



Legislative Bulletin.....April 19, 2012

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H.R. 9—Small Business Tax Cut Act

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(Rep. Cantor, R-VA)**

Order of Business: The bill is scheduled to be considered on Thursday, April 19, 2012 under a structured rule that makes one amendment in order (debatable for 30 minutes, analyzed below). The rule provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means, and waives all points of order against consideration of the bill.

Summary: The legislation allows small businesses a tax deduction for 20% of their income that is subject to taxation. The legislation reduces tax revenues by \$46 billion over ten years (assuming a static scoring model): \$12.5 billion in 2012, \$32.7 billion in 2013, and \$700 million in 2014.

The deduction would apply whether the income is subject to the corporate or income tax. This means small business would qualify regardless of whether they are organized as pass-through businesses (S corporations or partnerships), sole proprietorships, or C corporations.

For purposes of the bill, a small business is defined as having 500 or fewer full-time equivalent employees in either 2010 or 2011.

Limitation on Deduction: The deduction is limited to 50 percent of the greater of:

- The W-2 wages of the taxpayer paid to non-owners; or
- The sum of **a**) the W-2 wages of the taxpayer paid to individuals who are non-owner family members of direct owners, plus **b**) any W-2 wages of the taxpayer paid to 10-percent-or-less direct owners.

Effective Date: The tax cut applies only to taxable year 2012.

Rulemaking Authority: The Treasury Secretary is allowed to prescribe such regulations “as are necessary” to carry out the purposes of the bill including regulations to prevent a taxpayer which

reorganizes from being treated as a small business for purposes of the bill (if the taxpayer would not have been a small business absent the reorganization).

Additional Background: April 17, 2012, was [Tax Freedom Day](#)—the day the Tax Foundation calculates Americans have finally earned enough money to pay their tax bills for the year and can start to work for themselves. The Tax Foundation calculates that Americans will work 107 days this year for the government, which is longer than the American people will work for food, clothing, and housing combined.

According to CBO, the federal tax burden will grow significantly in coming years. Federal tax revenue was 15.4% of GDP in 2011, and the historic average is 18% of GDP. But by 2022 it will increase to 21% of GDP (which would be the highest level in American history).

Amendment Made in Order by the Rule

1. ***Levin (D-MI)***. Amendment in the Nature of a Substitute. The amendment would replace the current text with legislation providing a 20% tax deduction only for capital expenditures by small businesses. No CBO score of this amendment is available at press time.

Committee Action: The legislation was introduced on March 21, 2012, and it was referred to the House Committee on Ways and Means. On April 10, 2012 the House Ways and Means Committee reported the legislation (as amended) by a vote of 21 to 14.

Administration Position: No Statement of Administration Policy (SAP) is available at press time.

Outside Organizations: Americans for Tax Reform (ATR) [supports](#) the legislation.

Cost to Taxpayers: The legislation cuts tax revenues by \$46 billion over ten years (under a static scoring method): \$12.5 billion in 2012, \$32.7 billion in 2013, and \$700 million in 2014. Section 503(E) of the House-passed budget resolution (H.Con.Res. 112) accommodates lower revenue from this tax cut.

Does the Bill Expand the Size and Scope of the Federal Government?: No. The legislation reduces taxes by \$46 billion, and therefore reduces the scope of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No. According to the committee report: “With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill as reported contain no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that rule.”

Constitutional Authority: The sponsor states: “Congress has the power to enact this legislation pursuant to the following: Amendment XVI to the Constitution regarding the power to lay and collect taxes on incomes.”

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