at the end the following:

19 “(16) the employee health insurance expenses
20 credit determined under section 45G.”.

21 (c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

22 (1) IN GENERAL.—Subsection (c) of section 38
23 of the Internal Revenue Code of 1986 (relating to
24 limitation based on amount of tax) is amended by
25 redesignating paragraph (4) as paragraph (5) and

1 by inserting after paragraph (3) the following new
2 paragraph:

3 “(4) SPECIAL RULES FOR EMPLOYEE HEALTH
4 INSURANCE CREDIT.—

5 “(A) IN GENERAL.—In the case of the em-
6 ployee health insurance credit—

7 “(i) this section and section 39 shall
8 be applied separately with respect to the
9 credit, and

10 “(ii) in applying paragraph (1) to the
11 credit—

12 “(I) the amounts in subpara-
13 graphs (A) and (B) thereof shall be
14 treated as being zero, and

15 “(II) the limitation under para-
16 graph (1) (as modified by subclause
17 (I)) shall be reduced by the credit al-
18 lowed under subsection (a) for the
19 taxable year (other than the employee
20 health insurance credit).

21 “(B) EMPLOYEE HEALTH INSURANCE
22 CREDIT.—For purposes of this subsection, the
23 term ‘employee health insurance credit’ means
24 the credit allowable under subsection (a) by rea-
25 son of section 45G(a).”.

1 (2) CONFORMING AMENDMENTS.—

2 (A) Subclause (II) of section
3 38(c)(2)(A)(ii) of such Code is amended by in-
4 serting “or the employee health insurance cred-
5 it” after “employee credit”.

6 (B) Subclause (II) of section
7 38(c)(3)(A)(ii) of such Code is amended by in-
8 serting “or the employee health insurance cred-
9 it” after “employee credit”.

10 (d) NO CARRYBACKS.—Subsection (d) of section 39
11 of the Internal Revenue Code of 1986 (relating to
12 carryback and carryforward of unused credits) is amended
13 by adding at the end the following:

14 “(11) NO CARRYBACK OF SECTION 45G CREDIT
15 BEFORE EFFECTIVE DATE.—No portion of the un-
16 used business credit for any taxable year which is
17 attributable to the employee health insurance ex-
18 penses credit determined under section 45G may be
19 carried back to a taxable year ending before the date
20 of the enactment of section 45G.”.

21 (e) CLERICAL AMENDMENT.—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1
23 of the Internal Revenue Code of 1986 is amended by add-
24 ing at the end the following:

“Sec. 45G. Employee health insurance expenses.”.

1 (f) EMPLOYER OUTREACH.—The Internal Revenue
2 Service shall, in conjunction with the Small Business Ad-
3 ministration, develop materials and implement an edu-
4 cational program to ensure that business personnel are
5 aware of—

6 (1) the eligibility criteria for the tax credit pro-
7 vided under section 45G of the Internal Revenue
8 Code of 1986 (as added by this section),

9 (2) the methods to be used in calculating such
10 credit,

11 (3) the documentation needed in order to claim
12 such credit, and

13 (4) any available health plan purchasing alli-
14 ances established under title II,

15 so that the maximum number of eligible businesses may
16 claim the tax credit.

17 (g) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to amounts paid or incurred in tax-
19 able years beginning after the date of the enactment of
20 this Act.

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