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

Section 152(h) of Pub. L. 95–600 provided that: ''The amendments made by this section [amending this section and sections 219, 401, 404, 414, and 415 of this title] shall apply to taxable years beginning after December 31, 1978.''

Amendment by section 156(c)(1), (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(c)(2)(A) of Pub. L. 95–600 provided that: ''The amendments made by paragraph (1) [amending this section] shall apply to distributions in taxable years beginning after December 31, 1975.''

Section 157(d)(2) of Pub. L. 95–600 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to contracts issued after the date of the enactment of this Act [Nov. 6, 1978].''

Amendment by section 157(h)(2) of Pub. L. 95–600 applicable to payments made in taxable years beginning after Dec. 31, 1977, see section 157(h)(3)(A) of Pub. L. 95–600, set out as a note under section 402 of this title.

Section 157(e)(2) of Pub. L. 95–600 provided that: ''The amendments made by paragraph (1) [amending this section and section 409 of this title] shall apply to taxable years beginning after December 31, 1976.''

Amendment by section 157(g)(3) of Pub. L. 95–600 applicable to lump-sum distributions completed after Dec. 31, 1978, in taxable years ending after such date, see section 157(g)(4) of Pub. L. 95–600, set out as a note under section 402 of this title.

Amendment by section 703(c)(4) of Pub. L. 95–600 applicable to taxable years beginning after Dec. 31, 1976, see section 703(c)(5) of Pub. L. 95–600, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1501(b)(2), (5), (10) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1501(d) of Pub. L. 94–455, set out as a note under section 62 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1974, see section 2002(i)(1) of Pub. L. 93–406, set out as a note under section 219 of this title.

DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUAL RETIREMENT PLANS

Pub. L. 109–280, title VIII, § 830, Aug. 17, 2006, 120 Stat. 1002, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury (or the Secretary's delegate) shall make available a form (or modify existing forms) for use by individuals to direct that a portion of any refund of overpayment of tax imposed by chapter 1 of the Internal Revenue Code of 1986 be paid directly to an individual retirement plan (as defined in section 7701(a)(37) of such Code) of such individual.

''(b) EFFECTIVE DATE.—The form required by subsection (a) shall be made available for taxable years beginning after December 31, 2006.''

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 RULE FOR CONTRIBUTIONS FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1978

Section 157(c)(2)(B) of Pub. L. 95–600, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''In the case of contributions for taxable years beginning before January 1, 1978, paragraph (5) of section 408(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be applied as if such paragraph did not contain any dollar limitation.''

EXCHANGE OF FIXED PREMIUM ANNUITY OR ENDOWMENT CONTRACT ISSUED ON OR BEFORE NOV. 6, 1978, FOR INDIVIDUAL RETIREMENT ANNUITY

Section 157(d)(3) of Pub. L. 95–600, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''In the case of any annuity or endowment contract issued on or before the date of the enactment of this Act [Nov. 6, 1978] which would be an individual retirement annuity within the meaning of section 408(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by paragraph (1) [amending subsec. (b)(2) of this section]) but for the fact that the premiums under the contract are fixed, at the election of the taxpayer an exchange before January 1, 1981, of that contract for an individual retirement annuity within the meaning of such section 408(b) (as amended by paragraph (1)) shall be treated as a nontaxable exchange which does not constitute a distribution.''

§ 408A. Roth IRAs

(a) General rule

Except as provided in this section, a Roth IRA shall be treated for purposes of this title in the same manner as an individual retirement plan.

(b) Roth IRA

For purposes of this title, the term ''Roth IRA'' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as a Roth IRA. Such designation shall be made in such manner as the Secretary may prescribe.

(c) Treatment of contributions

(1) No deduction allowed

No deduction shall be allowed under section 219 for a contribution to a Roth IRA.

(2) Contribution limit

The aggregate amount of contributions for any taxable year to all Roth IRAs maintained for the benefit of an individual shall not exceed the excess (if any) of—

(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (d)(1) or (g) of such section), over

(B) the aggregate amount of contributions for such taxable year to all other individual retirement plans (other than Roth IRAs) maintained for the benefit of the individual.

(3) Limits based on modified adjusted gross income

(A) Dollar limit

The amount determined under paragraph (2) for any taxable year shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced (but not below zero) by the amount which bears the same ratio to such amount 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) $15,000 ($10,000 in the case of a joint return or a married individual filing a separate return).

