

113TH CONGRESS
2D SESSION

S. 2724

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of small business start-up savings accounts.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2014

Mr. UDALL of New Mexico introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of small business start-up savings 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 “Incentivize Growth
5 Now In Tomorrow’s Entrepreneurs Act of 2014”.

6 **SEC. 2. SMALL BUSINESS START-UP SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Part VIII of subchapter B of
8 chapter 1 of the Internal Revenue Code of 1986 is amend-
9 ed by redesignating section 224 as section 225 and insert-
10 ing after section 223 the following new section:

1 **“SEC. 224. SMALL BUSINESS START-UP SAVINGS ACCOUNTS.**

2 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
3 individual, there shall be allowed as a deduction for the
4 taxable year an amount equal to amount of contributions
5 made to the small-business start-up savings account of
6 such individual.

7 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-
8 COME.—The amount of the deduction allowed under sub-
9 section (a) for any taxable year shall be reduced (but not
10 below zero) by an amount equal to the excess of—

11 “(1) the taxpayer’s adjusted gross income for
12 such taxable year, over

13 “(2) \$150,000 (\$300,000 in the case of a joint
14 return).

15 “(c) SMALL BUSINESS START-UP SAVINGS AC-
16 COUNT.—The term ‘small business start-up savings ac-
17 count’ means a trust created or organized in the United
18 States exclusively for the purpose of paying the eligible
19 costs of the individual who is the designated beneficiary
20 of the trust (and designated as a small business start-up
21 savings account at the time created or organized), but only
22 if the written governing instrument creating the trust
23 meets the following requirements:

24 “(1) Except in the case of a rollover contribu-
25 tion described in subsection (e)(4), no contribution
26 will be accepted unless it is in cash, and contribu-

1 tions will not be accepted if such contribution would
2 result in—

3 “(A) aggregate contributions for the tax-
4 able year exceeding the lesser of—

5 “(i) \$10,000, or

6 “(ii) an amount equal to the com-
7 pensation (as defined in section 219(f)(1))
8 includible in the individual’s gross income
9 for such taxable year, or

10 “(B) aggregate contributions to all small
11 business start-up savings account of the indi-
12 vidual for such taxable year and all prior tax-
13 able years exceeding \$150,000.

14 “(2) The trustee is a bank (as defined in sec-
15 tion 408(n)) or such other person who demonstrates
16 to the satisfaction of the Secretary that the manner
17 in which such other person will administer the trust
18 will be consistent with the requirements of this sec-
19 tion.

20 “(3) No part of the trust funds will be invested
21 in life insurance contracts.

22 “(4) The assets of the trust will not be commin-
23 gled with other property except in a common trust
24 fund or common investment fund.

1 “(5) Contributions may be made even after the
2 individual for whom the account is maintained has
3 attained age 70½.

4 “(d) TAX TREATMENT OF ACCOUNTS.—

5 “(1) IN GENERAL.—A small business start-up
6 savings account shall be exempt from taxation under
7 this subtitle. Notwithstanding the preceding sen-
8 tence, the small business start-up savings account
9 shall be subject to the taxes imposed by section 511
10 (relating to imposition of tax on unrelated business
11 income of charitable organizations).

12 “(2) ACCOUNT TERMINATIONS.—Rules similar
13 to the rules of paragraphs (2) and (4) of section
14 408(e) shall apply to small business start-up savings
15 accounts, and any amount treated as distributed
16 under such rules shall be treated as not used to pay
17 for eligible costs.

18 “(e) TAX TREATMENT OF DISTRIBUTIONS.—

19 “(1) QUALIFIED DISTRIBUTIONS.—

20 “(A) IN GENERAL.—Any qualified distribu-
21 tion from a small business start-up savings ac-
22 count shall not be included in gross income.

23 “(B) QUALIFIED DISTRIBUTION.—For
24 purposes of this section, the term ‘qualified dis-
25 tribution’ means the amount of any payment or

1 distribution made from a small business savings
2 account—

3 “(i) to the extent that such distribu-
4 tion does not exceed the eligible costs paid
5 or incurred by the taxpayer during the tax-
6 able year if the distribution, and

7 “(ii) which is made not later than the
8 last day of the 5th taxable year beginning
9 after the initial distribution from the small
10 business start-up savings account.

