

113TH CONGRESS
1ST SESSION

H. R. 2558

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of small business start-up savings accounts.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2013

Mr. MAFFEI 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 the tax treatment of small business start-up savings 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 “Incentivize Growth
5 Now In Tomorrow’s Entrepreneurs Act of 2013”.

6 **SEC. 2. SMALL BUSINESS START-UP SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Subchapter F of chapter 1 of the
8 Internal Revenue Code of 1986 is amended by adding at
9 the end the following new part:

1 **“PART IX—SMALL BUSINESS START-UP SAVINGS**
 2 **ACCOUNTS**

“Sec. 530A. Small Business Start-up Savings Accounts.

3 **“SEC. 530A. SMALL BUSINESS START-UP SAVINGS AC-**
 4 **COUNTS.**

5 “(a) GENERAL RULE.—A small business start-up
 6 savings account shall be exempt from taxation under this
 7 subtitle. Notwithstanding the preceding sentence, the
 8 small business start-up savings account shall be subject
 9 to the taxes imposed by section 511 (relating to imposition
 10 of tax on unrelated business income of charitable organiza-
 11 tions).

12 “(b) SMALL BUSINESS START-UP SAVINGS AC-
 13 COUNT.—The term ‘small business start-up savings ac-
 14 count’ means a trust created or organized in the United
 15 States exclusively for the purpose of making qualified
 16 start-up expenditures of the individual who is the des-
 17 ignated beneficiary of the trust (and designated as a small
 18 business start-up savings account at the time created or
 19 organized), but only if the written governing instrument
 20 creating the trust meets the following requirements:

21 “(1) Except in the case of a rollover contribu-
 22 tion described in subsection (d)(4), no contribution
 23 will be accepted unless it is in cash, and contribu-
 24 tions will not be accepted if such contribution would

1 result in aggregate contributions for the taxable year
2 not exceeding the lesser of—

3 “(A) \$10,000, or

4 “(B) an amount equal to the compensation
5 (as defined in section 219(f)(1)) includible in
6 the individual’s gross income for such taxable
7 year.

8 “(2) The trustee is a bank (as defined in sec-
9 tion 408(n)) or such other person who demonstrates
10 to the satisfaction of the Secretary that the manner
11 in which such other person will administer the trust
12 will be consistent with the requirements of this sec-
13 tion.

14 “(3) No part of the trust funds will be invested
15 in life insurance contracts.

16 “(4) The assets of the trust will not be commin-
17 gled with other property except in a common trust
18 fund or common investment fund.

19 “(c) QUALIFIED START-UP EXPENDITURES.—For
20 purposes of this section—

21 “(1) IN GENERAL.—The term ‘qualified start-
22 up expenditures’ has the meaning given such term
23 by section 195.

24 “(2) SPECIAL RULE FOR CORPORATION OR
25 PARTNERSHIP INTERESTS.—Such term includes the

1 taxpayer's allocable share of qualified start-up ex-
2 penditures of an entity in which the taxpayer di-
3 rectly holds stock or a capital or profits interest.

4 “(3) EXCEPTION.—Such term shall not apply
5 to any expenditures paid or incurred in a taxable
6 year in connection with a trade or business if there
7 is any day during the taxable year on which the
8 number of full-time employees of the trade or busi-
9 ness exceeds 50.

10 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

11 “(1) IN GENERAL.—Any distribution shall be
12 includible in the gross income of the distributee in
13 the manner as provided in section 72.

14 “(2) DISTRIBUTIONS FOR QUALIFIED START-UP
15 EXPENDITURES.—

16 “(A) IN GENERAL.—No amount shall be
17 includible in gross income under paragraph (1)
18 if the qualified start-up expenditures of the in-
19 dividual during the taxable year are not less
20 than the aggregate distributions during the tax-
21 able year.

22 “(B) DISTRIBUTIONS IN EXCESS OF EX-
23 PENSES.—If such aggregate distributions ex-
24 ceed such expenses during the taxable year, the
25 amount otherwise includible in gross income

1 under paragraph (1) shall be reduced by the
2 amount which bears the same ratio to the
3 amount which would be includible in gross in-
4 come under paragraph (1) (without regard to
5 this subparagraph) as the qualified start-up ex-
6 penditures bear to such aggregate distributions.

7 “(C) DISALLOWANCE OF EXCLUDED
8 AMOUNTS AS DEDUCTION, CREDIT, OR EXCLU-
9 SION.—No deduction, credit, or exclusion shall
10 be allowed to the taxpayer under any other sec-
11 tion of this chapter for any qualified start-up
12 expenditure to the extent taken into account in
13 determining the amount of the exclusion under
14 this paragraph.