The rules of subparagraphs (B) and (C) of section 219(g)(2) shall apply to any reduction under this subparagraph.

(B) Definitions

For purposes of this paragraph—

(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that any amount included in gross income under subsection (d)(3) shall not be taken into account, and

(ii) the applicable dollar amount is—

(I) in the case of a taxpayer filing a joint return, $150,000,

(II) in the case of any other taxpayer (other than a married individual filing a separate return), $95,000, and

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

(C) Marital status

Section 219(g)(4) shall apply for purposes of this paragraph.

(D) Inflation adjustment

In the case of any taxable year beginning in a calendar year after 2006, the dollar amounts in subclauses (I) and (II) of subparagraph (B)(ii) shall each 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 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.

(4) Contributions permitted after age 70½

Contributions to a Roth IRA may be made even after the individual for whom the account is maintained has attained age 70½.

(5) Mandatory distribution rules not to apply before death

Notwithstanding subsections (a)(6) and (b)(3) of section 408 (relating to required distributions), the following provisions shall not apply to any Roth IRA:

(A) Section 401(a)(9)(A).

(B) The incidental death benefit requirements of section 401(a).

(6) Rollover contributions

(A) In general

No rollover contribution may be made to a Roth IRA unless it is a qualified rollover contribution.

(B) Coordination with limit

A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

(7) Time when contributions made

For purposes of this section, the rule of section 219(f)(3) shall apply.

(d) Distribution rules

For purposes of this title—

(1) Exclusion

Any qualified distribution from a Roth IRA shall not be includible in gross income.

(2) Qualified distribution

For purposes of this subsection—

(A) In general

The term ''qualified distribution'' means any payment or distribution—

(i) made on or after the date on which the individual attains age 59½,

(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

(iv) which is a qualified special purpose distribution.

(B) Distributions within nonexclusion period

A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made within the 5-taxable year period beginning with the first taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual.

(C) Distributions of excess contributions and earnings

The term ''qualified distribution'' shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution.

(3) Rollovers from an eligible retirement plan other than a Roth IRA

(A) In general

Notwithstanding sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16), in the case of any distribution to which this paragraph applies—

(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

(ii) section 72(t) shall not apply, and

(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

(B) Distributions to which paragraph applies

This paragraph shall apply to a distribution from an eligible retirement plan (as defined by section 402(c)(8)(B)) maintained for the benefit of an individual which is contributed to a Roth IRA maintained for the benefit of such individual in a qualified rollover contribution. This paragraph shall not apply to a distribution which is a qualified rollover contribution from a Roth IRA or a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A)[1]

(C) Conversions

The conversion of an individual retirement plan (other than a Roth IRA) to a Roth IRA shall be treated for purposes of this paragraph as a distribution to which this paragraph applies.

(D) Additional reporting requirements

Trustees of Roth IRAs, trustees of individual retirement plans, persons subject to section 6047(d)(1), or all of the foregoing persons, whichever is appropriate, shall include such additional information in reports required under section 408(i) or 6047 as the Secretary may require to ensure that amounts required to be included in gross income under subparagraph (A) are so included.

(E) Special rules for contributions to which 2-year averaging applies

In the case of a qualified rollover contribution to a Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

(i) Acceleration of inclusion

(I) In general

The amount otherwise required to be included in gross income for any taxable year beginning in 2010 or the first taxable year in the 2-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

(II) Limitation on aggregate amount included

The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 2-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

(ii) Death of distributee

(I) In general

If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

(II) Special rule for surviving spouse

If the spouse of the individual described in subclause (I) acquires the individual's entire interest in any Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date for the spouse's taxable year which includes the date of death.

(F) Special rule for applying section 72

(i) In general

If—

(I) any portion of a distribution from a Roth IRA is properly allocable to a qualified rollover contribution described in this paragraph; and

(II) such distribution is made within the 5-taxable year period beginning with the taxable year in which such contribution was made,

then section 72(t) shall be applied as if such portion were includible in gross income.

(ii) Limitation

Clause (i) shall apply only to the extent of the amount of the qualified rollover contribution includible in gross income under subparagraph (A)(i).

(4) Aggregation and ordering rules

(A) Aggregation rules

Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.

