

111TH CONGRESS
2^D SESSION

H. R. 5486

To amend the Internal Revenue Code of 1986 to provide tax incentives
for small business job creation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2010

Mr. LEVIN 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 for small business job creation, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE V—TAX PROVISIONS**

4 **SEC. 500. SHORT TITLE; ETC.**

5 (a) SHORT TITLE.—This title may be cited as the
6 “Small Business Jobs Tax Relief Act of 2010”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this title an amend-
9 ment or repeal is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this title is as follows:

Sec. 500. Short title; etc.

Subtitle A—Small Business Tax Incentives

PART 1—GENERAL PROVISIONS

Sec. 501. Temporary exclusion of 100 percent of gain on certain small business
 stock.

PART 2—LIMITATIONS AND REPORTING ON CERTAIN PENALTIES

Sec. 511. Limitation on penalty for failure to disclose certain information.
 Sec. 512. Annual reports on penalties and certain other enforcement actions.

PART 3—OTHER PROVISIONS

Sec. 521. Increase in amount allowed as deduction for start-up expenditures.
 Sec. 522. Nonrecourse small business investment company loans from the Small
 Business Administration treated as amounts at risk.
 Sec. 523. Benefits under the Small Business Borrower Assistance Program ex-
 cluded from gross income.

Subtitle B—Revenue Provisions

Sec. 531. Required minimum 10-year term, etc., for grantor retained annuity
 trusts.
 Sec. 532. Crude tall oil ineligible for cellulosic biofuel producer credit.
 Sec. 533. Time for payment of corporate estimated taxes.

5 **Subtitle A—Small Business Tax**
 6 **Incentives**

7 **PART 1—GENERAL PROVISIONS**

8 **SEC. 501. TEMPORARY EXCLUSION OF 100 PERCENT OF**
 9 **GAIN ON CERTAIN SMALL BUSINESS STOCK.**

10 (a) IN GENERAL.—Subsection (a) of section 1202 is
 11 amended by adding at the end the following new para-
 12 graph:

1 “(4) SPECIAL 100 PERCENT EXCLUSION.—In
2 the case of qualified small business stock acquired
3 after March 15, 2010, and before January 1,
4 2012—

5 “(A) paragraph (1) shall be applied by
6 substituting ‘100 percent’ for ‘50 percent’,

7 “(B) paragraph (2) shall not apply, and

8 “(C) paragraph (7) of section 57(a) shall
9 not apply.”.

10 (b) CONFORMING AMENDMENTS.—Paragraph (3) of
11 section 1202(a) is amended—

12 (1) by striking “after the date of the enactment
13 of this paragraph and before January 1, 2011” and
14 inserting “after February 17, 2009, and before
15 March 16, 2010”; and

16 (2) by striking “SPECIAL RULES FOR 2009 AND
17 2010” in the heading and inserting “SPECIAL 75
18 PERCENT EXCLUSION”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to stock acquired after March 15,
21 2010.

1 **PART 2—LIMITATIONS AND REPORTING ON**
2 **CERTAIN PENALTIES**

3 **SEC. 511. LIMITATION ON PENALTY FOR FAILURE TO DIS-**
4 **CLOSE CERTAIN INFORMATION.**

5 (a) IN GENERAL.—Subsection (b) of section 6707A
6 is amended to read as follows:

7 “(b) AMOUNT OF PENALTY.—

8 “(1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the amount of the penalty
10 under subsection (a) with respect to any reportable
11 transaction shall be 75 percent of the decrease in
12 tax shown on the return as a result of such trans-
13 action (or which would have resulted from such
14 transaction if such transaction were respected for
15 Federal tax purposes).

16 “(2) MAXIMUM PENALTY.—The amount of the
17 penalty under subsection (a) with respect to any re-
18 portable transaction for any taxable year shall not
19 exceed—

20 “(A) in the case of a listed transaction,
21 \$200,000 (\$100,000 in the case of a natural
22 person), or

23 “(B) in the case of any other reportable
24 transaction, \$50,000 (\$10,000 in the case of a
25 natural person).

1 “(3) MINIMUM PENALTY.—The amount of the
2 penalty under subsection (a) with respect to any
3 transaction for any taxable year shall not be less
4 than \$10,000 (\$5,000 in the case of a natural per-
5 son).”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to penalties assessed after Decem-
8 ber 31, 2006.

