12(b), Jan. 3, 1975, 88 Stat. 2120; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to contributions to candidates for public office.

A prior section 218 was renumbered section 224 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to contributions the payment of which is made after Dec. 31, 1978, in taxable years beginning after such date, see section 113(d) of Pub. L. 95–600, set out as an Effective Date of 1978 Amendment note under section 24 of this title.

§ 219. Retirement savings

(a) Allowance of deduction

In the case of an individual, there shall be allowed as a deduction an amount equal to the qualified retirement contributions of the individual for the taxable year.

(b) Maximum amount of deduction

(1) In general

The amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed the lesser of—

(A) the deductible amount, or

(B) an amount equal to the compensation includible in the individual's gross income for such taxable year.

(2) Special rule for employer contributions under simplified employee pensions

This section shall not apply with respect to an employer contribution to a simplified employee pension.

(3) Plans under section 501(c)(18)

Notwithstanding paragraph (1), the amount allowable as a deduction under subsection (a) with respect to any contributions on behalf of an employee to a plan described in section 501(c)(18) shall not exceed the lesser of—

(A) $7,000, or

(B) an amount equal to 25 percent of the compensation (as defined in section 415(c)(3)) includible in the individual's gross income for such taxable year.

(4) Special rule for simple retirement accounts

This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p).

(5) Deductible amount

For purposes of paragraph (1)(A)—

(A) In general

The deductible amount shall be determined in accordance with the following table:

For taxable years beginning in:	The deductible amount is:
2002 through 2004	$3,000
2005 through 2007	$4,000
2008 and thereafter	$5,000.

(B) Catch-up contributions for individuals 50 or older

(i) In general

In the case of an individual who has attained the age of 50 before the close of the taxable year, the deductible amount for such taxable year shall be increased by the applicable amount.

(ii) Applicable amount

For purposes of clause (i), the applicable amount shall be the amount determined in accordance with the following table:

For taxable years beginning in:	The applicable amount is:
2002 through 2005	$500
2006 and thereafter	$1,000.

(C) Catchup contributions for certain individuals

(i) In general

In the case of an applicable individual who elects to make a qualified retirement contribution in addition to the deductible amount determined under subparagraph (A)—

(I) the deductible amount for any taxable year shall be increased by an amount equal to 3 times the applicable amount determined under subparagraph (B) for such taxable year, and

(II) subparagraph (B) shall not apply.

(ii) Applicable individual

For purposes of this subparagraph, the term ''applicable individual'' means, with respect to any taxable year, any individual who was a qualified participant in a qualified cash or deferred arrangement (as defined in section 401(k)) of an employer described in clause (iii) under which the employer matched at least 50 percent of the employee's contributions to such arrangement with stock of such employer.

(iii) Employer described

An employer is described in this clause if, in any taxable year preceding the taxable year described in clause (ii)—

(I) such employer (or any controlling corporation of such employer) was a debtor in a case under title 11 of the United States Code, or similar Federal or State law, and

(II) such employer (or any other person) was subject to an indictment or conviction resulting from business transactions related to such case.

(iv) Qualified participant

For purposes of clause (ii), the term ''qualified participant'' means any applicable individual who was a participant in the cash or deferred arrangement described in such clause on the date that is 6 months before the filing of the case described in clause (iii).

(v) Termination

This subparagraph shall not apply to taxable years beginning after December 31, 2009.

(D) Cost-of-living adjustment

(i) In general

In the case of any taxable year beginning in a calendar year after 2008, the $5,000 amount under subparagraph (A) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for the cal-

endar year in which the taxable year begins, determined by substituting ''calendar year 2007'' for ''calendar year 1992'' in subparagraph (B) thereof.

(ii) Rounding rules

If any amount after adjustment under clause (i) is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

(c) Special rules for certain married individuals

(1) In general

In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

(B) the sum of—

(i) the compensation includible in such individual's gross income for the taxable year, plus

(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year,

(II) the amount of any designated nondeductible contribution (as defined in section 408(*o*)) on behalf of such spouse for such taxable year, and

(III) the amount of any contribution on behalf of such spouse to a Roth IRA under section 408A for such taxable year.

(2) Individuals to whom paragraph (1) applies

Paragraph (1) shall apply to any individual if—

(A) such individual files a joint return for the taxable year, and

(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.

(d) Other limitations and restrictions

(1) Beneficiary must be under age 70½

No deduction shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

(2) Recontributed amounts

No deduction shall be allowed under this section with respect to a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16).

(3) Amounts contributed under endowment contract

In the case of an endowment contract described in section 408(b), no deduction shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

(4) Denial of deduction for amount contributed to inherited annuities or accounts

No deduction shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).

(e) Qualified retirement contribution

For purposes of this section, the term ''qualified retirement contribution'' means—

(1) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

(2) any amount contributed on behalf of any individual to a plan described in section 501(c)(18).

(f) Other definitions and special rules

(1) Compensation

For purposes of this section, the term ''compensation'' includes earned income (as defined in section 401(c)(2)). The term ''compensation'' does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation. The term ''compensation'' shall include any amount includible in the individual's gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2). For purposes of this paragraph, section 401(c)(2) shall be applied as if the term trade or business for purposes of section 1402 included service described in subsection (c)(6). The term compensation[1] includes any differential wage payment (as defined in section 3401(h)(2)).

(2) Married individuals

The maximum deduction under subsection (b) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

(3) Time when contributions deemed made

For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(4) Reports

The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.

(5) Employer payments

For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employee (other than a self-employed individual who is an employee within

[1] So in original. Probably should be set off by quotation marks.

the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a deduction for such payment is allowable under this section to the employee.

(6) Excess contributions treated as contribution made during subsequent year for which there is an unused limitation

(A) In general

If for the taxable year the maximum amount allowable as a deduction under this section for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

(i) the amount of such excess, or

(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

(B) Amount contributed

For purposes of this paragraph, the amount contributed—

(i) shall be determined without regard to this paragraph, and

(ii) shall not include any rollover contribution.

