

107TH CONGRESS  
1ST SESSION

# H. R. 1923

To amend the Internal Revenue Code of 1986 to provide for Start-up Success  
Accounts.

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IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2001

Mr. DEMINT (for himself and Mr. BAIRD) introduced the following bill; which  
was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide  
for Start-up Success Accounts.

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 “Start-Up Success Ac-  
5 counts Act of 2001”.

6 **SEC. 2. START-UP SUCCESS ACCOUNTS.**

7 (a) IN GENERAL.—Subpart C of part II of sub-  
8 chapter E of chapter 1 of the Internal Revenue Code of  
9 1986 (relating to taxable year for which deductions taken)

1 is amended by inserting after section 468B the following  
2 new section:

3 **“SEC. 468C. START-UP SUCCESS ACCOUNTS.**

4       “(a) DEDUCTION ALLOWED.—In the case of a tax-  
5 payer which is an eligible small business, there shall be  
6 allowed as a deduction for any taxable year the amount  
7 paid in cash by such taxpayer to a Start-up Success Ac-  
8 count (hereafter in this section also referred to as an  
9 ‘SUSA Account’).

10       “(b) LIMITATION.—

11               “(1) IN GENERAL.—The amount which a tax-  
12 payer may pay into the SUSA Account for any tax-  
13 able year shall not exceed whichever of the following  
14 is the least:

15                       “(A) 20 percent of so much of the taxable  
16 income of the taxpayer (determined without re-  
17 gard to this section) which is attributable to  
18 any trade or business.

19                       “(B) \$50,000.

20                       “(C) \$100,000, reduced by the aggregate  
21 amount paid by the taxpayer (and all related  
22 persons) into SUSA accounts for all prior tax-  
23 able years.

24               “(2) DEDUCTION ALLOWED ONLY DURING  
25 STARTUP PERIOD.—No deduction shall be allowed

1 under this section with respect to any eligible small  
2 business for any taxable year after the 5th taxable  
3 year that such business (or any predecessor) is en-  
4 gaged in a trade or business.

5 “(3) DOLLAR LIMITATION ON CONTROLLED  
6 GROUPS.—

7 “(A) IN GENERAL.—For purposes of para-  
8 graph (1)—

9 “(i) all component members of a con-  
10 trolled group shall be treated as one tax-  
11 payer, and

12 “(ii) the Secretary shall apportion the  
13 dollar limitations contained in paragraph  
14 (1) among the component members of such  
15 controlled group in such manner as he  
16 shall by regulations prescribe.

17 “(B) CONTROLLED GROUP DEFINED.—For  
18 purposes of subparagraph (A), the term ‘con-  
19 trolled group’ has the meaning given such term  
20 by section 1563(a); except that, for such pur-  
21 poses, ‘more than 50 percent’ shall be sub-  
22 stituted for ‘at least 80 percent’ each place it  
23 appears in section 1563(a)(1).

24 “(4) PARTNERSHIPS AND S CORPORATIONS.—In  
25 the case of a partnership, the limitation under para-

1 graph (1) shall apply with respect to the partnership  
2 and each partner. A similar rule shall apply in the  
3 case of an S corporation and its shareholders.

4 “(5) RELATED PERSONS.—For purposes of  
5 paragraph (1)(C), a person (hereinafter in this para-  
6 graph referred to as the ‘related person’) is related  
7 to any person if the related person bears a relation-  
8 ship to such person specified in section 267(b) or  
9 707(b)(1), or the related person and such person are  
10 engaged in trades or businesses under common con-  
11 trol (within the meaning of subsections (a) and (b)  
12 of section 52. For purposes of the preceding sen-  
13 tence, in applying section 267(b) or 707(b)(1), ‘10  
14 percent’ shall be substituted for ‘50 percent’.

15 “(c) ELIGIBLE SMALL BUSINESS.—

16 “(1) IN GENERAL.—For purposes of this sec-  
17 tion, the term ‘eligible small business’ means, with  
18 respect to any taxable year, any person actively en-  
19 gaged in a trade or business if for all prior taxable  
20 years beginning after December 31, 1999, the tax-  
21 payer (or any predecessor) met the \$2,000,000 gross  
22 receipts test of paragraph (2). In the case of a tax-  
23 payer to which section 469 applies, such term shall  
24 not include any trade or business which is a passive

1 activity (within the meaning of section 469(c)) of the  
2 taxpayer.

3 “(2) \$2,000,000 GROSS RECEIPTS TESTS.—A  
4 person meets the \$2,000,000 gross receipts tests of  
5 this paragraph for any prior taxable year if such  
6 person would meet the test of section 448(c) were  
7 such section applied by substituting ‘\$2,000,000’ for  
8 ‘\$5,000,000’.

