

110TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide that corporate tax benefits based upon stock option compensation expenses be consistent with accounting expenses shown in corporate financial statements for such compensation.

IN THE SENATE OF THE UNITED STATES

Mr. LEVIN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide that corporate tax benefits based upon stock option compensation expenses be consistent with accounting expenses shown in corporate financial statements for such compensation.

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 “Ending Corporate Tax
5 Favors for Stock Options Act”.

1 **SEC. 2. CONSISTENT TREATMENT OF STOCK OPTIONS BY**
2 **CORPORATIONS.**

3 (a) CONSISTENT TREATMENT FOR WAGE DEDUC-
4 TION.—

5 (1) IN GENERAL.—Section 83(h) of the Internal
6 Revenue Code of 1986 (relating to deduction of em-
7 ployer) is amended—

8 (A) by striking “In the case of” and in-
9 serting:

10 “(1) IN GENERAL.—In the case of”, and

11 (B) by adding at the end the following new
12 paragraph:

13 “(2) STOCK OPTIONS.—In the case of property
14 transferred to a person in connection with the exer-
15 cise of a stock option, any deduction by the employer
16 related to such stock option shall be allowed only
17 under section 162(q) and paragraph (1) shall not
18 apply.”.

19 (2) TREATMENT OF COMPENSATION PAID WITH
20 STOCK OPTIONS.—Section 162 of such Code (relat-
21 ing to trade or business expenses) is amended by re-
22 designating subsection (q) as subsection (r) and by
23 inserting after subsection (p) the following new sub-
24 section:

25 “(q) TREATMENT OF COMPENSATION PAID WITH
26 STOCK OPTIONS.—

1 shall not exceed the amount allowed for
2 such taxable year as a compensation de-
3 duction under section 162(q) with respect
4 to such stock option.”.

5 (c) APPLICATION OF AMENDMENTS.—The amend-
6 ments made by this section shall apply to stock options
7 exercised after the date of the enactment of this Act, ex-
8 cept that—

9 (1) such amendments shall not apply to stock
10 options that were granted before such date and that
11 vested in taxable periods beginning on or before
12 June 15, 2005,

13 (2) for stock options that were granted before
14 such date of enactment and vested during taxable
15 periods beginning after June 15, 2005, and ending
16 before such date of enactment, a deduction under
17 section 162(q) of the Internal Revenue Code of 1986
18 (as added by subsection (a)(2)) shall be allowed in
19 the first taxable period of the taxpayer that ends
20 after such date of enactment,

21 (3) for public entities reporting as small busi-
22 ness issuers and for non-public entities required to
23 file public reports of financial condition, paragraphs
24 (1) and (2) shall be applied by substituting “Decem-
25 ber 15, 2005” for “June 15, 2005”, and

1 (4) no deduction shall be allowed under section
2 83(h) or section 162(q) of such Code with respect to
3 any stock option the vesting date of which is
4 changed to accelerate the time at which the option
5 may be exercised in order to avoid the applicability
6 of such amendments.

7 **SEC. 3. APPLICATION OF EXECUTIVE PAY DEDUCTION**
8 **LIMIT.**

9 (a) IN GENERAL.—Subparagraph (D) of section
10 162(m)(4) of the Internal Revenue Code of 1986 (defining
11 applicable employee remuneration) is amended to read as
12 follows:

13 “(D) STOCK OPTION COMPENSATION.—
14 The term ‘applicable employee remuneration’
15 shall include any compensation deducted under
16 subsection (q), and such compensation shall not
17 qualify as performance-based compensation
18 under subparagraph (C).”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to stock options exercised or grant-
21 ed after the date of the enactment of this Act.