(B) Ordering rules

For purposes of applying this section and section 72 to any distribution from a Roth IRA, such distribution shall be treated as made—

[1] So in original. Probably should be followed by a period.

(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA; and

(ii) from such contributions in the following order:

(I) Contributions other than qualified rollover contributions to which paragraph (3) applies.

(II) Qualified rollover contributions to which paragraph (3) applies on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under clause (ii)(II) shall be allocated first to the portion of such contribution required to be included in gross income.

(5) Qualified special purpose distribution

For purposes of this section, the term ''qualified special purpose distribution'' means any distribution to which subparagraph (F) of section 72(t)(2) applies.

(6) Taxpayer may make adjustments before due date

(A) In general

Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

(B) Special rules

(i) Transfer of earnings

Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

(ii) No deduction

Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.

(7) Due date

For purposes of this subsection, the due date for any taxable year is the date prescribed by law (including extensions of time) for filing the taxpayer's return for such taxable year.

(e) Qualified rollover contribution

For purposes of this section—

(1) In general

The term ''qualified rollover contribution'' means a rollover contribution—

(A) to a Roth IRA from another such account,

(B) from an eligible retirement plan, but only if—

(i) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

(ii) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

(2) Military death gratuity

(A) In general

The term ''qualified rollover contribution'' includes a contribution to a Roth IRA maintained for the benefit of an individual made before the end of the 1-year period beginning on the date on which such individual receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such Code, with respect to a person, to the extent that such contribution does not exceed—

(i) the sum of the amounts received during such period by such individual under such sections with respect to such person, reduced by

(ii) the amounts so received which were contributed to a Coverdell education savings account under section 530(d)(9).

(B) Annual limit on number of rollovers not to apply

Section 408(d)(3)(B) shall not apply with respect to amounts treated as a rollover by the[2] subparagraph (A).

(C) Application of section 72

For purposes of applying section 72 in the case of a distribution which is not a qualified distribution, the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.

(f) Individual retirement plan

For purposes of this section—

(1) a simplified employee pension or a simple retirement account may not be designated as a Roth IRA; and

(2) contributions to any such pension or account shall not be taken into account for purposes of subsection (c)(2)(B).

(Added Pub. L. 105–34, title III, § 302(a), Aug. 5, 1997, 111 Stat. 825; amended Pub. L. 105–206, title VI, § 6005(b)(1)–(7), (9), title VII, § 7004(a), July 22, 1998, 112 Stat. 796–800, 833; Pub. L. 105–277, div. J, title IV, § 4002(j), Oct. 21, 1998, 112 Stat. 2681–908; Pub. L. 107–16, title VI, § 617(e)(1), June 7, 2001, 115 Stat. 106; Pub. L. 109–222, title V, § 512(a), (b), May 17, 2006, 120 Stat. 365; Pub. L. 109–280, title VIII, §§ 824(a), (b), 833(c), Aug. 17, 2006, 120 Stat. 998, 1004; Pub. L. 110–245, title I, § 109(a), (b), June 17, 2008, 122 Stat. 1631, 1632; Pub. L. 110–458, title I, § 108(d), (h), Dec. 23, 2008, 122 Stat. 5109.)

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

[2] So in original. The word ''the'' probably should not appear.

Revenue Notices listed in a table under section 401 of this title.

AMENDMENTS

2008—Subsec. (c)(3)(B). Pub. L. 110–458, § 108(d)(1), in introductory provisions, struck out second ''an'' before ''eligible'' and ''other than a Roth IRA'' before ''during any taxable year'', and inserted as concluding provisions ''This subparagraph shall not apply to a qualified rollover contribution from a Roth IRA or to a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A).''

Subsec. (c)(3)(C), (E). Pub. L. 110–458, § 108(h)(1), redesignated subpar. (C) relating to inflation adjustment as subpar. (E).

Subsec. (d)(3)(B). Pub. L. 110–458, § 108(d)(2), struck out ''(other than a Roth IRA)'' after ''section 402(c)(8)(B))'' and inserted at end ''This paragraph shall not apply to a distribution which is a qualified rollover contribution from a Roth IRA or a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A)''.