(C) Special rule where excess deduction was allowed for closed year

Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

(7) Special rule for compensation earned by members of the Armed Forces for service in a combat zone.

For purposes of subsections (b)(1)(B) and (c), the amount of compensation includible in an individual's gross income shall be determined without regard to section 112.

(8) Election not to deduct contributions

For election not to deduct contributions to individual retirement plans, see section 408(*o*)(2)(B)(ii).

(g) Limitation on deduction for active participants in certain pension plans

(1) In general

If (for any part of any plan year ending with or within a taxable year) an individual or the individual's spouse is an active participant, each of the dollar limitations contained in subsections (b)(1)(A) and (c)(1)(A) for such taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

(2) Amount of reduction

(A) In general

The amount determined under this paragraph with respect to any dollar limitation shall be the amount which bears the same ratio to such limitation as—

(i) the excess of—

(I) the taxpayer's adjusted gross income for such taxable year, over

(II) the applicable dollar amount, bears to

(ii) $10,000 ($20,000 in the case of a joint return for a taxable year beginning after December 31, 2006).

(B) No reduction below $200 until complete phase-out

No dollar limitation shall be reduced below $200 under paragraph (1) unless (without regard to this subparagraph) such limitation is reduced to zero.

(C) Rounding

Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

(3) Adjusted gross income; applicable dollar amount

For purposes of this subsection—

(A) Adjusted gross income

Adjusted gross income of any taxpayer shall be determined—

(i) after application of sections 86 and 469, and

(ii) without regard to sections 135, 137, 199, 221, 222, and 911 or the deduction allowable under this section.

(B) Applicable dollar amount

The term ''applicable dollar amount'' means the following:

(i) In the case of a taxpayer filing a joint return:

For taxable years beginning in:	The applicable dollar amount is:
1998	$50,000
1999	$51,000
2000	$52,000
2001	$53,000
2002	$54,000
2003	$60,000
2004	$65,000
2005	$70,000
2006	$75,000
2007 and thereafter	$80,000.

(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

For taxable years beginning in:	The applicable dollar amount is:
1998	$30,000
1999	$31,000
2000	$32,000
2001	$33,000
2002	$34,000
2003	$40,000
2004	$45,000
2005 and thereafter	$50,000.

(iii) In the case of a married individual filing a separate return, zero.

(4) Special rule for married individuals filing separately and living apart

A husband and wife who—

(A) file separate returns for any taxable year, and

(B) live apart at all times during such taxable year,

shall not be treated as married individuals for purposes of this subsection.

(5) Active participant

For purposes of this subsection, the term ''active participant'' means, with respect to any plan year, an individual—

(A) who is an active participant in—

(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

(ii) an annuity plan described in section 403(a),

(iii) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing,

(iv) an annuity contract described in section 403(b),

(v) a simplified employee pension (within the meaning of section 408(k)), or

(vi) any simple retirement account (within the meaning of section 408(p)), or

(B) who makes deductible contributions to a trust described in section 501(c)(18).

The determination of whether an individual is an active participant shall be made without regard to whether or not such individual's rights under a plan, trust, or contract are nonforfeitable. An eligible deferred compensation plan (within the meaning of section 457(b)) shall not be treated as a plan described in subparagraph (A)(iii).

(6) Certain individuals not treated as active participants

For purposes of this subsection, any individual described in any of the following subparagraphs shall not be treated as an active participant for any taxable year solely because of any participation so described:

(A) Members of reserve components

Participation in a plan described in subparagraph (A)(iii) of paragraph (5) by reason of service as a member of a reserve component of the Armed Forces (as defined in section 10101 of title 10), unless such individual has served in excess of 90 days on active duty (other than active duty for training) during the year.

(B) Volunteer firefighters

A volunteer firefighter—

(i) who is a participant in a plan described in subparagraph (A)(iii) of paragraph (5) based on his activity as a volunteer firefighter, and

(ii) whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of $1,800 (when expressed as a single life annuity commencing at age 65).

(7) Special rule for spouses who are not active participants

If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

(A) the applicable dollar amount under paragraph (3)(B)(i) shall be $150,000; and

(B) the amount applicable under paragraph (2)(A)(ii) shall be $10,000.

(8) Inflation adjustment

In the case of any taxable year beginning in a calendar year after 2006, the dollar amount in the last row of the table contained in paragraph (3)(B)(i), the dollar amount in the last row of the table contained in paragraph (3)(B)(ii), and the dollar amount contained in paragraph (7)(A), shall each be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ''calendar year 2005'' for ''calendar year 1992'' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.

(h) Cross reference

For failure to provide required reports, see section 6652(g).

(Added Pub. L. 93–406, title II, § 2002(a)(1), Sept. 2, 1974, 88 Stat. 958; amended Pub. L. 94–455, title XV, §§ 1501(b)(4), 1503(a), title XIX, §§ 1901(a)(32), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1736, 1738, 1769, 1834; Pub. L. 95–600, title I, §§ 152(c), 156(c)(3), 157(a)(1), (b)(1), title VII, § 703(c)(1), Nov. 6, 1978, 92 Stat. 2798, 2803, 2939; Pub. L. 96–222, title I, § 101(a)(10)(D), (14)(B), Apr. 1, 1980, 94 Stat. 202, 204; Pub. L. 97–34, title III, §§ 311(a), 312(c)(1), 313(b)(2), Aug. 13, 1981, 95 Stat. 274, 284, 286; Pub. L. 97–248, title II, § 243(b)(2), Sept. 3, 1982, 96 Stat. 523; Pub. L. 97–448, title I, § 103(c)(1), (2), (3)(A), (4), (5), (12)(A), Jan. 12, 1983, 96 Stat. 2375–2377; Pub. L. 98–369, div. A, title I, § 147(c), title IV, §§ 422(d)(1), 491(d)(6)–(8), title V, § 529(a), (b), title VII, § 713(d)(2), July 18, 1984, 98 Stat. 687, 798, 849, 877, 957; Pub. L. 99–514, title III, § 301(b)(4), title XI, §§ 1101(a), (b)(1), (2)(A), 1102(f), 1103(a), 1108(g)(2), (3), 1109(b), title XV, § 1501(d)(1)(B), title XVIII, § 1875(c)(4), (6)(B), Oct. 22, 1986, 100 Stat. 2217, 2411, 2413, 2417, 2434, 2435, 2740, 2894, 2895; Pub. L. 100–647, title I, § 1011(a)(1), title VI, § 6009(c)(2), Nov. 10, 1988, 102 Stat. 3456, 3690; Pub. L. 101–239, title VII, §§ 7816(c)(1), 7841(c)(1), Dec. 19, 1989, 103 Stat. 2420, 2428; Pub. L. 102–318, title V, § 521(b)(4), July 3, 1992, 106 Stat. 310; Pub. L. 103–337, div. A, title XVI, § 1677(c), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 104–188, title I, §§ 1421(b)(1), 1427(a)–(b)(2), 1807(c)(3), Aug. 20, 1996, 110 Stat. 1795, 1802, 1902; Pub. L. 105–34, title III, §§ 301(a), (b), 302(c), Aug. 5, 1997, 111 Stat. 824, 825, 829; Pub. L. 105–206, title VI, §§ 6005(a), 6018(f)(2), July 22, 1998, 112 Stat. 796, 823; Pub. L. 105–277, div. J, title IV, § 4003(a)(2)(B), Oct. 21, 1998, 112 Stat. 2681–908; Pub. L. 106–554, § 1(a)(7) [title III, § 316(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A–644;

