

30

AMENDMENT TO H.R. 4173
OFFERED BY MR. LATTA OF OHIO

Page 1279, after line 9, add the following new title:

1 **TITLE VII—DEDUCTION FOR**
2 **QUALIFIED SMALL BUSINESS**
3 **INCOME**

4 **SEC. 9001. DEDUCTION FOR QUALIFIED SMALL BUSINESS**
5 **INCOME.**

6 (a) IN GENERAL.—Paragraph (1) of section 199(a)
7 of the Internal Revenue Code of 1986 is amended to read
8 as follows:

9 “(1) IN GENERAL.—There shall be allowed as a
10 deduction an amount equal to the sum of—

11 “(A) 9 percent of the lesser of—

12 “(i) the qualified production activities
13 income of the taxpayer for the taxable
14 year, or

15 “(ii) taxable income (determined with-
16 out regard to this section) for the taxable
17 year, and

18 “(B) in the case of a qualified small busi-
19 ness for a taxable year beginning in 2009 or
20 2010, 20 percent of the lesser of—

1 “(i) the qualified small business in-
2 come of the taxpayer for the taxable year,
3 or

4 “(ii) taxable income (determined with-
5 out regard to this section) for the taxable
6 year.”.

7 (b) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL
8 BUSINESS INCOME.—Section 199 of such Code is amend-
9 ed by adding at the end the following new subsection:

10 “(e) QUALIFIED SMALL BUSINESS; QUALIFIED
11 SMALL BUSINESS INCOME.—

12 “(1) QUALIFIED SMALL BUSINESS.—

13 “(A) IN GENERAL.—For purposes of this
14 section, the term ‘qualified small business’
15 means any taxpayer for any taxable year if the
16 annual average number of employees employed
17 by such taxpayer during such taxable year was
18 500 or fewer.

19 “(B) AGGREGATION RULE.—For purposes
20 of subparagraph (A), any person treated as a
21 single employer under subsection (a) or (b) of
22 section 52 (applied without regard to section
23 1563(b)) or subsection (m) or (o) of section
24 414 shall be treated as 1 taxpayer for purposes
25 of this subsection.

1 “(C) SPECIAL RULE.—If a taxpayer is
2 treated as a qualified small business for any
3 taxable year, the taxpayer shall not fail to be
4 treated as a qualified small business for any
5 subsequent taxable year solely because the num-
6 ber of employees employed by such taxpayer
7 during such subsequent taxable year exceeds
8 500. The preceding sentence shall cease to
9 apply to such taxpayer in the first taxable year
10 in which there is an ownership change (as de-
11 fined by section 382(g) in respect of a corpora-
12 tion, or by applying principles analogous to
13 such ownership change in the case of a tax-
14 payer that is a partnership) with respect to the
15 stock (or partnership interests) of the taxpayer.

16 “(2) QUALIFIED SMALL BUSINESS INCOME.—

17 “(A) IN GENERAL.—For purposes of this
18 section, the term ‘qualified small business in-
19 come’ means the excess of—

20 “(i) the income of the qualified small
21 business which—

22 “(I) is attributable to the actual
23 conduct of a trade or business,

1 “(II) is income from sources
2 within the United States (within the
3 meaning of section 861), and

4 “(III) is not passive income (as
5 defined in section 904(d)(2)(B)), over
6 “(ii) the sum of—

7 “(I) the cost of goods sold that
8 are allocable to such income, and

9 “(II) other expenses, losses, or
10 deductions (other than the deduction
11 allowed under this section), which are
12 properly allocable to such income.

13 “(B) EXCEPTIONS.—The following shall
14 not be treated as income of a qualified small
15 business for purposes of subparagraph (A):

16 “(i) Any income which is attributable
17 to any property described in section
18 1400N(p)(3).

19 “(ii) Any income which is attributable
20 to the ownership or management of any
21 professional sports team.

22 “(iii) Any income which is attributable
23 to a trade or business described in sub-
24 paragraph (B) of section 1202(e)(3).

1 “(iv) Any income which is attributable
2 to any property with respect to which
3 records are required to be maintained
4 under section 2257 of title 18, United
5 States Code.

6 “(C) ALLOCATION RULES, ETC.—Rules
7 similar to the rules of paragraphs (2), (3),
8 (4)(D), and (7) of subsection (c) shall apply for
9 purposes of this paragraph.

10 “(3) SPECIAL RULES.—Except as otherwise
11 provided by the Secretary, rules similar to the rules
12 of subsection (d) shall apply for purposes of this
13 subsection.”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 199(a)(2) of such Code is amended
16 by striking “paragraph (1)” and inserting “para-
17 graph (1)(A)”.

18 (2) Section 199(d)(2) of such Code is amended
19 by striking “subsections (a)(1)(B)” and inserting
20 “subsections (a)(1)(A)(ii)”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2009.

