

112TH CONGRESS  
1ST SESSION

# S. 364

To amend the Internal Revenue Code of 1986 to establish a new Small Business Savings Account.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2011

Mr. PRYOR (for himself, Mr. BROWN of Massachusetts, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to establish a new Small Business Savings Account.

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. ESTABLISHMENT OF SMALL BUSINESS SAVINGS**

4 **ACCOUNTS.**

5 (a) IN GENERAL.—Subpart A of part I of subchapter  
6 D of chapter 1 of the Internal Revenue Code of 1986 is  
7 amended by inserting after section 408A the following new  
8 section:

1 **“SEC. 408B. SMALL BUSINESS SAVINGS ACCOUNTS.**

2       “(a) GENERAL RULE.—Except as provided in this  
3 section, a Small Business Savings Account shall be treated  
4 for purposes of this title in the same manner as an indi-  
5 vidual retirement plan.

6       “(b) SMALL BUSINESS SAVINGS ACCOUNT.—For  
7 purposes of this title, the term ‘Small Business Savings  
8 Account’ means a tax preferred savings plan which is des-  
9 ignated at the time of establishment of the plan as a Small  
10 Business Savings Account. Such designation shall be made  
11 in such manner as the Secretary may prescribe.

12       “(c) TREATMENT OF CONTRIBUTIONS.—

13           “(1) NO DEDUCTION ALLOWED.—No deduction  
14 shall be allowed under section 219 for a contribution  
15 to a Small Business Savings Account.

16           “(2) CONTRIBUTION LIMIT.—

17           “(A) IN GENERAL.—The aggregate  
18 amount of contributions for any taxable year to  
19 all Small Business Savings Accounts main-  
20 tained for the benefit of an individual shall not  
21 exceed \$10,000.

22           “(B) AGGREGATE LIMITATION.—The ag-  
23 gregate of the amounts which may be taken  
24 into account under subparagraph (A) for all  
25 taxable years with respect to all Small Business

1 Savings Accounts maintained for the benefit of  
2 an individual shall not exceed \$150,000.

3 “(C) COST OF LIVING ADJUSTMENT.—The  
4 Secretary shall adjust annually the \$10,000  
5 amount in subparagraph (A) for increases in  
6 the cost-of-living at the same time and in the  
7 same manner as adjustments under section  
8 415(d); except that the base period shall be the  
9 calendar quarter beginning July 1, 2011, and  
10 any increase which is not a multiple of \$500  
11 shall be rounded to the next lowest multiple of  
12 \$500.

13 “(3) CONTRIBUTIONS PERMITTED AFTER AGE  
14 70½.—Contributions to a Small Business Savings  
15 Account may be made even after the individual for  
16 whom the account is maintained has attained age  
17 70½.

18 “(4) ROLLOVERS FROM RETIREMENT PLANS  
19 NOT ALLOWED.—A taxpayer shall not be allowed to  
20 make a qualified rollover contribution to a Small  
21 Business Savings Account from any qualified retire-  
22 ment plan (as defined in section 4974(c)).

23 “(d) DISTRIBUTION RULES.—For purposes of this  
24 title—

25 “(1) GENERAL RULES.—

1           “(A) LIMITATIONS ON DISTRIBUTIONS.—

2           All qualified distributions from a Small Busi-  
3           ness Savings Account—

4                   “(i) shall be limited to a single busi-  
5                   ness, and

6                   “(ii) must be disbursed not later than  
7                   the last day of the 5th taxable year begin-  
8                   ning after the initial disbursement.

9           “(B) EXCLUSIONS FROM GROSS INCOME.—

10           Any qualified distribution from a Small Busi-  
11           ness Savings Account shall not be includible in  
12           gross income.

13           “(2) QUALIFIED DISTRIBUTION.—For purposes  
14           of this subsection, the term ‘qualified distribution’  
15           means any payment or distribution made for oper-  
16           ating capital, the purchase of equipment or facilities,  
17           marketing, training, incorporation, and accounting  
18           fees.

19           “(3) NONQUALIFIED DISTRIBUTIONS.—

20                   “(A) IN GENERAL.—In applying section 72  
21                   to any distribution from a Small Business Sav-  
22                   ings Account which is not a qualified distribu-  
23                   tion, such distribution shall be treated as made  
24                   from contributions to the Small Business Sav-  
25                   ings Account to the extent that such distribu-

1           tion, when added to all previous distributions  
2           from the Small Business Savings Account, does  
3           not exceed the aggregate amount of contribu-  
4           tions to the Small Business Savings Account.

5           “(B) TREATMENT OF AMOUNTS REMAIN-  
6           ING IN ACCOUNT.—Any remaining amount in a  
7           Small Business Savings Account following the  
8           date described in paragraph (1)(A)(ii) shall be  
9           treated as distributed during the taxable year  
10          following such date and such distribution shall  
11          not be treated as a qualified distribution.

12          “(4) ROLLOVERS TO A ROTH IRA.—Subject to  
13          the application of the treatment of contributions in  
14          section 408A(c), distributions from a Small Business  
15          Savings Account may be rolled over into a Roth  
16          IRA.”.

17          (b) EXCESS CONTRIBUTIONS.—Section 4973 of the  
18          Internal Revenue Code of 1986 is amended by adding at  
19          the end the following new subsection:

20          “(h) EXCESS CONTRIBUTIONS TO SMALL BUSINESS  
21          SAVINGS ACCOUNTS.—For purposes of this section, in the  
22          case of contributions to all Small Business Savings Ac-  
23          counts (within the meaning of section 408B(b)) main-  
24          tained for the benefit of an individual, the term ‘excess  
25          contributions’ means the sum of—

1 “(1) the excess (if any) of—

2 “(A) the amount contributed to such ac-  
3 counts for the taxable year, over

4 “(B) the amount allowable as a contribu-  
5 tion under section 408B(e)(2) for such taxable  
6 year, and

7 “(2) the amount determined under this sub-  
8 section for the preceding taxable year, reduced by  
9 the sum of—

10 “(A) the distributions out of the accounts  
11 for the taxable year, and

12 “(B) the excess (if any) of—

13 “(i) the maximum amount allowable  
14 as a contribution under section 408B(e)(2)  
15 for such taxable year, over

16 “(ii) the amount contributed to such  
17 accounts for such taxable year.”.

18 (c) CONFORMING AMENDMENT.—The table of sec-  
19 tions for subpart A of part I of subchapter D of chapter  
20 1 of the Internal Revenue Code of 1986 is amended by  
21 inserting after the item relating to section 408A the fol-  
22 lowing new item:

“Sec. 408B. Small Business Savings Accounts.”.

1           (d) **EFFECTIVE DATE.**—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2010.

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