Pub. L. 107–16, title IV, §431(c)(1), title VI, §§601(a), 641(e)(2), June 7, 2001, 115 Stat. 68, 94, 120; Pub. L. 108–357, title I, §102(d)(1), Oct. 22, 2004, 118 Stat. 1428; Pub. L. 109–227, §2(a), May 29, 2006, 120 Stat. 385; Pub. L. 109–280, title VIII, §§831(a), 833(b), Aug. 17, 2006, 120 Stat. 1002, 1004; Pub. L. 110–245, title I, §105(b)(2), June 17, 2008, 122 Stat. 1629.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title and Internal Revenue Notices listed in a table under section 401 of this title.

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107–16, see Effective and Termination Dates of 2001 Amendment note below.

PRIOR PROVISIONS

A prior section 219 was renumbered section 224 of this title.

AMENDMENTS

2008—Subsec. (f)(1). Pub. L. 110–245 inserted at end ''The term compensation includes any differential wage payment (as defined in section 3401(h)(2)).''

2006—Subsec. (b)(5)(C), (D). Pub. L. 109–280, §831(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (f)(7), (8). Pub. L. 109–227 added par. (7) and redesignated former par. (7) as (8).

Subsec. (g)(8). Pub. L. 109–280, §833(b), added par. (8).

2004—Subsec. (g)(3)(A)(ii). Pub. L. 108–357 inserted ''199,'' before ''221''.

2001—Subsec. (b)(1)(A). Pub. L. 107–16, §601(a)(1), substituted ''the deductible amount'' for ''$2,000''.

Subsec. (b)(5). Pub. L. 107–16, §601(a)(2), added par. (5).

Subsec. (d)(2). Pub. L. 107–16, §641(e)(2), substituted ''408(d)(3), or 457(e)(16)'' for ''or 408(d)(3)''.

Subsec. (g)(3)(A)(ii). Pub. L. 107–16, §§431(c)(1), 901, temporarily inserted ''222,'' after ''221,''. See Effective and Termination Dates of 2001 Amendment note below.

2000—Subsec. (c)(1)(B)(ii)(II), (III). Pub. L. 106–554 added subcl. (II) and redesignated former subcl. (II) as (III).

1998—Subsec. (g)(1). Pub. L. 105–206, §6005(a)(1)(A), inserted ''or the individual's spouse'' after ''individual''.

Subsec. (g)(2)(A)(ii). Pub. L. 105–206, §6005(a)(2), made technical amendment to directory language of Pub. L. 105–34, §301(a)(2). See 1997 Amendment note below.

Subsec. (g)(3)(A)(ii). Pub. L. 105–277 inserted ''221,'' after ''137,''.

Pub. L. 105–206, §6018(f)(2), made technical amendment to directory language of Pub. L. 104–188, §1807(c)(3). See 1996 Amendment note below.

Subsec. (g)(7). Pub. L. 105–206, §6005(a)(1)(B), added par. (7) and struck out heading and text of former par. (7). Text read as follows: ''In the case of an individual who is an active participant at no time during any plan year ending with or within the taxable year but whose spouse is an active participant for any part of any such plan year—

''(A) the applicable dollar amount under paragraph (3)(B)(i) with respect to the taxpayer shall be $150,000, and

''(B) the amount applicable under paragraph (2)(A)(ii) shall be $10,000.''

1997—Subsec. (c)(1)(B)(ii). Pub. L. 105–34, §302(c), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowed as a deduction under subsection (a) to such spouse for such taxable year.''

Subsec. (g)(1). Pub. L. 105–34, §301(b)(1), struck out ''or the individual's spouse'' after ''an individual''.

Subsec. (g)(2)(A)(ii). Pub. L. 105–34, §301(a)(2), as amended by Pub. L. 105–206, §6005(a)(2), inserted ''($20,000 in the case of a joint return for a taxable year beginning after December 31, 2006)'' after ''$10,000''.

Subsec. (g)(3)(B). Pub. L. 105–34, §301(a)(1), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''The term 'applicable dollar amount' means—

''(i) in the case of a taxpayer filing a joint return, $40,000,

''(ii) in the case of any other taxpayer (other than a married individual filing a separate return), $25,000, and

''(iii) in the case of a married individual filing a separate return, zero.''

Subsec. (g)(7). Pub. L. 105–34, §301(b)(2), added par. (7).

1996—Subsec. (b)(4). Pub. L. 104–188, §1421(b)(1)(A), added par. (4).

Subsec. (c). Pub. L. 104–188, §1427(a), amended subsec. (c) generally, substituting present provisions for former provisions relating to special rules for certain married individuals which set out general provisions in par. (1) and a limitation in par. (2).