15 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
16 FORE DUE DATE OF RETURN.—

17 “(A) IN GENERAL.—If any excess con-
18 tribution is contributed for a taxable year to
19 any small business start-up savings account of
20 an individual, paragraph (1) shall not apply to
21 distributions from the small business start-up
22 savings accounts of such individual (to the ex-
23 tent such distributions do not exceed the aggre-
24 gate excess contributions to all such accounts of
25 such individual for such year) if—

1 “(i) such distribution is received by
2 the individual on or before the last day
3 prescribed by law (including extensions of
4 time) for filing such individual’s return for
5 such taxable year, and

6 “(ii) such distribution is accompanied
7 by the amount of net income attributable
8 to such excess contribution.

9 “(B) EXCESS CONTRIBUTION.—For pur-
10 poses of subparagraph (A), the term ‘excess
11 contribution’ means any contribution (other
12 than a rollover contribution described in para-
13 graph (4)) which when added to all previous
14 contributions for the taxable year exceeds the
15 amount allowable as a contribution under sub-
16 section (b)(1).

17 “(4) ROLLOVER CONTRIBUTION.—Paragraph
18 (1) shall not apply to any amount paid or distrib-
19 uted from a small business start-up savings account
20 to the account beneficiary to the extent the amount
21 received is paid into a small business start-up sav-
22 ings account for the benefit of such beneficiary not
23 later than the 60th day after the day on which the
24 beneficiary receives the payment or distribution. For

1 purposes of this paragraph, rules similar to the rules
2 of section 408(d)(3)(D) shall apply.

3 “(5) TRANSFER OF ACCOUNT INCIDENT TO DI-
4 VORCE.—The transfer of an individual’s interest in
5 a small business start-up savings account to an indi-
6 vidual’s spouse or former spouse under a divorce or
7 separation instrument described in subparagraph
8 (A) of section 71(b)(2) shall not be considered a tax-
9 able transfer made by such individual notwith-
10 standing any other provision of this subtitle, and
11 such interest shall, after such transfer, be treated as
12 a small business start-up savings account with re-
13 spect to which such spouse is the account bene-
14 ficiary.

15 “(6) TREATMENT AFTER DEATH OF ACCOUNT
16 BENEFICIARY.—

17 “(A) TREATMENT IF DESIGNATED BENE-
18 FICIARY IS SPOUSE.—If the account bene-
19 ficiary’s surviving spouse acquires such bene-
20 ficiary’s interest in a small business start-up
21 savings account by reason of being the des-
22 ignated beneficiary of such account at the death
23 of the account beneficiary, such account shall
24 be treated as if the spouse were the account
25 beneficiary.

1 “(B) OTHER CASES.—

2 “(i) IN GENERAL.—If, by reason of
3 the death of the account beneficiary, any
4 person acquires the account beneficiary’s
5 interest in a small business start-up sav-
6 ings account in a case to which subpara-
7 graph (A) does not apply—

8 “(I) such account shall cease to
9 be a small business start-up savings
10 account as of the date of death, and

11 “(II) an amount equal to the fair
12 market value of the assets in such ac-
13 count on such date shall be includible
14 if such person is not the estate of
15 such beneficiary, in such person’s
16 gross income for the taxable year
17 which includes such date, or if such
18 person is the estate of such bene-
19 ficiary, in such beneficiary’s gross in-
20 come for the last taxable year of such
21 beneficiary.

22 “(ii) SPECIAL RULES.—

23 “(I) REDUCTION OF INCLUSION
24 FOR PREDEATH EXPENSES.—The
25 amount includible in gross income

1 under clause (i) by any person (other
2 than the estate) shall be reduced by
3 the amount of qualified start-up ex-
4 penditures which were incurred by the
5 decedent before the date of the dece-
6 dent's death and paid by such person
7 within 1 year after such date.

8 “(II) DEDUCTION FOR ESTATE
9 TAXES.—An appropriate deduction
10 shall be allowed under section 691(c)
11 to any person (other than the dece-
12 dent or the decedent's spouse) with
13 respect to amounts included in gross
14 income under clause (i) by such per-
15 son.

16 “(e) COMMUNITY PROPERTY LAWS.—This section
17 shall be applied without regard to any community property
18 laws.

19 “(f) CUSTODIAL ACCOUNTS.—For purposes of this
20 section, a custodial account shall be treated as a trust if
21 the assets of such account are held by a bank (as defined
22 in subsection (n)) or another person who demonstrates,
23 to the satisfaction of the Secretary, that the manner in
24 which he will administer the account will be consistent
25 with the requirements of this section, and if the custodial

1 account would, except for the fact that it is not a trust,
2 constitute a small business start-up account described in
3 subsection (a). For purposes of this title, in the case of
4 a custodial account treated as a trust by reason of the
5 preceding sentence, the custodian of such account shall be
6 treated as the trustee thereof.

