

106TH CONGRESS
1ST SESSION

H. R. 7

To amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 1999

Mr. HULSHOF (for himself and Mr. LIPINSKI) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

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 (a) SHORT TITLE.—This Act may be cited as the
5 “Education Savings and School Excellence Act of 1999”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
2 to, or repeal of, a section or other provision, the reference
3 shall be considered to be made to a section or other provi-
4 sion of the Internal Revenue Code of 1986.

5 **SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**
6 **TIREMENT ACCOUNTS.**

7 (a) **TAX-FREE EXPENDITURES FOR ELEMENTARY**
8 **AND SECONDARY SCHOOL EXPENSES.—**

9 (1) **IN GENERAL.—**Section 530(b)(2) (defining
10 qualified higher education expenses) is amended to
11 read as follows:

12 “(2) **QUALIFIED EDUCATION EXPENSES.—**

13 “(A) **IN GENERAL.—**The term ‘qualified
14 education expenses’ means—

15 “(i) qualified higher education ex-
16 penses (as defined in section 529(e)(3));
17 and

18 “(ii) qualified elementary and second-
19 ary education expenses (as defined in para-
20 graph (4)).

21 Such expenses shall be reduced as provided in
22 section 25A(g)(2).

23 “(B) **QUALIFIED STATE TUITION PRO-**
24 **GRAMS.—**Such term shall include amounts paid
25 or incurred to purchase tuition credits or cer-

1 tificates, or to make contributions to an ac-
2 count, under a qualified State tuition program
3 (as defined in section 529(b)) for the benefit of
4 the beneficiary of the account.”.

5 (2) QUALIFIED ELEMENTARY AND SECONDARY
6 EDUCATION EXPENSES.—Section 530(b) (relating to
7 definitions and special rules) is amended by adding
8 at the end the following new paragraph:

9 “(4) QUALIFIED ELEMENTARY AND SECONDARY
10 EDUCATION EXPENSES.—

11 “(A) IN GENERAL.—The term ‘qualified el-
12 ementary and secondary education expenses’
13 means—

14 “(i) expenses for tuition, fees, aca-
15 demic tutoring, special needs services,
16 books, supplies, computer equipment (in-
17 cluding related software and services), and
18 other equipment which are incurred in con-
19 nection with the enrollment or attendance
20 of the designated beneficiary of the trust
21 as an elementary or secondary school stu-
22 dent at a public, private, or religious
23 school, or

24 “(ii) expenses for room and board,
25 uniforms, transportation, and supple-

1 mentary items and services (including ex-
2 tended day programs) which are required
3 or provided by a public, private, or reli-
4 gious school in connection with such enroll-
5 ment or attendance.

6 “(B) SPECIAL RULE FOR
7 HOMESCHOOLING.—Such term shall include ex-
8 penses described in subparagraph (A)(i) in con-
9 nection with education provided by
10 homeschooling if the requirements of any appli-
11 cable State or local law are met with respect to
12 such education.

13 “(C) SCHOOL.—The term ‘school’ means
14 any school which provides elementary education
15 or secondary education (kindergarten through
16 grade 12), as determined under State law.”.

17 (3) CONFORMING AMENDMENTS.—Subsections
18 (b)(1) and (d)(2) of section 530 are each amended
19 by striking “higher” each place it appears in the
20 text and heading thereof.

21 (b) MAXIMUM ANNUAL CONTRIBUTIONS.—Sections
22 530(b)(1)(A)(iii) and 4973(e)(1)(A) are each amended by
23 striking “\$500” and inserting “\$2,000”.

24 (c) WAIVER OF AGE LIMITATIONS FOR CHILDREN
25 WITH SPECIAL NEEDS.—

1 (1) Section 530(b)(1) (defining education indi-
2 vidual retirement account) is amended by adding at
3 the end the following flush sentence:

4 “‘The age limitations in subparagraphs (A) and (E)
5 shall not apply to any designated beneficiary with
6 special needs (as determined under regulations pre-
7 scribed by the Secretary).’”.

8 (2) Section 530(d)(5) is amended by striking
9 “‘who has not attained age 30 as of such date’” and
10 inserting “‘who, as of such date, either has not at-
11 tained age 30 or has special needs (as determined
12 under regulations prescribed by the Secretary)’”.

13 (3) Section 530(d)(6) is amended by striking all
14 that follows “‘old beneficiary’” and inserting “‘and, as
15 of the date of such change, either has not attained
16 age 30 or has special needs (as so determined).’”

17 (d) CORPORATIONS PERMITTED TO CONTRIBUTE TO
18 ACCOUNTS.—Section 530(c)(1) (relating to reduction in
19 permitted contributions based on adjusted gross income)
20 is amended by striking “‘The maximum amount which a
21 contributor’” and inserting “‘In the case of a contributor
22 who is an individual, the maximum amount the contribu-
23 tor’”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1999.

4 **SEC. 3. EXCLUSION FROM GROSS INCOME OF EDUCATION**
5 **DISTRIBUTIONS FROM QUALIFIED STATE**
6 **TUITION PROGRAMS.**

7 (a) IN GENERAL.—Section 529(c)(3)(B) (relating to
8 distributions) is amended to read as follows:

9 “(B) DISTRIBUTIONS FOR QUALIFIED
10 HIGHER EDUCATION EXPENSES.—

11 “(i) IN GENERAL.—No amount shall
12 be includible in gross income under sub-
13 paragraph (A) if the qualified higher edu-
14 cation expenses of the designated bene-
15 ficiary during the taxable year are not less
16 than the aggregate distributions during the
17 taxable year.