11 For purposes of clause (i), a taxpayer shall be
12 treated as having paid or incurred the tax-
13 payer’s allocable share of eligible costs of any
14 entity in which the taxpayer directly holds stock
15 or a capital or profits interest.

16 “(C) ELIGIBLE COSTS.—

17 “(i) IN GENERAL.—For purposes of
18 this section, the term ‘eligible costs’ means
19 costs paid or incurred by the taxpayer with
20 respect to the designated business of the
21 taxpayer for operating capital, the pur-
22 chase of equipment or facilities, marketing,
23 training, incorporation, and accounting
24 fees.

1 “(ii) DESIGNATED BUSINESS.—For
2 purposes of clause (i), the term ‘designated
3 business’ means any single business of the
4 taxpayer which—

5 “(I) employs 50 or fewer full-
6 time employees on all days during the
7 taxable year, and

8 “(II) is designated by the tax-
9 payer for purposes of this section.

10 Any designation made under subclause
11 (II), once made, may not be revoked.

12 “(D) DISALLOWANCE OF EXCLUDED
13 AMOUNTS AS DEDUCTION, CREDIT, OR EXCLU-
14 SION.—No deduction, credit, or exclusion shall
15 be allowed to the taxpayer under any other sec-
16 tion of this chapter for any qualified distribu-
17 tion to the extent taken into account in deter-
18 mining the amount of the exclusion under this
19 paragraph.

20 “(2) NONQUALIFIED DISTRIBUTIONS.—

21 “(A) IN GENERAL.—Any amount paid or
22 distributed out of a small business start-up sav-
23 ings account which is not a qualified distribu-
24 tion, including any amount paid out pursuant
25 to a termination of such an account, shall be in-

1 cluded in the gross income of the taxpayer as
2 provided in section 72.

3 “(B) TREATMENT OF AMOUNTS REMAIN-
4 ING IN ACCOUNT.—Any remaining amount in a
5 small business start-up savings account fol-
6 lowing the date described in paragraph
7 (1)(B)(ii) shall be treated as distributed during
8 the taxable year following such date and such
9 distribution shall not be treated as a qualified
10 distribution.

11 “(C) ADDITIONAL TAX.—

12 “(i) IN GENERAL.—The tax imposed
13 by this chapter on the account beneficiary
14 for any taxable year in which there is a
15 payment or distribution from a small busi-
16 ness start-up savings account of such bene-
17 ficiary which is includible in income under
18 subparagraph (A) shall be increased by 10
19 percent of the amount which is so includ-
20 ible.

21 “(ii) EXCEPTION.—Clause (i) shall
22 not apply if the payment or distribution is
23 made after the account beneficiary be-
24 comes disabled within the meaning of sec-
25 tion 72(m)(7) or dies.

1 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
2 FORE DUE DATE OF RETURN.—

3 “(A) IN GENERAL.—If any excess con-
4 tribution is contributed for a taxable year to
5 any small business start-up savings account of
6 an individual, paragraph (2) shall not apply to
7 distributions from the small business start-up
8 savings accounts of such individual (to the ex-
9 tent such distributions do not exceed the aggre-
10 gate excess contributions to all such accounts of
11 such individual for such year) if—

12 “(i) such distribution is received by
13 the individual on or before the last day
14 prescribed by law (including extensions of
15 time) for filing such individual’s return for
16 such taxable year, and

17 “(ii) such distribution is accompanied
18 by the amount of net income attributable
19 to such excess contribution.

20 “(B) EXCESS CONTRIBUTION.—For pur-
21 poses of subparagraph (A), the term ‘excess
22 contribution’ means any contribution (other
23 than a rollover contribution described in para-
24 graph (4)) which when added to all previous
25 contributions for the taxable year exceeds the

1 amount allowable as a contribution under sub-
2 section (b)(1).

3 “(4) ROLLOVER CONTRIBUTION.—Paragraph
4 (2) shall not apply to any amount paid or distrib-
5 uted from a small business start-up savings account
6 to the account beneficiary to the extent the amount
7 received is paid into a small business start-up sav-
8 ings account for the benefit of such beneficiary not
9 later than the 60th day after the day on which the
10 beneficiary receives the payment or distribution. For
11 purposes of this paragraph, rules similar to the rules
12 of section 408(d)(3)(D) shall apply.