Subsec. (e). Pub. L. 110–245, § 109(b), amended subsec. (e), as in effect after amendment by section 824(a) of Pub. L. 109–280, by amending text generally. Prior to amendment, text read as follows: ''For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution—

''(1) to a Roth IRA from another such account,

''(2) from an eligible retirement plan, but only if—

''(A) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

''(B) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.''

Pub. L. 110–245, § 109(a), amended subsec. (e), as in effect before amendment by section 824(a) of Pub. L. 109–280, by reenacting heading without change and amending text to read as follows: ''For purposes of this section—

''(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution to a Roth IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). Such term includes a rollover contribution described in section 402A(c)(3)(A). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

''(2) MILITARY DEATH GRATUITY.—

''(A) IN GENERAL.—The term 'qualified rollover contribution' includes a contribution to a Roth IRA maintained for the benefit of an individual made before the end of the 1-year period beginning on the date on which such individual receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such Code, with respect to a person, to the extent that such contribution does not exceed—

''(i) the sum of the amounts received during such period by such individual under such sections with respect to such person, reduced by

''(ii) the amounts so received which were contributed to a Coverdell education savings account under section 530(d)(9).

''(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—Section 408(d)(3)(B) shall not apply with respect to amounts treated as a rollover by subparagraph (A).

''(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which is not a qualified distribution, the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.'' See 2006 Amendment note below.

2006—Subsec. (c)(3)(B). Pub. L. 109–222, § 512(a)(1), redesignated subpar. (C) as (B) and struck out former subpar. (B). Prior to amendment, text read as follows: ''A taxpayer shall not be allowed to make a qualified rollover contribution to a Roth IRA from an individual retirement plan other than a Roth IRA during any taxable year if, for the taxable year of the distribution to which such contribution relates—

''(i) the taxpayer's adjusted gross income exceeds $100,000, or

''(ii) the taxpayer is a married individual filing a separate return.

This subparagraph shall not apply to a qualified rollover contribution from a Roth IRA or to a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A).'' See Effective Date of 2006 Amendment note below.

Pub. L. 109–280, § 824(b)(1), substituted ''eligible retirement plan'' for ''IRA'' in heading and ''an eligible retirement plan (as defined by section 402(c)(8)(B))'' for ''individual retirement plan'' in introductory provisions. See Effective Date of 2006 Amendment note below.

Subsec. (c)(3)(B)(i). Pub. L. 109–222, § 512(a)(2), substituted ''except that any amount included in gross income under subsection (d)(3) shall not be taken into account, and'' for ''except that—

''(I) any amount included in gross income under subsection (d)(3) shall not be taken into account; and

''(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i), and''.

Subsec. (c)(3)(C). Pub. L. 109–222, § 512(a)(1), redesignated subpar. (D), relating to marital status, as (C). Former subpar. (C) redesignated (B). See Effective Date of 2006 Amendment note below.

Pub. L. 109–280, § 833(c), added subpar. (C) relating to inflation adjustment.

Subsec. (c)(3)(D), (E). Pub. L. 110–458, § 108(h)(2), redesignated subpar. (E) as (D) and substituted ''subparagraph (B)(ii)'' for ''subparagraph (C)(ii)''.

Subsec. (d)(3). Pub. L. 109–280, § 824(b)(2)(E), substituted ''an eligible retirement plan'' for ''an IRA'' in heading.

Subsec. (d)(3)(A). Pub. L. 109–280, § 824(b)(2)(A), substituted ''sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16)'' for ''section 408(d)(3)'' in introductory provisions.

Subsec. (d)(3)(A)(iii). Pub. L. 109–222, § 512(b)(1), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''unless the taxpayer elects not to have this clause apply for any taxable year, any amount required to be included in gross income for such taxable year by reason of this paragraph for any distribution before January 1, 1999, shall be so included ratably over the 4-taxable year period beginning with such taxable year.''

Subsec. (d)(3)(B). Pub. L. 109–280, § 824(b)(2)(B), substituted ''eligible retirement plan (as defined by section 402(c)(8)(B))'' for ''individual retirement plan''.

Subsec. (d)(3)(D). Pub. L. 109–280, § 824(b)(2)(C), (D), substituted ''persons subject to section 6047(d)(1), or all of the foregoing persons'' for ''or both'' and inserted ''or 6047'' after ''408(i)''.

Subsec. (d)(3)(E). Pub. L. 109–222, § 512(b)(2)(B), substituted ''2-year'' for ''4-year'' in heading.