7 “(g) ADJUSTMENT FOR INFLATION.—In the case of
8 a taxable year beginning after December 31, 2014, the
9 dollar amount in subsection (b)(1) shall be increased by
10 an amount equal to—

11 “(1) such dollar amount, multiplied by

12 “(2) the cost-of-living adjustment determined
13 under section 1(f)(3) for the calendar year in which
14 the taxable year begins, determined by substituting
15 ‘calendar year 2013’ for ‘calendar year 1992’ in sub-
16 paragraph (B) thereof.

17 If any amount as increased under the preceding sentence
18 is not a multiple of \$100, such amount shall be rounded
19 to the nearest multiple of \$100.

20 “(h) REPORTS.—The trustee of a small business
21 start-up savings account shall make such reports regard-
22 ing such account to the Secretary and to the individual
23 for whom the account is, or is to be, maintained with re-
24 spect to contributions (and the years to which they relate),
25 distributions, aggregating \$10 or more in any calendar

1 year, and such other matters as the Secretary may re-
2 quire. The reports required by this subsection—

3 “(1) shall be filed at such time and in such
4 manner as the Secretary prescribes, and

5 “(2) shall be furnished to individuals—

6 “(A) not later than January 31 of the cal-
7 endar year following the calendar year to which
8 such reports relate, and

9 “(B) in such manner as the Secretary pre-
10 scribes.

11 “(i) REGULATIONS.—The Secretary shall issue such
12 regulations or other guidance as may be necessary to carry
13 out this section, including for purposes of subsection
14 (c)(2) the making reports by regarding qualified start-up
15 expenditures of an entity in which the taxpayer directly
16 holds stock or a capital or profits interest.”.

17 (b) TAX ON PROHIBITED TRANSACTIONS.—

18 (1) IN GENERAL.—Paragraph (1) of section
19 4975(e) of such Code (relating to prohibited trans-
20 actions) is amended by striking “or” at the end of
21 subparagraph (F), by redesignating subparagraph
22 (G) as subparagraph (H), and by inserting after
23 subparagraph (F) the following new subparagraph:

24 “(G) a small business start-up savings ac-
25 count described in section 530A, or”.

1 (2) SPECIAL RULE.—Subsection (c) of section
2 4975 of such Code is amended by adding at the end
3 of subsection (c) the following new paragraph:

4 “(7) SPECIAL RULE FOR SMALL BUSINESS
5 START-UP SAVINGS ACCOUNTS.—An individual for
6 whose benefit a small business start-up savings ac-
7 count is established and any contributor to such ac-
8 count shall be exempt from the tax imposed by this
9 section with respect to any transaction concerning
10 such account (which would otherwise be taxable
11 under this section) if section 530A(d)(1) applies
12 with respect to such transaction or if such trans-
13 action is a qualified start-up expenditure (as defined
14 in section 530A(c)).”.

15 (c) FAILURE TO PROVIDE REPORTS ON SMALL BUSI-
16 NESS START-UP SAVINGS ACCOUNTS.—Paragraph (2) of
17 section 6693(a) of such Code is amended by striking
18 “and” at the end of subparagraph (D), by striking the
19 period at the end of subparagraph (E) and inserting “,
20 and”, and by adding at the end the following new subpara-
21 graph:

22 “(F) section 530A(h) (relating to small
23 business start-up savings accounts).”.

1 (d) EXCESS CONTRIBUTIONS.—Section 4973(b) of
2 such Code is amended by adding at the end the following
3 new subsection:

4 “(h) EXCESS CONTRIBUTIONS TO SMALL BUSINESS
5 START-UP SAVINGS ACCOUNTS.—For purposes of this
6 section, in the case of contributions to a small business
7 start-up savings account (within the meaning of section
8 530A(b)), the term ‘excess contributions’ means the sum
9 of—

10 “(1) the excess (if any) of—

11 “(A) the amount contributed for the tax-
12 able year to such accounts (other than a roll-
13 over contribution described in section
14 530A(d)(4)), over

15 “(B) the amount allowable as a contribu-
16 tion under section 530A(b)(1), and

17 “(2) the amount determined under this sub-
18 section for the preceding taxable year, reduced by
19 the sum of—

20 “(A) the distributions out of the accounts
21 for the taxable year, and

22 “(B) the excess (if any) of the maximum
23 amount allowable as a contribution under sec-
24 tions 530A(b)(1) for the taxable year over the

1 amount contributed to the accounts for the tax-
2 able year.

3 For purposes of this subsection, any contribution
4 which is distributed from a small business start-up
5 savings account in a distribution described in section
6 530A(d)(3) shall be treated as an amount not con-
7 tributed.”.

8 (e) CLERICAL AMENDMENT.—The table of contents
9 for subchapter F of chapter 1 of such Code is amended
10 by adding at the end the following new item:

“PART IX. SMALL BUSINESS START-UP SAVINGS ACCOUNTS”.

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2013.

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