9 **SEC. 512. ANNUAL REPORTS ON PENALTIES AND CERTAIN**
10 **OTHER ENFORCEMENT ACTIONS.**

11 (a) IN GENERAL.—The Commissioner of Internal
12 Revenue, in consultation with the Secretary of the Treas-
13 ury, shall submit to the Committee on Ways and Means
14 of the House of Representatives and the Committee on
15 Finance of the Senate an annual report on the penalties
16 assessed by the Internal Revenue Service during the pre-
17 ceding year under each of the following provisions of the
18 Internal Revenue Code of 1986:

19 (1) Section 6662A (relating to accuracy-related
20 penalty on understatements with respect to report-
21 able transactions).

22 (2) Section 6700(a) (relating to promoting abu-
23 sive tax shelters).

24 (3) Section 6707 (relating to failure to furnish
25 information regarding reportable transactions).

1 (4) Section 6707A (relating to failure to include
2 reportable transaction information with return).

3 (5) Section 6708 (relating to failure to main-
4 tain lists of advisees with respect to reportable
5 transactions).

6 (b) **ADDITIONAL INFORMATION.**—The report re-
7 quired under subsection (a) shall also include information
8 on the following with respect to each year:

9 (1) Any action taken under section 330(b) of
10 title 31, United States Code, with respect to any re-
11 portable transaction (as defined in section 6707A(c)
12 of the Internal Revenue Code of 1986).

13 (2) Any extension of the time for assessment of
14 tax enforced, or assessment of any amount under
15 such an extension, under paragraph (10) of section
16 6501(c) of the Internal Revenue Code of 1986.

17 (c) **DATE OF REPORT.**—The first report required
18 under subsection (a) shall be submitted not later than De-
19 cember 31, 2010.

20 **PART 3—OTHER PROVISIONS**

21 **SEC. 521. INCREASE IN AMOUNT ALLOWED AS DEDUCTION** 22 **FOR START-UP EXPENDITURES.**

23 (a) **IN GENERAL.**—Subsection (b) of section 195 is
24 amended by adding at the end the following new para-
25 graph:

1 “(3) INCREASED LIMITATION FOR TAXABLE
2 YEARS BEGINNING IN 2010 OR 2011.—In the case of
3 any taxable year beginning in 2010 or 2011, para-
4 graph (1)(A)(ii) shall be applied—

5 “(A) by substituting ‘\$20,000’ for
6 ‘\$5,000’, and

7 “(B) by substituting ‘\$75,000’ for
8 ‘\$50,000’.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2009.

12 **SEC. 522. NONRECOURSE SMALL BUSINESS INVESTMENT**
13 **COMPANY LOANS FROM THE SMALL BUSI-**
14 **NESS ADMINISTRATION TREATED AS**
15 **AMOUNTS AT RISK.**

16 (a) IN GENERAL.—Subparagraph (B) of section
17 465(b)(6) is amended to read as follows:

18 “(B) QUALIFIED NONRECOURSE FINANC-
19 ING.—For purposes of this paragraph—

20 “(i) IN GENERAL.—The term ‘quali-
21 fied nonrecourse financing’ means any fi-
22 nancing—

23 “(I) which is qualified real prop-
24 erty financing or qualified SBIC fi-
25 nancing,

1 “(II) except to the extent pro-
2 vided in regulations, with respect to
3 which no person is personally liable
4 for repayment, and

5 “(III) which is not convertible
6 debt.

7 “(ii) QUALIFIED REAL PROPERTY FI-
8 NANCING.—The term ‘qualified real prop-
9 erty financing’ means any financing
10 which—

11 “(I) is borrowed by the taxpayer
12 with respect to the activity of holding
13 real property,

14 “(II) is secured by real property
15 used in such activity, and

16 “(III) is borrowed by the tax-
17 payer from a qualified person or rep-
18 represents a loan from any Federal,
19 State, or local government or instru-
20 mentality thereof, or is guaranteed by
21 any Federal, State, or local govern-
22 ment.

23 “(iii) QUALIFIED SBIC FINANCING.—
24 The term ‘qualified SBIC financing’ means
25 any financing which—

1 “(I) is borrowed by a small busi-
2 ness investment company (within the
3 meaning of section 301 of the Small
4 Business Investment Act of 1958),
5 and

6 “(II) is borrowed from, or guar-
7 anteed by, the Small Business Admin-
8 istration under the authority of sec-
9 tion 303(b) of such Act.”.

10 (b) CONFORMING AMENDMENTS.—Subparagraph (A)
11 of section 465(b)(6) is amended—

12 (1) by striking “in the case of an activity of
13 holding real property,”; and

14 (2) by striking “which is secured by real prop-
15 erty used in such activity”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to loans and guarantees made after
18 the date of the enactment of this Act.