Subsec. (d)(3)(E)(i). Pub. L. 109–222, § 512(b)(2)(A), amended cl. (i) generally. Prior to amendment, text read as follows:

''(I) IN GENERAL.—The amount required to be included in gross income for each of the first 3 taxable years in the 4-year period under subparagraph (A)(iii) shall be

increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

''(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 4-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.''

Subsec. (e). Pub. L. 109–280, §824(a), reenacted heading without change and amended text of subsec. (e) generally. Prior to amendments by Pub. L. 109–280, §824(a), and Pub. L. 110–245, §109(a), text read as follows: ''For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution to a Roth IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.'' See 2008 Amendment note above.

2001—Subsec. (e). Pub. L. 107–16 inserted ''Such term includes a rollover contribution described in section 402A(c)(3)(A).'' after first sentence.

1998—Subsec. (c)(3)(A). Pub. L. 105–206, §6005(b)(1), substituted ''shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced'' for ''shall be reduced'' in introductory provisions.

Subsec. (c)(3)(A)(ii). Pub. L. 105–206, §6005(b)(2)(A), inserted ''or a married individual filing a separate return'' after ''joint return''.

Subsec. (c)(3)(B). Pub. L. 105–206, §6005(b)(2)(B)(i), inserted '', for the taxable year of the distribution to which such contribution relates'' after ''if'' in introductory provisions.

Subsec. (c)(3)(B)(i). Pub. L. 105–206, §6005(b)(2)(B)(ii), struck out ''for such taxable year'' after ''gross income''.

Subsec. (c)(3)(C)(i). Pub. L. 105–206, §7004(a), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that any amount included in gross income under subsection (d)(3) shall not be taken into account, and''.

Pub. L. 105–206, §6005(b)(2)(C), struck out ''and the deduction under section 219 shall be taken into account'' after ''taken into account''.

Subsec. (c)(3)(C)(i)(II). Pub. L. 105–277 substituted '', and'' for period at end.

Subsec. (d)(1). Pub. L. 105–206, §6005(b)(5)(B), substituted ''Exclusion'' for ''General rules'' in heading and amended text generally. Prior to amendment, text read as follows:

''(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from a Roth IRA shall not be includible in gross income.

''(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from a Roth IRA which is not a qualified distribution, such distribution shall be treated as made from contributions to the Roth IRA to the extent that such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate amount of contributions to the Roth IRA.''

Subsec. (d)(2)(B). Pub. L. 105–206, §6005(b)(3)(A), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: ''A payment or distribution shall not be treated as a qualified distribution under subparagraph (A) if—

''(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual, or

''(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution from an individual retirement plan other than a Roth IRA (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.''

Subsec. (d)(2)(C). Pub. L. 105–206, §6005(b)(3)(B), added subpar. (C).

Subsec. (d)(3)(A). Pub. L. 105–206, §6005(b)(4)(A), added cl. (iii) and concluding provisions and struck out former cl. (iii) which read as follows: ''in the case of a distribution before January 1, 1999, any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.''

Subsec. (d)(3)(D). Pub. L. 105–206, §6005(b)(6)(B), redesignated subpar. (E) as (D) and struck out heading and text of former subpar. (D). Text read as follows: ''If, no later than the due date for filing the return of tax for any taxable year (without regard to extensions), an individual transfers, from an individual retirement plan (other than a Roth IRA), contributions for such taxable year (and any earnings allocable thereto) to a Roth IRA, no such amount shall be includible in gross income to the extent no deduction was allowed with respect to such amount.''

Subsec. (d)(3)(E). Pub. L. 105–206, §6005(b)(6)(B), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Subsec. (d)(3)(F). Pub. L. 105–206, §6005(b)(6)(B), redesignated subpar. (G) as (F). Former subpar. (F) redesignated (E).

Pub. L. 105–206, §6005(b)(4)(B), added subpar. (F).

Subsec. (d)(3)(G). Pub. L. 105–206, §6005(b)(6)(B), redesignated subpar. (G) as (F).

Pub. L. 105–206, §6005(b)(4)(B), added subpar. (G).

