



Finally, a Good Idea from Congress (And It Helps Start-Ups)

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Congress has been the piñata in every poll lately, but recently presented bipartisan legislation — the Start-up Innovation Credit Act of 2013 (SICA) introduced by Senator Chris Coons (D-DE) — is proof that Capitol Hill has its share of good ideas. In brief, SICA allows start-ups to take advantage of the R&D tax credit for the first time.

Our current tax code, and especially the R&D tax credit (the biggest tax credit in the code), is not geared to benefiting start-ups. As a tax counsel for the Senate Finance Committee, I (Dean) listened to many speeches from members on both sides of the aisle in praise of the R&D tax credit, because it would help grow and support those two entrepreneurs in a garage with the new idea. But the current R&D tax credit does nothing for those two gals in a garage.

Why? Because a start-up is rarely paying federal income tax. The R&D tax credit under current law can only be used as a credit against income tax paid — not as a credit against other taxes a business pays. In practice, a start-up in its early stages is not making a profit and is therefore not paying income tax — making it ineligible to use the R&D tax credit under current law.

SICA fixes that problem by allowing the business to count not just income taxes paid, but also other business taxes (e.g., payroll), towards the R&D tax credit. Even a start-up making no profits has employees and payroll to meet — now under SICA they can use those taxes to realize a benefit from the R&D tax credit.

Start-ups, and the U.S. economy, could use the extra boost. The current R&D tax credit supports exactly the kind of productive innovation our economy needs — not just a credit for basic science (lab coats and test tubes) but also for applied science (making a product better, manufacturing it greener, etc.). Supporting small incremental steps — the reality of innovation and technological change — are what the R&D tax credit is about. And let's not forget the argument that better-performing start-ups create jobs. For example, an August 2010 paper from the National Bureau for Economic Research, "Who creates jobs? Small vs. Large vs. Young," clearly came to the conclusion that the answer is young — that start-ups and young businesses are the keys to creating jobs.

The legislation will be especially crucial in an environment where the number of new businesses has dropped considerably. Washington Post columnist Robert Samuelson captures it well: "We have gone from being an expansive, risk-taking society to a skittish, risk-averse one." Putting dollars in the pockets of entrepreneurs (by letting them, in effect keep more of those dollars) will be a significant help in changing this climate.

While SICA is a new idea in Washington, several states have in place refundable state R&D tax credits — notably Minnesota, New York, and Louisiana. I have seen first-hand working with businesses in these states that these refundable credits have made a difference in continuing to create jobs, expanding a business, or even making the decision to start a business. The margins are so small and the belts so tight that even a tax credit of 30-50k can keep a business afloat.

Best of all, the bang for SICA's buck can't be beat. For a drop in the bucket compared to the overall R&D tax credit (approximately \$9-10 billion a year), SICA will cost approximately \$160 million dollars. It won't be the federal government deciding the winner and losers either, but the market and investors — with the R&D tax credit providing support to those start-ups and new businesses receiving investments. Just as important, SICA can help immediately — with the benefits being recognized in the monthly payroll charges — as opposed to waiting for months if not years for grants to be made, committees to meet, and the grind of Washington.

It is perhaps because of this combination of supporting innovation and entrepreneurs, market-driven benefits, and limited costs that SICA has attracted strong support out of the gate from both Republicans and Democrats. Along with Senator Coons (who has been a house-a-fire on helping entrepreneurs), SICA has already garnered cosponsors on the other side of the aisle including respected Senators Blount (R-MO), Enzi (R-WY), Moran (R-KS) and Rubio (R-FL) and important Democratic Senators like Schumer (D-NY) and Stabenow (D-MI). As Washington continues to search for ways to create jobs and encourage innovation, SICA is a smart idea ready on the shelf.

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