13 “(5) TRANSFER OF ACCOUNT INCIDENT TO DI-
14 VORCE.—The transfer of an individual’s interest in
15 a small business start-up savings account to an indi-
16 vidual’s spouse or former spouse under a divorce or
17 separation instrument described in subparagraph
18 (A) of section 71(b)(2) shall not be considered a tax-
19 able transfer made by such individual notwith-
20 standing any other provision of this subtitle, and
21 such interest shall, after such transfer, be treated as
22 a small business start-up savings account with re-
23 spect to which such spouse is the account bene-
24 ficiary.

1 “(6) TREATMENT AFTER DEATH OF ACCOUNT
2 BENEFICIARY.—

3 “(A) TREATMENT IF DESIGNATED BENE-
4 FICIARY IS SPOUSE.—If the account bene-
5 ficiary’s surviving spouse acquires such bene-
6 ficiary’s interest in a small business start-up
7 savings account by reason of being the des-
8 ignated beneficiary of such account at the death
9 of the account beneficiary, such account shall
10 be treated as if the spouse were the account
11 beneficiary.

12 “(B) OTHER CASES.—

13 “(i) IN GENERAL.—If, by reason of
14 the death of the account beneficiary, any
15 person acquires the account beneficiary’s
16 interest in a small business start-up sav-
17 ings account in a case to which subpara-
18 graph (A) does not apply—

19 “(I) such account shall cease to
20 be a small business start-up savings
21 account as of the date of death, and

22 “(II) an amount equal to the fair
23 market value of the assets in such ac-
24 count on such date shall be includible,
25 if such person is not the estate of

1 such beneficiary, in such person's
2 gross income for the taxable year
3 which includes such date, or if such
4 person is the estate of such bene-
5 ficiary, in such beneficiary's gross in-
6 come for the last taxable year of such
7 beneficiary.

8 “(ii) SPECIAL RULES.—

9 “(I) REDUCTION OF INCLUSION
10 FOR PREDEATH EXPENSES.—The
11 amount includible in gross income
12 under clause (i) by any person (other
13 than the estate) shall be reduced by
14 the amount of qualified distributions
15 which were paid or incurred by the
16 decedent before the date of the dece-
17 dent's death and paid by such person
18 within 1 year after such date.

19 “(II) DEDUCTION FOR ESTATE
20 TAXES.—An appropriate deduction
21 shall be allowed under section 691(c)
22 to any person (other than the dece-
23 dent or the decedent's spouse) with
24 respect to amounts included in gross

1 income under clause (i) by such per-
2 son.

3 “(f) COMMUNITY PROPERTY LAWS.—This section
4 shall be applied without regard to any community property
5 laws.

6 “(g) ADJUSTMENT FOR INFLATION.—In the case of
7 a taxable year beginning after December 31, 2014, of the
8 dollar amount in subsection (b)(1) and each of the dollar
9 amounts in subsection (c)(1) shall be increased by an
10 amount equal to—

11 “(1) such dollar amount, multiplied by

12 “(2) the cost-of-living adjustment determined
13 under section 1(f)(3) for the calendar year in which
14 the taxable year begins, determined by substituting
15 ‘calendar year 2013’ for ‘calendar year 1992’ in sub-
16 paragraph (B) thereof.

17 If any amount as increased under the preceding sentence
18 is not a multiple of \$100, such amount shall be rounded
19 to the nearest multiple of \$100.

20 “(h) REPORTS.—The trustee of a small business
21 start-up savings account shall make such reports regard-
22 ing such account to the Secretary and to the individual
23 for whom the account is, or is to be, maintained with re-
24 spect to contributions (and the years to which they relate),
25 distributions, aggregating \$10 or more in any calendar

1 year, and such other matters as the Secretary may re-
 2 quire. The reports required by this subsection—

3 “(1) shall be filed at such time and in such
 4 manner as the Secretary prescribes, and

5 “(2) shall be furnished to individuals—

6 “(A) not later than January 31 of the cal-
 7 endar year following the calendar year to which
 8 such reports relate, and

9 “(B) in such manner as the Secretary pre-
 10 scribes.

