

110TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction.

IN THE SENATE OF THE UNITED STATES

Ms. SNOWE (for herself and Mr. CONRAD) 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 simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction.

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 “Home Office Tax De-
5 duction Simplification and Improvement Act of 2008”.

6 **SEC. 2. OPTIONAL STANDARD HOME OFFICE DEDUCTION.**

7 (a) IN GENERAL.—Subsection (c) of section 280A of
8 the Internal Revenue Code of 1986 (relating to exceptions

1 for certain business or rental use; limitation on deductions
2 for such use) is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(7) ELECTION OF STANDARD HOME OFFICE
5 DEDUCTION.—

6 “(A) IN GENERAL.—In the case of an indi-
7 vidual who is allowed a deduction for the use of
8 a portion of a dwelling unit as a business by
9 reason of paragraph (1), (2), or (4), notwith-
10 standing the limitations of paragraph (5), if
11 such individual elects the application of this
12 paragraph for the taxable year with respect to
13 such dwelling unit, such individual shall be al-
14 lowed a deduction equal to the standard home
15 office deduction for the taxable year in lieu of
16 the deductions otherwise allowable under this
17 chapter for such taxable year by reason of para-
18 graph (1), (2), or (4).

19 “(B) STANDARD HOME OFFICE DEDUC-
20 TION.—

21 “(i) IN GENERAL.—For purposes of
22 this paragraph, the standard home office
23 deduction is an amount equal to the prod-
24 uct of—

1 “(I) the applicable home office
2 standard rate, and

3 “(II) the square footage of the
4 portion of the dwelling unit to which
5 paragraph (1), (2), or (4) applies.

6 “(ii) APPLICABLE HOME OFFICE
7 STANDARD RATE.—For purposes of this
8 subparagraph, the term ‘applicable home
9 office standard rate’ means the rate appli-
10 cable to the taxpayer’s category of busi-
11 ness, as determined and published by the
12 Secretary for the 3 categories of businesses
13 described in paragraphs (1), (2), and (4)
14 for the taxable year.

15 “(iii) MAXIMUM SQUARE FOOTAGE
16 TAKEN INTO ACCOUNT.—The Secretary
17 shall determine and publish annually the
18 maximum square footage that may be
19 taken into account under clause (i)(II) for
20 each of the 3 categories of businesses de-
21 scribed in paragraphs (1), (2), and (4) for
22 the taxable year.

23 “(C) EFFECT OF ELECTION.—

24 “(i) GENERAL RULE.—Except as pro-
25 vided in clause (ii), any election under this

1 paragraph, once made by the taxpayer with
2 respect to any dwelling unit, shall continue
3 to apply with respect to such dwelling unit
4 for each succeeding taxable year.

5 “(ii) ONE-TIME ELECTION PER
6 DWELLING UNIT.—A taxpayer who elects
7 the application of this paragraph in a tax-
8 able year with respect to any dwelling unit
9 may revoke such application in a subse-
10 quent taxable year. After so revoking, the
11 taxpayer may not elect the application of
12 this paragraph with respect to such dwell-
13 ing unit in any subsequent taxable year.

14 “(D) DENIAL OF DOUBLE BENEFIT.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), in the case of a tax-
17 payer who elects the application of this
18 paragraph for the taxable year, no other
19 deduction or credit shall be allowed under
20 this subtitle for such taxable year for any
21 amount attributable to the portion of a
22 dwelling unit taken into account under this
23 paragraph.

24 “(ii) EXCEPTION FOR DISASTER
25 LOSSES.—A taxpayer who elects the appli-

1 cation of this paragraph in any taxable
2 year may take into account any disaster
3 loss described in section 165(i) as a loss
4 under section 165 for the applicable tax-
5 able year, in addition to the standard home
6 office deduction under this paragraph for
7 such taxable year.

8 “(E) REGULATIONS.—The Secretary shall
9 prescribe such regulations as may be necessary
10 to carry out the purposes of this paragraph.”.

11 (b) MODIFICATION OF HOME OFFICE BUSINESS USE
12 RULES.—

13 (1) PLACE OF MEETING.—Subparagraph (B) of
14 section 280A(c)(1) of the Internal Revenue Code of
15 1986 is amended to read as follows:

16 “(B) as a place of business which is used
17 by the taxpayer in meeting or dealing with pa-
18 tients, clients, or customers in the normal
19 course of the taxpayer’s trade or business, or”.

20 (2) DE MINIMIS PERSONAL USE.—Paragraph
21 (1) of section 280A(c) of such Code is amended by
22 striking “for the convenience of his employer” and
23 inserting “for the convenience of such employee’s
24 employer. A portion of a dwelling unit shall not fail
25 to be deemed as exclusively used for business for

1 purposes of this paragraph solely because a de mini-
2 mis amount of non-business activity may be carried
3 out in such portion”.

4 (c) REPORTING OF EXPENSES RELATING TO HOME
5 OFFICE DEDUCTION.—Within 60 days after the date of
6 the enactment of this Act, the Secretary of the Treasury
7 shall ensure that all forms and schedules used to calculate
8 or report itemized deductions and profits or losses from
9 business or farming state separately amounts attributable
10 to real estate taxes, mortgage interest, and depreciation
11 for purposes of the deductions allowable under paragraphs
12 (1), (2), (4), and (7) of section 280A(c) of the Internal
13 Revenue Code of 1986.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2008.