18 “(ii) DISTRIBUTIONS IN EXCESS OF
19 EXPENSES.—If such aggregate distribu-
20 tions exceed such expenses during the tax-
21 able year, the amount otherwise includible
22 in gross income under subparagraph (A)
23 shall be reduced by the amount which
24 bears the same ratio to the amount so in-
25 cludible (without regard to this subpara-

1 graph) as such expenses bear to such ag-
2 gregate distributions.

3 “(iii) ELECTION TO WAIVE EXCLU-
4 SION.—A taxpayer may elect to waive the
5 application of this subparagraph for any
6 taxable year.

7 “(iv) IN-KIND DISTRIBUTIONS.—Any
8 benefit furnished to a designated bene-
9 ficiary under a qualified State tuition pro-
10 gram shall be treated as a distribution to
11 the beneficiary for purposes of this para-
12 graph.

13 “(v) DISALLOWANCE OF EXCLUDED
14 AMOUNTS AS CREDIT OR DEDUCTION.—No
15 deduction or credit shall be allowed to the
16 taxpayer under any other section of this
17 chapter for any qualified higher education
18 expenses to the extent taken into account
19 in determining the amount of the exclusion
20 under this paragraph.”.

21 (b) DEFINITION OF QUALIFIED HIGHER EDUCATION
22 EXPENSES.—Section 529(e)(3)(A) (defining qualified
23 higher education expenses) is amended to read as follows:

24 “(A) IN GENERAL.—The term ‘qualified
25 higher education expenses’ means expenses for

1 tuition, fees, academic tutoring, special needs
2 services, books, supplies, computer equipment
3 (including related software and services), and
4 other equipment which are incurred in connec-
5 tion with the enrollment or attendance of the
6 designated beneficiary at an eligible educational
7 institution.”.

8 (c) COORDINATION WITH EDUCATION CREDITS.—
9 Section 25A(e)(2) (relating to coordination with exclu-
10 sions) is amended—

11 (1) by inserting “a qualified State tuition pro-
12 gram or” before “an education individual retirement
13 account”; and

14 (2) by striking “section 530(d)(2)” and insert-
15 ing “section 529(c)(3)(B) or 530(d)(2)”.

16 (d) ELIGIBLE EDUCATIONAL INSTITUTIONS PER-
17 MITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—

18 (1) IN GENERAL.—Section 529(b)(1) (defining
19 qualified State tuition program) is amended by in-
20 serting “or by one or more eligible educational insti-
21 tutions” after “maintained by a State or agency or
22 instrumentality thereof”.

23 (2) PRIVATE QUALIFIED TUITION PROGRAMS
24 LIMITED TO PREPAID PLANS.—Section 529(b)(1) is

1 amended by adding at the end the following flush
2 sentence:

3 “Clause (ii) of subparagraph (A) shall only apply to
4 a program established and maintained by a State or
5 any agency or instrumentality thereof.”.

6 (3) TAX ON EXCESS CONTRIBUTIONS.—

7 (A) IN GENERAL.—Section 4973(a) (relat-
8 ing to tax imposed) is amended by striking “or”
9 at the end of paragraph (3), inserting “or” at
10 the end of paragraph (4), and inserting after
11 paragraph (4) the following new paragraph:

12 “(5) a private qualified tuition program (as de-
13 fined in subsection (g)),”.

14 (B) EXCESS CONTRIBUTIONS DEFINED.—

15 Section 4973 is amended by adding at the end
16 the following new subsection:

17 “(g) EXCESS CONTRIBUTIONS TO PRIVATE QUALI-
18 FIED TUITION PROGRAM.—For purposes of this section—

19 “(1) IN GENERAL.—In the case of private
20 qualified tuition programs, the term ‘excess con-
21 tributions’ means, with respect to any one bene-
22 ficiary, the amount contributed to a private qualified
23 tuition program for any taxable year if any amount
24 is contributed during such year for the benefit of
25 such beneficiary to a qualified tuition program (as

1 defined in section 529) other than a private qualified
2 tuition program.

3 “(2) PRIVATE QUALIFIED TUITION PROGRAM.—
4 The term ‘private qualified tuition program’ means
5 a qualified tuition program (as defined in section
6 529) not established and maintained by a State or
7 any agency or instrumentality thereof.”.

8 (4) TECHNICAL AMENDMENTS.—

9 (A) The text of sections 25A(e)(2),
10 72(e)(9), 529, 530(b)(2)(B), and
11 4973(e)(1)(B), as previously amended by this
12 Act, are each amended by striking “qualified
13 State tuition program” each place it appears
14 and inserting “qualified tuition program”.

15 (B)(i) The heading of section 529 is
16 amended to read as follows:

17 **“SEC. 529. QUALIFIED TUITION PROGRAMS.”.**

18 (ii) The item relating to section 529 in the
19 table of sections for part VIII of subchapter F
20 of chapter 1 is amended by striking “State”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 1999.

1 (1) by striking “Subsections (a)” and inserting
2 the following:

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), subsections (a)”;

5 (2) by adding at the end the following new
6 paragraph:

7 “(2) EXCEPTIONS.—Paragraph (1) shall not
8 apply to any amount received by an individual
9 under—

10 “(A) the National Health Corps Scholar-
11 ship Program under section 338A(g)(1)(A) of
12 the Public Health Service Act; or

13 “(B) the Armed Forces Health Professions
14 Scholarship and Financial Assistance Program
15 under subchapter I of chapter 105 of title 10,
16 United States Code.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsection (a) shall apply to amounts received in taxable
19 years beginning after December 31, 1993.

○