Subsec. (f)(2). Pub. L. 104–188, §1427(b)(1), substituted ''subsection (b)'' for ''subsections (b) and (c)''.

Subsec. (g)(1). Pub. L. 104–188, §1427(b)(2), substituted ''(c)(1)(A)'' for ''(c)(2)''.

Subsec. (g)(3)(A)(ii). Pub. L. 104–188, §1807(c)(3), as amended by Pub. L. 105–206, §6018(f)(2), inserted '', 137,'' before ''and 911''.

Subsec. (g)(5)(A)(vi). Pub. L. 104–188, §1421(b)(1)(B), added cl. (vi).

1994—Subsec. (g)(6)(A). Pub. L. 103–337 substituted ''section 10101 of title 10'' for ''section 261(a) of title 10''.

1992—Subsec. (d)(2). Pub. L. 102–318 substituted ''402(c)'' for ''402(a)(5), 402(a)(7)''.

1989—Subsec. (f)(1). Pub. L. 101–239, §7841(c)(1), inserted at end ''For purposes of this paragraph, section 401(c)(2) shall be applied as if the term trade or business for purposes of section 1402 included service described in subsection (c)(6).''

Subsec. (g)(3)(A)(ii). Pub. L. 101–239, §7816(c)(1), made technical correction to directory language of Pub. L. 100–647, §6009(c)(2), see 1988 Amendment note below.

1988—Subsec. (g)(3)(A)(ii). Pub. L. 100–647, §6009(c)(2), as amended by Pub. L. 101–239, §7816(c)(1), substituted ''sections 135 and 911'' for ''section 911''.

Subsec. (g)(4). Pub. L. 100–647, §1011(a)(1), inserted ''and living apart'' after ''filing separately'' in heading and amended text generally. Prior to amendment, text read as follows: ''In the case of a married individual filing a separate return for any taxable year, paragraph (1) shall be applied without regard to whether such individual's spouse is an active participant for any plan year ending with or within such taxable year.''

1986—Subsec. (b)(2). Pub. L. 99–514, §1108(g)(2), amended par. (2) generally, substituting provision that this section shall not apply with respect to an employer contribution to a simplified employee pension for former provisions consisting of subpars. (A), (B), and (C) which set out detailed limits on deductibility of employer contributions.

Subsec. (b)(2)(C). Pub. L. 99–514, §1875(c)(6)(B), substituted ''the dollar limitation in effect under section 415(c)(1)(A)'' for ''the $15,000 amount specified in subparagraph (A)(ii)''.

Subsec. (b)(3). Pub. L. 99–514, §1109(b), added par. (3).

Pub. L. 99–514, §1101(b)(2)(A), struck out par. (3), special rule for individual retirement plans, which read as follows: ''If the individual has paid any qualified voluntary employee contributions for the taxable year, the amount of the qualified retirement contributions (other than employer contributions to a simplified employee pension) which are paid for the taxable year to an individual retirement plan and which are allowable as a deduction under subsection (a) for such taxable year shall not exceed—

''(A) the amount determined under paragraph (1) for such taxable year, reduced by

''(B) the amount of the qualified voluntary employee contributions for the taxable year.''

Subsec. (c)(1)(B). Pub. L. 99–514, § 1103(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''whose spouse has no compensation (determined without regard to section 911) for such taxable year,''.

Subsec. (c)(2)(B). Pub. L. 99–514, § 1108(g)(3), struck out ''(determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b))'' after ''for the taxable year''.

Subsec. (e). Pub. L. 99–514, § 1101(b)(1), amended subsec. (e) generally, revising the definition of ''qualified retirement contribution''.

Subsec. (f)(1). Pub. L. 99–514, § 301(b)(4), which directed that par. (1) be amended by substituting ''paragraph (6)'' for ''paragraph (7)'', could not be executed because prior amendment by Pub. L. 99–514, § 1875(c)(4), see below, struck out language which included phrase ''paragraph (7)''.

Pub. L. 99–514, § 1875(c)(4), struck out ''reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62'' after ''(as defined in section 401(c)(2))''.

Subsec. (f)(3). Pub. L. 99–514, § 1101(a)(2), in amending par. (3) generally, reenacted existing provision without its subpar. ''(A) Individual retirement plans'' designation, and struck out subpar. (B) relating to time when contributions deemed made with respect to qualified employer or government plans.

Subsec. (f)(7). Pub. L. 99–514, § 1102(f), added par. (7).

Subsec. (g). Pub. L. 99–514, § 1101(a)(1), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 99–514, § 1501(d)(1)(B), which directed that subsec. (g) be amended by substituting ''6652(g)'' for ''6652(h)'', was executed by making the substitution in subsec. (h) to reflect the probable intent of Congress and the prior redesignation of former subsec. (g) as (h) by Pub. L. 99–514, § 1101(a)(1).

Pub. L. 99–514, § 1101(a)(1), redesignated former subsec. (g) as (h).

1984—Subsec. (b)(2)(A)(ii). Pub. L. 98–369, § 713(d)(2), substituted ''not in excess of the limitation in effect under section 415(c)(1)(A)'' for ''not in excess of $15,000''.

Subsec. (b)(4). Pub. L. 98–369, § 529(b), struck out par. (4) which related to a deduction for qualified retirement savings of certain divorced individuals.

Subsec. (b)(4)(B). Pub. L. 98–369, § 422(d)(1), substituted ''gross income under section 71 (relating to alimony and separate maintenance payments) by reason of a payment under a decree of divorce or separate maintenance or a written agreement incident to such a decree'' for ''gross income under paragraph (1) of section 71(a) (relating to decree of divorce or separate maintenance)''.

Subsec. (d)(2). Pub. L. 98–369, § 491(d)(6), substituted ''or 408(d)(3)'' for ''405(d)(3), 408(d)(3), or 409(b)(3)(C)''.

Subsec. (e)(1). Pub. L. 98–369, § 491(d)(7), struck out concluding provision that for the purposes of the preceding sentence, the term ''individual retirement plan'' includes retirement bonds described in section 409 only if the bond was not redeemed within 12 months of its issuance.

