

111TH CONGRESS
2^D SESSION

H. R. 6168

To amend the Internal Revenue Code of 1986 to allow a deduction for certain small business income.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2010

Mr. CAMP (for himself and Mr. CANTOR) 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 allow a deduction for certain small business income.

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. DEDUCTION FOR QUALIFIED SMALL BUSINESS**

4 **INCOME.**

5 (a) IN GENERAL.—Paragraph (1) of section 199(a)
6 of the Internal Revenue Code of 1986 is amended to read
7 as follows:

8 “(1) IN GENERAL.—There shall be allowed as a
9 deduction an amount equal to the sum of—

10 “(A) 9 percent of the lesser of—

1 “(i) the qualified production activities
2 income of the taxpayer for the taxable
3 year, or

4 “(ii) taxable income (determined with-
5 out regard to this section) for the taxable
6 year, and

7 “(B) in the case of a qualified small busi-
8 ness for a taxable year beginning in 2010 or
9 2011, 20 percent of the lesser of—

10 “(i) the qualified small business in-
11 come of the taxpayer for the taxable year,
12 or

13 “(ii) taxable income (determined with-
14 out regard to this section) for the taxable
15 year.”.

16 (b) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL
17 BUSINESS INCOME.—Section 199 of such Code is amend-
18 ed by adding at the end the following new subsection:

19 “(e) QUALIFIED SMALL BUSINESS; QUALIFIED
20 SMALL BUSINESS INCOME.—

21 “(1) QUALIFIED SMALL BUSINESS.—

22 “(A) IN GENERAL.—For purposes of this
23 section, the term ‘qualified small business’
24 means any taxpayer for any taxable year if the
25 annual average number of employees employed

1 by such taxpayer during such taxable year was
2 500 or fewer.

3 “(B) AGGREGATION RULE.—For purposes
4 of subparagraph (A), any person treated as a
5 single employer under subsection (a) or (b) of
6 section 52 (applied without regard to section
7 1563(b)) or subsection (m) or (o) of section
8 414 shall be treated as 1 taxpayer for purposes
9 of this subsection.

10 “(C) SPECIAL RULE.—If a taxpayer is
11 treated as a qualified small business for any
12 taxable year, the taxpayer shall not fail to be
13 treated as a qualified small business for any
14 subsequent taxable year solely because the num-
15 ber of employees employed by such taxpayer
16 during such subsequent taxable year exceeds
17 500. The preceding sentence shall cease to
18 apply to such taxpayer in the first taxable year
19 in which there is an ownership change (as de-
20 fined by section 382(g) in respect of a corpora-
21 tion, or by applying principles analogous to
22 such ownership change in the case of a tax-
23 payer that is a partnership) with respect to the
24 stock (or partnership interests) of the taxpayer.

25 “(2) QUALIFIED SMALL BUSINESS INCOME.—

1 “(A) IN GENERAL.—For purposes of this
2 section, the term ‘qualified small business in-
3 come’ means the excess of—

4 “(i) the income of the qualified small
5 business which—

6 “(I) is attributable to the actual
7 conduct of a trade or business,

8 “(II) is income from sources
9 within the United States (within the
10 meaning of section 861), and

11 “(III) is not passive income (as
12 defined in section 904(d)(2)(B)), over

13 “(ii) the sum of—

14 “(I) the cost of goods sold that
15 are allocable to such income, and

16 “(II) other expenses, losses, or
17 deductions (other than the deduction
18 allowed under this section), which are
19 properly allocable to such income.

20 “(B) EXCEPTIONS.—The following shall
21 not be treated as income of a qualified small
22 business for purposes of subparagraph (A):

23 “(i) Any income which is attributable
24 to any property described in section
25 1400N(p)(3).

1 “(ii) Any income which is attributable
2 to the ownership or management of any
3 professional sports team.

4 “(iii) Any income which is attributable
5 to a trade or business described in sub-
6 paragraph (B) of section 1202(e)(3).

7 “(iv) Any income which is attributable
8 to any property with respect to which
9 records are required to be maintained
10 under section 2257 of title 18, United
11 States Code.

12 “(C) ALLOCATION RULES, ETC.—Rules
13 similar to the rules of paragraphs (2), (3),
14 (4)(D), and (7) of subsection (e) shall apply for
15 purposes of this paragraph.

16 “(3) SPECIAL RULES.—Except as otherwise
17 provided by the Secretary, rules similar to the rules
18 of subsection (d) shall apply for purposes of this
19 subsection.”.

20 (e) CONFORMING AMENDMENTS.—

21 (1) Section 199(a)(2) of such Code is amended
22 by striking “paragraph (1)” and inserting “para-
23 graph (1)(A)”.

1 (2) The following provisions of section 199 of
2 such Code are each amended by striking “(a)(1)(B)”
3 and inserting “(a)(1)(A)(ii)”:

4 (A) Subsection (d)(2).

5 (B) Subsection (d)(6)(B).

6 (C) Subsection (d)(7).

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

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