11 “(i) REGULATIONS.—The Secretary shall issue such
 12 regulations or other guidance as may be necessary to carry
 13 out this section, including for purposes of subsection
 14 (e)(1)(B)(i) the making reports by regarding eligible costs
 15 of an entity in which the taxpayer directly holds stock or
 16 a capital or profits interest.”.

17 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-
 18 VIDUAL ITEMIZES DEDUCTIONS.—Section 62(a) of the In-
 19 ternal Revenue Code of 1986 is amended by inserting
 20 after paragraph (21) the following new paragraph:

21 “(22) SMALL BUSINESS START-UP SAVINGS AC-
 22 COUNTS.—The deduction allowed by section 224.”.

23 (c) TAX ON PROHIBITED TRANSACTIONS.—

24 (1) IN GENERAL.—Paragraph (1) of section
 25 4975(e) of the Internal Revenue Code of 1986 is

1 amended by striking “or” at the end of subpara-
2 graph (F), by redesignating subparagraph (G) as
3 subparagraph (H), and by inserting after subpara-
4 graph (F) the following new subparagraph:

5 “(G) a small business start-up savings ac-
6 count described in section 224, or”.

7 (2) SPECIAL RULE.—Subsection (c) of section
8 4975 of such Code is amended by adding at the end
9 of subsection (c) the following new paragraph:

10 “(7) SPECIAL RULE FOR SMALL BUSINESS
11 START-UP SAVINGS ACCOUNTS.—An individual for
12 whose benefit a small business start-up savings ac-
13 count is established and any contributor to such ac-
14 count shall be exempt from the tax imposed by this
15 section with respect to any transaction concerning
16 such account (which would otherwise be taxable
17 under this section) if section 224(e)(2) applies with
18 respect to such transaction.”.

19 (d) FAILURE TO PROVIDE REPORTS ON SMALL
20 BUSINESS START-UP SAVINGS ACCOUNTS.—Paragraph
21 (2) of section 6693(a) of the Internal Revenue Code of
22 1986 is amended by striking “and” at the end of subpara-
23 graph (D), by striking the period at the end of subpara-
24 graph (E) and inserting “, and”, and by adding at the
25 end the following new subparagraph:

1 “(F) section 224(h) (relating to small busi-
2 ness start-up savings accounts).”.

3 (e) EXCESS CONTRIBUTIONS.—Section 4973(b) of
4 the Internal Revenue Code of 1986 is amended by adding
5 at the end the following new subsection:

6 “(h) EXCESS CONTRIBUTIONS TO SMALL BUSINESS
7 START-UP SAVINGS ACCOUNTS.—For purposes of this
8 section, in the case of contributions to a small business
9 start-up savings account (within the meaning of section
10 224(c)), the term ‘excess contributions’ means the sum
11 of—

12 “(1) the excess (if any) of—

13 “(A) the amount contributed for the tax-
14 able year to such accounts (other than a roll-
15 over contribution described in section
16 224(e)(4)), over

17 “(B) the amount allowable as a contribu-
18 tion under section 224(c)(1), and

19 “(2) the amount determined under this sub-
20 section for the preceding taxable year, reduced by
21 the sum of—

22 “(A) the distributions out of the accounts
23 for the taxable year, and

24 “(B) the excess (if any) of the maximum
25 amount allowable as a contribution under sec-

1 tions 224(c)(1) for the taxable year over the
2 amount contributed to the accounts for the tax-
3 able year.

4 For purposes of this subsection, any contribution
5 which is distributed from a small business start-up
6 savings account in a distribution described in section
7 224(e)(3) shall be treated as an amount not contrib-
8 uted.”.

9 (f) CLERICAL AMENDMENT.—The table of contents
10 for part VIII of subchapter B of chapter 1 of such Code
11 is amended by redesignating the item relating to section
12 224 as relating to section 225 and by inserting after the
13 item relating to section 223 the following new item:

 “Sec. 224. Small Business Start-Up Savings Accounts.”.

14 (g) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2013.

○