9 “(d) START-UP SUCCESS ACCOUNT.—For purposes  
10 of this section—

11 “(1) IN GENERAL.—The terms ‘Start-up Suc-  
12 cess Account’ and ‘SUSA Account’ means a trust  
13 created or organized in the United States for the ex-  
14 clusive benefit of an eligible small business, but only  
15 if the written governing instrument creating the  
16 trust meets the following requirements:

17 “(A) No contribution will be accepted for  
18 any taxable year in excess of the amount al-  
19 lowed as a deduction under subsection (a) for  
20 such year.

21 “(B) The trustee is a bank (as defined in  
22 section 408(n)) or another person who dem-  
23 onstrates to the satisfaction of the Secretary  
24 that the manner in which such person will ad-

1 minister the trust will be consistent with the re-  
2 quirements of this section.

3 “(C) The assets of the trust consist en-  
4 tirely of cash or of obligations which have ade-  
5 quate stated interest (as defined in section  
6 1274(c)(2)) and which pay such interest not  
7 less often than annually.

8 “(D) All income of the trust is distributed  
9 currently to the grantor.

10 “(E) The assets of the trust will not be  
11 commingled with other property except in a  
12 common trust fund or common investment  
13 fund.

14 “(2) ACCOUNT TAXED AS GRANTOR TRUST.—  
15 The grantor of an SUSA Account shall be treated  
16 for purposes of this title as the owner of such Ac-  
17 count and shall be subject to tax thereon in accord-  
18 ance with subpart E of part I of subchapter J of  
19 this chapter (relating to grantors and others treated  
20 as substantial owners).

21 “(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

22 “(1) IN GENERAL.—Except as provided in para-  
23 graph (2), there shall be includible in the gross in-  
24 come of the taxpayer for any taxable year—

1           “(A) any amount distributed from an  
2           SUSA Account of the taxpayer during such tax-  
3           able year (to the extent not previously included  
4           in gross income), and

5           “(B) any deemed distribution under—

6                   “(i) subsection (f)(1) (relating to de-  
7                   posits not distributed within 5 years),

8                   “(ii) subsection (f)(2) (relating to ces-  
9                   sation in trade or business), and

10                   “(iii) subparagraph (A) or (B) of sub-  
11                   section (f)(3) (relating to prohibited trans-  
12                   actions and pledging account as security).

13           “(2) EXCEPTIONS.—Gross income shall not in-  
14           clude the distribution of any contribution paid dur-  
15           ing a taxable year to an SUSA Account to the ex-  
16           tent that such contribution exceeds the limitation  
17           applicable under subsection (b) if requirements simi-  
18           lar to the requirements of section 408(d)(4) are met.

19           “(3) EXCLUSION FROM SELF-EMPLOYMENT  
20           TAX.—Amounts included in gross income under this  
21           subsection shall not be included in determining net  
22           earnings from self-employment under section 1402.

23           “(f) SPECIAL RULES.—

24                   “(1) TAX ON DEPOSITS IN ACCOUNT WHICH  
25           ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

1           “(A) IN GENERAL.—If, at the close of any  
2 taxable year, there is a nonqualified balance in  
3 any SUSA Account—

4                   “(i) there shall be deemed distributed  
5 from such Account during such taxable  
6 year an amount equal to such balance, and

7                   “(ii) the taxpayer’s tax imposed by  
8 this chapter for such taxable year shall be  
9 increased by 10 percent of such deemed  
10 distribution.

11           The preceding sentence shall not apply if an  
12 amount equal to such nonqualified balance is  
13 distributed from such Account to the taxpayer  
14 before the due date (including extensions) for  
15 filing the return of tax imposed by this chapter  
16 for such year (or, if earlier, the date the tax-  
17 payer files such return for such year).

18           “(B) NONQUALIFIED BALANCE.—For pur-  
19 poses of subparagraph (A), the term ‘non-  
20 qualified balance’ means any balance in the Ac-  
21 count on the last day of the taxable year which  
22 is attributable to amounts deposited in such Ac-  
23 count before the 4th preceding taxable year.

24           “(C) ORDERING RULE.—For purposes of  
25 this paragraph, distributions from an SUSA

1 Account shall be treated as made from deposits  
2 in the order in which such deposits were made,  
3 beginning with the earliest deposits.

4 “(2) CESSATION IN TRADE OR BUSINESS.—At  
5 the close of the first disqualification period after a  
6 period for which the taxpayer was engaged in the  
7 trade or business referred to in subsection (a), there  
8 shall be deemed distributed from the SUSA Account  
9 (if any) of the taxpayer an amount equal to the bal-  
10 ance in such Account at the close of such disquali-  
11 fication period. For purposes of the preceding sen-  
12 tence, the term ‘disqualification period’ means any  
13 period of 2 consecutive taxable years for which the  
14 taxpayer is not engaged in the trade or business re-  
15 ferred to in subsection (a).