Subsec. (e)(3). Pub. L. 98–369, § 491(d)(8), struck out subpar. (C) which included a qualified bond purchase plan described in section 405(a) within term ''qualified employer plan'', and redesignated subpar. (D) as (C).

Subsec. (f)(1). Pub. L. 98–369, § 529(a), inserted provision that ''compensation'' shall include any amount includible in the individual's gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2).

Subsec. (f)(3)(A). Pub. L. 98–369, § 147(c), substituted ''not including'' for ''including''.

1983—Subsec. (b)(2)(A). Pub. L. 97–448, § 103(c)(12)(A), inserted a close parenthesis after ''allowable under paragraph (1)'' in introductory provisions.

Subsec. (c)(2)(B). Pub. L. 97–448, § 103(c)(1), substituted ''the amount allowable as a deduction under subsection (a) for the taxable year (determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b))'' for ''the amount allowed as a deduction under subsection (a) for the taxable year''.

Subsec. (d)(1). Pub. L. 97–448, § 103(c)(2), substituted ''Beneficiary must be under age 70½'' for ''Individuals who have attained age 70½'' as par. (1) heading and, in text, substituted ''qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made'' for ''qualified retirement contribution which is made for a taxable year of an individual if such individual has attained age 70½ before the close of such taxable year''.

Subsec. (e)(3)(D), (E). Pub. L. 97–448, § 103(c)(3)(A), redesignated subpar. (E) as (D). Former subpar. (D), which related to simplified employee pension (within the meaning of section 408(k)), was struck out.

Subsec. (f)(1). Pub. L. 97–448, § 103(c)(4), substituted ''earned income (as defined in section 401(c)(2)) reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62'' for ''earned income as defined in section 401(c)(2)'' and inserted provision that ''compensation'' does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation.

Subsec. (f)(3)(B). Pub. L. 97–448, § 103(c)(5), substituted ''if the contribution is made on account of the taxable year which includes such last day and by April 15 of the calendar year'' for ''if the contribution is made by April 15 of the calendar year''.

1982—Subsec. (d)(4). Pub. L. 97–248 added par. (4).

1981—Subsec. (a). Pub. L. 97–34, § 311(a), amended subsec. (a) generally, substituting in heading ''Allowance of deduction'' for ''Deduction allowed'' and in text ''shall be allowed'' for ''is allowed'', allowed as a deduction an amount equal to the qualified retirement contributions of the individual for the taxable year, eliminated part of first sentence for allowance as a deduction amounts paid in cash for the taxable year by or on behalf of the individual for his benefit—(1) to an individual retirement annuity described in section 408(a), (2) for an individual retirement annuity described in section 408(b), or (3) for a retirement bond described in section 409 (but only if the bond is not redeemed within 12 months of the date of its issuance), covered in subsec. (e)(1) and (5) of this section, and eliminated second sentence respecting employer payments, covered in subsec. (f)(5) of this section.

Subsec. (b). Pub. L. 97–34, § 311(a), in heading substituted ''Maximum amount of deduction'' for ''Limitations and restrictions''.

Subsec. (b)(1). Pub. L. 97–34, § 311(a), amended par. (1) generally, substituting ''In general'' for ''Maximum deduction'' in heading and in text provision for allowance of a deduction not to exceed the lesser of (A) $2,000, or (B) an amount equal to the compensation includible in the individual's gross income for such taxable year, for provision for an amount not to exceed amount equal to 15 percent of the compensation includible in gross income for the taxable year, or $1,500, whichever is less.

Subsec. (b)(2)(A)(ii), (C). Pub. L. 97–34, § 312(c)(1), substituted ''$15,000'' for ''$7,500''.

Pub. L. 97–34, § 311(a), redesignated par. (7) as (2), substituted in heading ''rules for employer contributions under'' for ''rules in case of'', substituted in subpar. (A) introductory text ''an employee shall be allowed as a deduction under subsection (a) (in addition to the amount allowable under paragraph (1) an amount equal to the lesser of'' for ''the limitation under paragraph (1) shall be the lesser of'', inserted in subpar. (A)(i) ''from such employer'' before ''includible'' and substituted therein ''without regard'' for ''with regard'', substituted in subpar. (A)(ii) ''the amount contributed by such employer to the simplified employee pension and included in gross income (but not in excess of $7,500'' for ''the sum of—(I) the amount contributed by the employer to the simplified employee pension and included

in gross income (but not in excess of $7,500), and (II) $1,500, reduced (but not below zero) by the amount described in subclause (I)'', and substituted in subpar. (B) ''Paragraph (1) of this subsection and paragraph (1) of subsection (d)'' for ''Paragraphs (2) and (3)''. Former subsec. (b)(2) provisions which disallowed any deduction under subsec. (a) for an individual for the taxable year if for any part of such year (A) he was an active participant in (i) a plan described in section 401(a), (ii) an annuity plan described in section 403(a), (iii) a qualified bond purchase plan described in section 405(a), or (iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or (B) amounts were contributed by his employer for an annuity contract described in section 403(b), are now covered by subsec. (e)(3) and (4) of this section.

Subsec. (b)(3) to (5). Pub. L. 97–34, §311(a), added pars. (3) and (4). Former pars. (3) to (5) redesignated subsec. (d)(1) to (3).

Subsec. (b)(6). Pub. L. 97–34, §311(a), struck out par. (6) which set forth alternative deduction provisions which disallowed a deduction for the taxable year if the individual claimed the deduction allowed by section 220 for the taxable year.

Subsec. (b)(7). Pub. L. 97–34, §311(a), redesignated par. (7) as (2).

Subsec. (c). Pub. L. 97–34, §311(a), added subsec. (c). Former subsec. (c)(1) to (3) and (5) redesignated subsec. (f)(1), (2), (3)(A), and (6). Former subsec. (c)(4), which provided for participation in governmental plans by certain individuals, with subpars. (A) and (B) covering members of reserve components and volunteer firefighters, was struck out.

Subsec. (d). Pub. L. 97–34, §311(a), in heading redesignated former subsec. (b) heading as subsec. (d) heading and inserted ''Other'' before ''limitations''.

