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110TH CONGRESS
2D SESSION

H. R. 7074

To amend the Internal Revenue Code of 1986 to simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2008

Mr. GONZALEZ 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 simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Home Office Tax Deduction Simplification and Improvement Act of 2008''.

SEC. 2. OPTIONAL STANDARD HOME OFFICE DEDUCTION.

(a) IN GENERAL.—Subsection (c) of section 280A of the Internal Revenue Code of 1986 (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by adding at the end the following new paragraph:

"(7) ELECTION OF STANDARD HOME OFFICE DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is allowed a deduction for the use of a portion of a dwelling unit as a business by reason of paragraph (1), (2), or (4), notwithstanding the limitations of paragraph (5), if such individual elects the application of this paragraph for the taxable year with respect to such dwelling unit, such individual shall be allowed a deduction equal to the standard home office deduction for the taxable year in lieu of the deductions otherwise allowable under this chapter for such taxable year by reason of paragraph (1), (2), or (4).

"(B) STANDARD HOME OFFICE DEDUCTION.—

"(i) IN GENERAL.—For purposes of this paragraph, the standard home office deduction is an amount equal to the product of—

"(I) the applicable home office standard rate, and

"(II) the square footage of the portion of the dwelling unit to which paragraph (1), (2), or (4) applies.

"(ii) APPLICABLE HOME OFFICE STANDARD RATE.—For purposes of this subparagraph, the term 'applicable home office standard rate' means the rate applicable to the taxpayer's category of business, as determined and published by the Secretary for the 3 categories of businesses described in paragraphs (1), (2), and (4) for the taxable year.

"(iii) MAXIMUM SQUARE FOOTAGE TAKEN INTO ACCOUNT.—The Secretary shall determine and publish annually the maximum square footage that may be taken into account under clause (i)(II) for each of the 3 categories of businesses described in paragraphs (1), (2), and (4) for the taxable year.

"(C) EFFECT OF ELECTION.—

"(i) GENERAL RULE.—Except as provided in clause (ii), any election under this paragraph, once made by the taxpayer with respect to any dwelling unit, shall continue to apply with respect to such dwelling unit for each succeeding taxable year.

"(ii) ONE-TIME ELECTION PER DWELLING UNIT.—A taxpayer who elects the application of this paragraph in a taxable year with respect to any dwelling unit may revoke such application in a subsequent taxable year. After so revoking, the taxpayer may not elect the application of this paragraph with respect to such dwelling unit in any subsequent taxable year.

"(D) DENIAL OF DOUBLE BENEFIT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of a taxpayer who elects the application of this paragraph for the taxable year, no other deduction or credit shall be allowed under this subtitle for such taxable year for any amount attributable to the portion of a dwelling unit taken into account under this paragraph.

"(ii) EXCEPTION FOR DISASTER LOSSES.—A taxpayer who elects the application of this paragraph in any taxable year may take into account any disaster loss described in section 165(i) as a loss under section 165 for the applicable taxable year, in addition to the standard home office deduction under this paragraph for such taxable year.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.".

(b) MODIFICATION OF HOME OFFICE BUSINESS USE RULES.—

(1) PLACE OF MEETING.—Subparagraph (B) of section 280A(c)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) as a place of business which is used by the taxpayer in meeting or dealing with patients, clients, or customers in the normal course of the taxpayer's trade or business, or".

(2) DE MINIMIS PERSONAL USE.—Paragraph (1) of section 280A(c) of such Code is amended by striking "for the convenience of his employer" and inserting "for the convenience of such employee's employer. A portion of a dwelling unit shall not fail to be deemed as exclusively used for business for

purposes of this paragraph solely because a de minimis amount of non-business activity may be carried out in such portion''.

(c) REPORTING OF EXPENSES RELATING TO HOME OFFICE DEDUCTION.—Within 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall ensure that all forms and schedules used to calculate or report itemized deductions and profits or losses from business or farming state separately amounts attributable to real estate taxes, mortgage interest, and depreciation for purposes of the deductions allowable under paragraphs (1), (2), (4), and (7) of section 280A(c) of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

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