16 “(3) CERTAIN RULES TO APPLY.—Rules similar  
17 to the following rules shall apply for purposes of this  
18 section:

19 “(A) Section 408(e)(2) (relating to loss of  
20 exemption of account where individual engages  
21 in prohibited transaction).

22 “(B) Section 408(e)(4) (relating to effect  
23 of pledging account as security).

24 “(C) Section 408(g) (relating to commu-  
25 nity property laws).

1           “(D) Section 408(h) (relating to custodial  
2           accounts).

3           “(4) TIME WHEN PAYMENTS DEEMED MADE.—

4           For purposes of this section, a taxpayer shall be  
5           deemed to have made a payment to an SUSAs Account  
6           on the last day of a taxable year if such pay-  
7           ment is made on account of such taxable year and  
8           is made within 3½ months after the close of such  
9           taxable year.

10          “(g) REPORTS.—The trustee of an SUSAs Account  
11         shall make such reports regarding such Account to the  
12         Secretary and to the person for whose benefit the Account  
13         is maintained with respect to contributions, distributions,  
14         and such other matters as the Secretary may require  
15         under regulations. The reports required by this subsection  
16         shall be filed at such time and in such manner and fur-  
17         nished to such persons at such time and in such manner  
18         as may be required by those regulations.”.

19          (b) TAX ON EXCESS CONTRIBUTIONS.—

20                 (1) Subsection (a) of section 4973 of such Code  
21                 (relating to tax on certain excess contributions) is  
22                 amended by striking “or” at the end of paragraph  
23                 (3), by redesignating paragraph (4) as paragraph  
24                 (5), and by inserting after paragraph (3) the fol-  
25                 lowing new paragraph:

1           “(4) an SUSA Account (within the meaning of  
2           section 468C(d)), or”.

3           (2) Section 4973 of such Code is amended by  
4           adding at the end the following new subsection:

5           “(g) EXCESS CONTRIBUTIONS TO SUSA AC-  
6           COUNTS.—For purposes of this section, in the case of  
7           SUSA Accounts (within the meaning of section 468C(d)),  
8           the term ‘excess contributions’ means the amount by  
9           which the amount contributed for the taxable year to the  
10          Account exceeds the amount which may be contributed to  
11          the Account under section 468C(b) for such taxable year.  
12          For purposes of this subsection, any contribution which  
13          is distributed out of the SUSA Account in a distribution  
14          to which section 468C(e)(2)(B) applies shall be treated as  
15          an amount not contributed.”.

16          (c) TAX ON PROHIBITED TRANSACTIONS.—

17                 (1) Subsection (c) of section 4975 of such Code  
18                 (relating to prohibited transactions) is amended by  
19                 adding at the end the following new paragraph:

20                 “(6) SPECIAL RULE FOR SUSA ACCOUNTS.—A  
21                 person for whose benefit an SUSA Account (within  
22                 the meaning of section 468C(d)) is established shall  
23                 be exempt from the tax imposed by this section with  
24                 respect to any transaction concerning such Account  
25                 (which would otherwise be taxable under this sec-

1       tion) if, with respect to such transaction, the ac-  
2       count ceases to be an SUSA Account by reason of  
3       the application of section 468C(f)(3)(A) to such Ac-  
4       count.”.

5               (2) Paragraph (1) of section 4975(e) of such  
6       Code is amended by redesignating subparagraphs  
7       (E) and (F) as subparagraphs (F) and (G), respec-  
8       tively, and by inserting after subparagraph (D) the  
9       following new subparagraph:

10                       “(E) an SUSA Account described in sec-  
11                       tion 468C(d),”.

12       (d) FAILURE TO PROVIDE REPORTS ON SUSA AC-  
13       COUNTS.—Paragraph (2) of section 6693(a) of such Code  
14       (relating to failure to provide reports on certain tax-fa-  
15       vored accounts or annuities) is amended by redesignating  
16       subparagraphs (C) and (D) as subparagraphs (D) and  
17       (E), respectively, and by inserting after subparagraph (B)  
18       the following new subparagraph:

19                       “(C) section 468C(g) (relating to SUSA  
20                       Accounts),”.

21       (e) CLERICAL AMENDMENT.—The table of sections  
22       for subpart C of part II of subchapter E of chapter 1 of  
23       such Code is amended by inserting after the item relating  
24       to section 468B the following new item:

                      “Sec. 468C. Start-up Success Accounts.”.

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

○