Subsec. (d)(1). Pub. L. 97–34, §311(a), redesignated former subsec. (b)(3) as par. (1), substituted as heading ''Individuals who have attained age 70½'' for ''Contributions after age 70½'' and in text ''shall be allowed under this section'' for ''is allowed under subsection (a)'', ''qualified retirement contribution'' for ''payment described in subsection (a)'', and ''made for a taxable year of an individual if such individual has attained'' for ''made during the taxable year of an individual who has attained''.

Subsec. (d)(2). Pub. L. 97–34, §313(b)(2), inserted reference to section 405(d)(3).

Pub. L. 97–34, §311(a), redesignated former subsec. (b)(4) as par. (2) and substituted ''shall be allowed'' for ''is allowed''.

Subsec. (d)(3). Pub. L. 97–34, §311(a), redesignated former subsec. (b)(5) as par. (3) and, as so redesignated, substituted ''shall be allowed under this section'' for ''is allowed under subsection (a)'' and ''year which is properly allocable'' for ''year properly allocable''.

Subsec. (e). Pub. L. 97–34, §311(a), added subsec. (e) incorporating former provisions of subsecs. (a) and (b)(2) as pars. (1), and (3) and (4) and, among other changes, inserted provisions relating to a qualified employee pension.

Subsec. (f)(1). Pub. L. 97–34, §311(a), redesignated former subsec. (c)(1) as par. (1).

Subsec. (f)(2). Pub. L. 97–34, §311(a), redesignated former subsec. (c)(2) as par. (2) and, as so redesignated, substituted ''deduction under subsections (b) and (c)'' for ''deduction under subsection (b)(1)'', and struck out provision that for purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a).

Subsec. (f)(3). Pub. L. 97–34, §311(a), redesignated former subsec. (c)(3) as subpar. (A) and, as so redesignated, added subpar. (A) heading ''Individual retirement plans'', and ''to an individual retirement plan'' before ''on the last day'' in text, and added subpar. (B).

Subsec. (f)(4). Pub. L. 97–34, §311(a), added par. (4).

Subsec. (f)(5). Pub. L. 97–34, §311(a), redesignated former provisions of subsec. (a) as par. (5), added par. (5) heading ''Employer payments'', substituted ''to an individual retirement plan shall be treated as payment of compensation to the employee'' for ''to such a retirement account, or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee'', and ''in the taxable year for which the amount was contributed'' after ''gross income'', and struck out ''after the application of subsection (b)'' after ''under this section to the employee''.

Subsec. (f)(6). Pub. L. 97–34, §311(a), redesignated former subsec. (c)(5) as par. (6), inserted ''for contributions to an individual retirement plan'' after ''under this section'' in subpar. (A), and struck out in subpar. (C) ''or section 220'' after ''under this section''.

Subsec. (g). Pub. L. 97–34, §311(a), added subsec. (g).

1980—Subsec. (b)(4). Pub. L. 96–222, §101(a)(14)(B), inserted ''402(a)(7),'' after ''section 402(a)(5)''.

Subsec. (b)(7). Pub. L. 96–222, §101(a)(10)(D), amended par. (7) generally, including provision requiring that paragraph (3) not apply with respect to employer contribution to a simplified employee pension.

1978—Subsec. (b)(4). Pub. L. 95–600, §156(c)(3), inserted ''403(b)(8)'' after ''403(a)(4)''.

Subsec. (b)(7). Pub. L. 95–600, §152(c), added par. (7).

Subsec. (c)(3). Pub. L. 95–600, §157(a)(1), substituted ''not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)'' for ''not later than 45 days after the end of such taxable year''.

Subsec. (c)(4). Pub. L. 95–600, §703(c)(1), substituted ''subsection (b)(2)(A)(iv)'' for ''subsection (b)(3)(A)(iv)'' wherever appearing.

Subsec. (c)(5). Pub. L. 95–600, §157(b)(1), added par. (5).

1976—Subsec. (a). Pub. L. 94–455, §1501(b)(4)(B), substituted ''for'' for ''during'' after ''paid in cash''.

Subsec. (b)(2)(A)(iv). Pub. L. 94–455, §1901(a)(32), substituted ''subdivision'' for ''division'' after ''State or political''.

Subsec. (b)(5). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(6). Pub. L. 94–455, §1501(b)(4)(B), added par. (6).

Subsec. (c)(2). Pub. L. 94–455, §1501(b)(4)(C), inserted ''For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a)'' after ''community property laws''.

Subsec. (c)(3). Pub. L. 94–455, §1501(b)(4)(D), added par. (3).

Subsec. (c)(4). Pub. L. 94–455, §1503(a), added par. (4).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–245, title I, §105(b)(3), June 17, 2008, 122 Stat. 1629, provided that: ''The amendments made by this subsection [amending this section and section 414 of this title] shall apply to years beginning after December 31, 2008.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title VIII, §831(b), Aug. 17, 2006, 120 Stat. 1003, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.''

Amendment by section 833(b) of Pub. L. 109–280 applicable to taxable years beginning after 2006, see section 833(d) of Pub. L. 109–280, set out as a note under section 25B of this title.

Pub. L. 109–227, §2(b), May 29, 2006, 120 Stat. 385, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2003.''

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–357 applicable to taxable years beginning after Dec. 31, 2004, see section 102(e) of Pub. L. 108–357, set out as a note under section 56 of this title.

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by section 431(c)(1) of Pub. L. 107–16 applicable to payments made in taxable years beginning

after Dec. 31, 2001, see section 431(d) of Pub. L. 107–16, set out as a note under section 62 of this title.

Pub. L. 107–16, title VI, § 601(c), June 7, 2001, 115 Stat. 95, provided that: ''The amendments made by this section [amending this section and section 408 of this title] shall apply to taxable years beginning after December 31, 2001.''

Amendment by section 641(e)(2) of Pub. L. 107–16 applicable to distributions after Dec. 31, 2001, see section 641(f)(1) of Pub. L. 107–16, set out as an Effective Date of 2001 Amendment note under section 402 of this title.