19 **SEC. 523. BENEFITS UNDER THE SMALL BUSINESS BOR-**
20 **ROWER ASSISTANCE PROGRAM EXCLUDED**
21 **FROM GROSS INCOME.**

22 (a) IN GENERAL.—Part III of subchapter B of chap-
23 ter 1 is amended by adding at the end the following new
24 section:

1 **“SEC. 139F. BENEFITS UNDER THE SMALL BUSINESS BOR-**
2 **ROWER ASSISTANCE PROGRAM.**

3 “(a) IN GENERAL.—Gross income shall not include
4 any amount paid on behalf of a borrower by the Adminis-
5 trator of the Small Business Administration under the
6 Small Business Borrower Assistance program established
7 under section 402 of the Small Business Assistance Fund
8 Act of 2010 (as in effect immediately after the date of
9 the enactment of such Act).

10 “(b) DENIAL OF DOUBLE BENEFIT.—Notwith-
11 standing any other provision of this subtitle, with respect
12 to the person for whose benefit a payment described in
13 subsection (a) is made—

14 “(1) INTEREST.—No deduction shall be allowed
15 for interest to the extent the liability for such inter-
16 est is covered by such payment.

17 “(2) PAYMENTS OF PRINCIPAL.—If any pay-
18 ment is applied to reduce the principal of the loan
19 to which such payment relates—

20 “(A) ALLOCATION AMONG FINANCED EX-
21 PENDITURES.—Such payment shall be allocated
22 pro rata among the expenditures financed with
23 such loan.

24 “(B) CREDITS AND DEDUCTIBLE EX-
25 PENSES.—No deduction or credit shall be al-
26 lowed for, or by reason of, any such expenditure

1 to the extent of the amount of the payment al-
 2 located to such expenditure under subparagraph
 3 (A).

4 “(C) ADJUSTMENT OF BASIS.—The ad-
 5 justed basis of any property acquired with such
 6 expenditure shall be reduced to the extent of
 7 the amount of the payment allocated to such
 8 expenditure under subparagraph (A).”.

9 (b) CLERICAL AMENDMENTS.—The table of sections
 10 for part III of subchapter B of chapter 1 is amended by
 11 adding at the end the following new item:

“Sec. 139F. Benefits under the Small Business Borrower Assistance Pro-
 gram.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to payments made after the date
 14 of the enactment of this Act.

15 **Subtitle B—Revenue Provisions**

16 **SEC. 531. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR** 17 **GRANTOR RETAINED ANNUITY TRUSTS.**

18 (a) IN GENERAL.—Subsection (b) of section 2702 is
 19 amended—

20 (1) by redesignating paragraphs (1), (2) and
 21 (3) as subparagraphs (A), (B), and (C), respectively,
 22 and by moving such subparagraphs (as so redesign-
 23 nated) 2 ems to the right;

1 (2) by striking “For purposes of” and inserting
2 the following:

3 “(1) IN GENERAL.—For purposes of”;

4 (3) by striking “paragraph (1) or (2)” in para-
5 graph (1)(C) (as so redesignated) and inserting
6 “subparagraph (A) or (B)”;

7 (4) by adding at the end the following new
8 paragraph:

9 “(2) ADDITIONAL REQUIREMENTS WITH RE-
10 SPECT TO GRANTOR RETAINED ANNUITIES.—For
11 purposes of subsection (a), in the case of an interest
12 described in paragraph (1)(A) (determined without
13 regard to this paragraph) which is retained by the
14 transferor, such interest shall be treated as de-
15 scribed in such paragraph only if—

16 “(A) the right to receive the fixed amounts
17 referred to in such paragraph is for a term of
18 not less than 10 years,

19 “(B) such fixed amounts, when determined
20 on an annual basis, do not decrease relative to
21 any prior year during the first 10 years of the
22 term referred to in subparagraph (A), and

23 “(C) the remainder interest has a value
24 greater than zero determined as of the time of
25 the transfer.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transfers made after the date
3 of the enactment of this Act.

4 **SEC. 532. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC**
5 **BIOFUEL PRODUCER CREDIT.**

6 (a) IN GENERAL.—Clause (iii) of section 40(b)(6)(E)
7 is amended—

8 (1) by striking “or” at the end of subclause (I),

9 (2) by striking the period at the end of sub-
10 clause (II) and inserting “, or”,

11 (3) by adding at the end the following new sub-
12 clause:

13 “(III) such fuel has an acid num-
14 ber greater than 25.”, and

15 (4) by striking “UNPROCESSED” in the heading
16 and inserting “CERTAIN”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to fuels sold or used on or after
19 January 1, 2010.

20 **SEC. 533. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
21 **TAXES.**

22 The percentage under paragraph (2) of section 561
23 of the Hiring Incentives to Restore Employment Act in

- 1 effect on the date of the enactment of this Act is increased
- 2 by 7.75 percentage points.

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