

105TH CONGRESS
2^D SESSION

H. R. 3562

To amend the Internal Revenue Code of 1986 to allow a credit against income tax to C corporations which have substantial employee ownership and to encourage stock ownership by employees by excluding from gross income stock paid as compensation for services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 1998

Mr. ANDREWS 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 credit against income tax to C corporations which have substantial employee ownership and to encourage stock ownership by employees by excluding from gross income stock paid as compensation for services, 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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Employee Participa-
5 tion Incentive Act of 1998”.

1 **SEC. 2. MAXIMUM RATE OF INCOME TAX FOR C CORPORA-**
2 **TIONS WITH SUBSTANTIAL EMPLOYEE OWN-**
3 **ERSHIP.**

4 (a) IN GENERAL.—Section 11 of the Internal Reve-
5 nue Code of 1986 (relating to tax on corporations) is
6 amended by redesignating subsections (c) and (d) as sub-
7 sections (d) and (e), respectively, and by inserting after
8 subsection (b) the following new subsection:

9 “(c) MAXIMUM RATE OF 30 PERCENT FOR CORPORA-
10 TIONS WITH SUBSTANTIAL EMPLOYEE OWNERSHIP.—

11 “(1) IN GENERAL.—Except as provided in sub-
12 section (b)(2), the maximum rate of tax under sub-
13 section (b) shall be 30 percent with respect to any
14 corporation if, with respect to such corporation—

15 “(A) the employee voting percentage is at
16 least 20 percent, and

17 “(B) the employee value percentage is at
18 least 20 percent.

19 “(2) DEFINITIONS.—For purposes of this sub-
20 section—

21 “(A) EMPLOYEE OWNERSHIP PERCENT-
22 AGE.—The term ‘employee ownership percent-
23 age’ means, with respect to a corporation, the
24 lesser of the employee voting percentage or the
25 employee value percentage.

1 “(B) EMPLOYEE VOTING PERCENTAGE.—
2 The term ‘employee voting percentage’ means
3 the percentage of the total voting power of the
4 stock of such corporation which is held directly
5 by employees of such corporation.

6 “(C) EMPLOYEE VALUE PERCENTAGE.—
7 The term ‘employee value percentage’ means
8 the percentage of the total value of the stock of
9 such corporation which is held directly by em-
10 ployees of such corporation.

11 “(D) STOCK.—The term ‘stock’ has the
12 meaning given such term under section 1504.

13 “(3) DETERMINATION OF OWNERSHIP AVER-
14 AGES.—

15 “(A) IN GENERAL.—The determination of
16 the employee voting percentage and the em-
17 ployee value percentage shall be made on the
18 last day of the taxable year of the corporation.

19 “(B) HOLDINGS OF 5 PERCENT SHARE-
20 HOLDERS AND HIGHLY COMPENSATED EMPLOY-
21 EES DISREGARDED.—Each such percentage
22 shall be determined without regard the holdings
23 of any highly compensated employee (as defined
24 in section 414(q)). Notwithstanding the preced-
25 ing sentence, the holdings of 5-percent owners

1 (as defined in such section) shall be taken into
2 account if the corporation has ____ or fewer
3 employees.

4 “(C) CONTROLLED GROUPS.—In the case
5 of corporations which are treated as a single
6 employer under section 52(a)—

7 “(i) such corporations shall be treated
8 as 1 corporation for purposes of subpara-
9 graph (B), and

10 “(ii) the Secretary shall prescribe reg-
11 ulations—

12 “(I) for the application of this
13 subsection in the case of corporations
14 filing a consolidated return, and

15 “(II) to prevent the abuse of the
16 purposes of this subsection.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 1998.

20 **SEC. 3. EXCLUSION FROM GROSS INCOME FOR COMPENSA-**
21 **TION PAID IN STOCK BY CERTAIN CORPORA-**
22 **TIONS.**

23 (a) IN GENERAL.—Part III of subchapter B of chap-
24 ter 1 of the Internal Revenue Code of 1986 (relating to
25 items specifically excluded from gross income) is amended

1 by redesignating section 139 as section 140 and by insert-
2 ing after section 138 the following new section:

3 **“SEC. 139. COMPENSATION PAID IN STOCK BY CERTAIN**
4 **CORPORATIONS.**

5 “(a) IN GENERAL.—In the case of an employee of
6 an eligible corporation, gross income of such employee
7 does not include remuneration received in the form of
8 stock of such corporation or of any parent or subsidiary
9 (within the meaning of section 422(b)) of such corpora-
10 tion.

11 “(b) LIMITATION.—The amount excluded under sub-
12 section (a) from the gross income of an employee for any
13 taxable year shall not exceed 20 percent of the wages (as
14 defined in section 3401(a) without regard to paragraph
15 (22)) which would (but for this section) be includible in
16 gross income for such year.

17 “(c) ELIGIBLE CORPORATION.—For purposes of this
18 section, the term ‘eligible corporation’ means, with respect
19 to any taxable year of an employee, any corporation if—

20 “(1) the corporation offers to pay remuneration
21 for services performed during the calendar year in
22 which or with which such taxable year ends in the
23 form of stock of such corporation to at least 95 per-
24 cent of such corporation’s full-time employees, and

1 “(2) at least 95 percent of the value of the
2 stock which is so offered during such calendar year
3 is offered to employees whose wages (as defined in
4 section 3401(a)) are among the bottom 75 percent
5 of the employees when ranked on the basis of such
6 wages.

7 “(d) BASIS.—The amount excluded from gross in-
8 come under this section shall not be taken into account
9 in determining the basis of the stock.”

10 (b) EXCLUSION FROM WITHHOLDING.—Subsection
11 (a) of section 3401 of such Code is amended by striking
12 “or” at the end of paragraph (20), by striking the period
13 at the end of paragraph (21) and inserting “; or”, and
14 by adding at the end the following new paragraph:

15 “(22) in the form of stock if at the time such
16 stock is paid it is reasonable to believe that the em-
17 ployee will be able to exclude such stock from income
18 under section 139.”

19 (c) CLERICAL AMENDMENT.—The table of sections
20 for such part III is amended by striking the last item and
21 inserting the following new items:

 “Sec. 139. Compensation paid in stock by certain corporations.
 “Sec. 140. Cross references to other Acts.”

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 the date of the enactment of this Act.

1 **SEC. 4. DEDUCTION ALLOWED TO ELIGIBLE CORPORA-**
2 **TIONS AT TIME QUALIFIED STOCK OPTION**
3 **GRANTED.**

4 (a) **IN GENERAL.**—Subsection (a) of section 421 of
5 the Internal Revenue Code of 1986 (relating to general
6 rules for certain stock options) is amended by adding at
7 the end the following flush sentence:

8 “Paragraph (2) shall not apply to options granted during
9 any calendar year for which the corporation is an eligible
10 corporation (as defined in section 139(c)).”

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 subsection (a) shall apply to options granted after the date
13 of the enactment of this Act.

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