Amendment by section 431(c)(1) of Pub. L. 107–16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107–16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–554 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which such amendment relates, see section § 1(a)(7) [title III, § 316(e)] of Pub. L. 106–554, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 4003(*l*) of Pub. L. 105–277, set out as a note under section 86 of this title.

Amendment by section 6018(f)(2) of Pub. L. 105–206 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which such amendment relates, see section 6018(h) of Pub. L. 105–206, set out as a note under section 23 of this title.

Amendment by section 6005(a) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 301(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.''

Section 302(f) of Pub. L. 105–34 provided that: ''The amendments made by this section [enacting section 408A of this title and amending this section and sections 408 and 4973 of this title] shall apply to taxable years beginning after December 31, 1997.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1421(b)(1) of Pub. L. 104–188 applicable to taxable years beginning after Dec. 31, 1996, see section 1421(e) of Pub. L. 104–188, set out as a note under section 72 of this title.

Section 1427(c) of Pub. L. 104–188 provided that: ''The amendments made by this section [amending this section and section 408 of this title] shall apply to taxable years beginning after December 31, 1996.''

Amendment by section 1807(c)(3) of Pub. L. 104–188 applicable to taxable years beginning after Dec. 31, 1996, see section 1807(e) of Pub. L. 104–188, set out as an Effective Date note under section 23 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102–318, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7816(c)(1) of Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

Section 7841(c)(2) of Pub. L. 101–239 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to contributions after the date of the enactment of this Act [Dec. 19, 1989] in taxable years ending after such date.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1011(a)(2) of Pub. L. 100–647 provided that:

''(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall apply to taxable years beginning after December 31, 1987.

''(B) A taxpayer may elect to have the amendment made by paragraph (1) apply to any taxable year beginning in 1987.''

Amendment by section 6009(c)(2) of Pub. L. 100–647 applicable to taxable years beginning after Dec. 31, 1989, see section 6009(d) of Pub. L. 100–647, set out as a note under section 86 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 301(b)(4) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 301(c) of Pub. L. 99–514, set out as a note under section 62 of this title.

Amendment by section 1101(a), (b)(1), (2)(A) of Pub. L. 99–514 applicable to contributions for taxable years beginning after Dec. 31, 1986, see section 1101(c) of Pub. L. 99–514, set out as a note under section 72 of this title.

Section 1102(g) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section and sections 408, 3405, 4973, and 6693 of this title] shall apply to contributions and distributions for taxable years beginning after December 31, 1986.''

Section 1103(b) of Pub. L. 99–514 provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning before, on, or after December 31, 1985.''

Section 1108(h) of Pub. L. 99–514, as amended by Pub. L. 100–647, title I, § 1011(f)(7), Nov. 10, 1988, 102 Stat. 3463, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 402, 404, 408, 415, 3121, and 3306 of this title] shall apply to years beginning after December 31, 1986.

''(2) INTEGRATION RULES.—Subparagraphs (D) and (E) of section 408(k)(3) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) shall continue to apply for years beginning after December 31, 1986, and before January 1, 1989, except that employer contributions under an arrangement under section 408(k)(6) of the Internal Revenue Code of 1986 (as added by this section) may not be integrated under such subparagraphs.''

Section 1109(c) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section and section 501 of this title] shall apply to taxable years beginning after December 31, 1986.''

Amendment by section 1501(d)(1)(B) of Pub. L. 99–514, applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1875(c)(4), (6)(B) of Pub. L. 99–514 effective as if included in the amendments made by section 238 of Pub. L. 97–248, which amended sections 401, 404, 408, 415, and 1379 of this title, see section 1875(c)(12) of Pub. L. 99–514, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 147(d) of Pub. L. 98–369 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 408 of this title] shall apply to contributions made after December 31, 1984.

''(2) SUBSECTION (b).—The amendment made by subsection (b) [amending section 6693 of this title] shall apply to failures occurring after the date of the enactment of this Act [July 18, 1984].''

Amendment by section 422(d)(1) of Pub. L. 98–369 applicable with respect to divorce or separation instruments executed after Dec. 31, 1984, or executed before Jan. 1, 1985, but modified on or after Jan. 1, 1985, with express provision for application of amendment to modification, see section 422(e)(1), (2) of Pub. L. 98–369, set out as a note under section 71 of this title.

Amendment by section 491(d)(6)–(8) of Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

Section 529(c) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1984.''

Amendment by section 713(d)(2) of Pub. L. 98–369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 715 of Pub. L. 98–369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to with respect to individuals dying after Dec. 31, 1983, see section 243(c) of Pub. L. 97–248, as amended, set out as a note under section 408 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 311(i) of Pub. L. 97–34, as amended by Pub. L. 97–448, title I, §103(c)(11), Jan. 12, 1983, 96 Stat. 2377; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section [amending this section and sections 62, 72, 402, 403, 408, 409, 415, 2039, 2503, 2517, 3401, 4973, 6047, and 6652 of this title and repealing section 220 of this title] shall apply to taxable years beginning after December 31, 1981.

''(2) TRANSITIONAL RULE.—For purposes of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], any amount allowed as a deduction under section 220 of such Code (as in effect before its repeal by this Act) shall be treated as if it were allowed by section 219 of such Code.

''(3) CERTAIN BOND ROLLOVER PROVISIONS.—The amendment made by subsection (g)(3) [amending section 409 of this title] shall apply to taxable years beginning after December 31, 1974.

''(4) SECTION 415 AMENDMENTS.—The amendments made by subsections (g)(4) and (h)(3) [amending section 415 of this title] shall apply to years after December 31, 1981.

''(5) ESTATE AND GIFT TAX PROVISIONS.—

''(A) ESTATE TAX.—The amendments made by subsections (d)(1) and (h)(4) [amending section 2039 of this title] shall apply to the estates of decedents dying after December 31, 1981.

''(B) GIFT TAX.—The amendments made by subsections (d)(2) and (h)(5) [amending sections 2503 and 2517 of this title] shall apply to transfers after December 31, 1981.''

Amendment by section 312(c)(1) of Pub. L. 97–34 applicable to plans which include employees within the meaning of section 401(c)(1) of this title with respect to taxable years beginning after Dec. 31, 1981, see section 312(f)(1) of Pub. L. 97–34, set out as a note under section 72 of this title.

Section 313(c) of Pub. L. 97–34 provided that: ''The amendments made by this section [amending this section and sections 405, 408, 2039, and 4973 of this title] shall apply to redemptions after the date of the enactment of this Act [Aug. 13, 1981] in taxable years ending after such date.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600 to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 152(c) of Pub. L. 95–600 applicable to taxable years beginning after Dec. 31, 1978, see section 152(h) of Pub. L. 95–600, set out as a note under section 408 of this title.

Amendment by section 156(c)(3) of Pub. L. 95–600 applicable to distributions or transfers made after Dec. 31, 1977, in taxable years beginning after such date, see section 156(d) of Pub. L. 95–600 set out as a note under section 403 of this title.

Section 157(a)(3) of Pub. L. 95–600 provided that: ''The amendments made by this subsection [amending this section and section 220 of this title] shall apply to taxable years beginning after December 31, 1977.''

Section 157(b)(4)(A) of Pub. L. 95–600 provided that: ''The amendments made by this subsection [amending this section and sections 220 and 4973 of this title] shall apply to the determination of deductions for taxable years beginning after December 31, 1975.''

Section 703(c)(5) of Pub. L. 95–600 provided that: ''The amendments made by this subsection [amending this section and sections 220 and 408 of this title] shall apply to taxable years beginning after December 31, 1976.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1501(b)(4) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1976, see section 1501(d) of Pub. L. 94–455, set out as an Effective Date note under section 62 of this title.

Section 1503(b) of Pub. L. 94–455 provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1975.''

Amendment by section 1901(a)(32) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

EFFECTIVE DATE

Section 2002(i)(1) of Pub. L. 93–406 provided that: ''The amendments made by subsections (a), (b), and (c) [of section 2002 of Pub. L. 93–406, enacting this section and sections 408 and 409 of this title and amending section 62 of this title] apply to taxable years beginning after December 31, 1974.''

CONTRIBUTIONS FOR TAXABLE YEARS ENDING BEFORE MAY 29, 2006

Pub. L. 109–227, §2(c), May 29, 2006, 120 Stat. 385, provided that:

''(1) IN GENERAL.—In the case of any taxpayer with respect to whom compensation was excluded from gross income under section 112 of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 2003, and ending before the date of the enactment of this Act [May 29, 2006], any contribution to an individual retirement plan made on account of such taxable year and not later than the last day of the 3-year period beginning on the date of the enactment of this Act shall be treated, for purposes of such Code, as having been made on the last day of such taxable year.

''(2) WAIVER OF LIMITATIONS.—

''(A) CREDIT OR REFUND.—If the credit or refund of any overpayment of tax resulting from a contribution to which paragraph (1) applies is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date that such contribution is made (determined without regard to paragraph (1)).

''(B) ASSESSMENT OF DEFICIENCY.—The period for assessing a deficiency attributable to a contribution to which paragraph (1) applies shall not expire before the close of the 3-year period beginning on the date that such contribution is made. Such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(3) INDIVIDUAL RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term 'individual retirement plan' has the meaning given such term by section 7701(a)(37) of such Code.''

CLARIFICATION OF TREATMENT OF FEDERAL JUDGES

Pub. L. 100–203, title X, § 10103, Dec. 22, 1987, 101 Stat. 1330–386, as amended by Pub. L. 100–647, title II, § 2004(c), Nov. 10, 1988, 102 Stat. 3599, provided that:

''(a) GENERAL RULE.—A Federal judge—

''(1) shall be treated as an active participant in a plan established for its employees by the United States for purposes of section 219(g) of the Internal Revenue Code of 1986, and

''(2) shall be treated as an employee for purposes of chapter 1 of such Code.

''(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning after December 31, 1987.''

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§ 1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§ 521–523] of title V of Pub. L. 102–318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102–318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

TRANSITIONAL RULES FOR ALLOWABLE DEDUCTIONS FOR FIRST TAXABLE YEAR BEGINNING IN 1978

Section 157(b)(4)(B) of Pub. L. 95–600, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''If, but for this subparagraph, an amount would be allowable as a deduction by reason of section 219(c)(5) or 220(c)(6) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for a taxable year beginning before January 1, 1978, such amount shall be allowable only for the taxpayer's first taxable year beginning in 1978.''

§ 220. Archer MSAs

(a) Deduction allowed

In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to an Archer MSA of such individual.

(b) Limitations

(1) In general

The amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed the sum of the monthly limitations for months during such taxable year that the individual is an eligible individual.

(2) Monthly limitation

The monthly limitation for any month is the amount equal to 1/12 of—

(A) in the case of an individual who has self-only coverage under the high deductible health plan as of the first day of such month, 65 percent of the annual deductible under such coverage, and

(B) in the case of an individual who has family coverage under the high deductible health plan as of the first day of such month, 75 percent of the annual deductible under such coverage.

(3) Special rule for married individuals

In the case of individuals who are married to each other, if either spouse has family coverage—

(A) both spouses shall be treated as having only such family coverage (and if such spouses each have family coverage under different plans, as having the family coverage with the lowest annual deductible), and

(B) the limitation under paragraph (1) (after the application of subparagraph (A) of this paragraph) shall be divided equally between them unless they agree on a different division.

(4) Deduction not to exceed compensation

(A) Employees

The deduction allowed under subsection (a) for contributions as an eligible individual described in subclause (I) of subsection (c)(1)(A)(iii) shall not exceed such individual's wages, salaries, tips, and other employee compensation which are attributable to such individual's employment by the employer referred to in such subclause.

(B) Self-employed individuals

The deduction allowed under subsection (a) for contributions as an eligible individual described in subclause (II) of subsection (c)(1)(A)(iii) shall not exceed such individual's earned income (as defined in section 401(c)(1)) derived by the taxpayer from the trade or business with respect to which the high deductible health plan is established.