Subsec. (d)(4). Pub. L. 105–206, §6005(b)(5)(A), substituted ''Aggregation and ordering rules'' for ''Coordination with individual retirement accounts'' in heading and amended text generally. Prior to amendment, text read as follows: ''Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.''

Subsec. (d)(6). Pub. L. 105–206, §6005(b)(6)(A), added par. (6).

Subsec. (d)(7). Pub. L. 105–206, §6005(b)(7), added par. (7).

Subsec. (f). Pub. L. 105–206, §6005(b)(9), added subsec. (f).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–458, title I, §108(h)(2), Dec. 23, 2008, 122 Stat. 5109, amended this section ''[i]n the case of taxable years beginning after December 31, 2009''.

Amendment by Pub. L. 110–458 effective as if included in the provisions of Pub. L. 109–280 to which the amendment relates, except as otherwise provided, see section 112 of Pub. L. 110–458, set out as a note under section 72 of this title.

Pub. L. 110–245, title I, §109(d), June 17, 2008, 122 Stat. 1633, provided that:

''(1) IN GENERAL.—Except as provided by paragraphs (2) and (3), the amendments made by this section [amending this section and section 530 of this title] shall apply with respect to deaths from injuries occurring on or after the date of the enactment of this Act [June 17, 2008].

''(2) APPLICATION OF AMENDMENTS TO DEATHS FROM INJURIES OCCURRING ON OR AFTER OCTOBER 7, 2001, AND BEFORE ENACTMENT.—The amendments made by this section shall apply to any contribution made pursuant to section 408A(e)(2) or 530(d)(5) of the Internal Revenue Code of 1986, as amended by this Act, with respect to amounts received under section 1477 of title 10, United States Code, or under section 1967 of title 38 of such Code, for deaths from injuries occurring on or after October 7, 2001, and before the date of the enactment of

this Act if such contribution is made not later than 1 year after the date of the enactment of this Act.

''(3) PENSION PROTECTION ACT CHANGES.—Section 408A(e)(1) of the Internal Revenue Code of 1986 (as in effect after the amendments made by subsection (b)) shall apply to taxable years beginning after December 31, 2007.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title VIII, § 824(b)(1), Aug. 17, 2006, 120 Stat. 998, provided that the amendment made by section 824(b)(1) amends this section as in effect before the Tax Increase Prevention and Reconciliation Act of 2005, Pub. L. 109–222. See below.

Pub. L. 109–280, title VIII, § 824(c), Aug. 17, 2006, 120 Stat. 999, provided that: ''The amendments made by this section [amending this section] shall apply to distributions after December 31, 2007.''

Amendment by section 833(c) 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. 109–222, title V, § 512(c), May 17, 2006, 120 Stat. 366, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2009.''

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2005, see section 617(f) of Pub. L. 107–16, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 4002(k) of Pub. L. 105–277, set out as a note under section 1 of this title.

Amendment by section 6005(b)(1)–(7), (9) 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.

Pub. L. 105–206, title VII, § 7004(b), July 22, 1998, 112 Stat. 833, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2004.''

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1997, see section 302(f) of Pub. L. 105–34, set out as an Effective Date of 1997 Amendment note under section 219 of this title.

ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE CARRIER BANKRUPTCY TO ROTH IRAS

Pub. L. 110–458, title I, § 125, Dec. 23, 2008, 122 Stat. 5115, provided that:

''(a) GENERAL RULE.—If a qualified airline employee receives any airline payment amount and transfers any portion of such amount to a Roth IRA within 180 days of receipt of such amount (or, if later, within 180 days of the date of the enactment of this Act [Dec. 23, 2008]), then such amount (to the extent so transferred) shall be treated as a qualified rollover contribution described in section 408A(e) of the Internal Revenue Code of 1986, and the limitations described in section 408A(c)(3) of such Code shall not apply to any such transfer.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) AIRLINE PAYMENT AMOUNT.—

''(A) IN GENERAL.—The term 'airline payment amount' means any payment of any money or other property which is payable by a commercial passenger airline carrier to a qualified airline employee—

''(i) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007, and

''(ii) in respect of the qualified airline employee's interest in a bankruptcy claim against the carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount.

The amount of such payment shall be determined without regard to any requirement to deduct and withhold tax from such payment under sections 3102(a) and 3402(a).

''(B) EXCEPTION.—An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits.

''(2) QUALIFIED AIRLINE EMPLOYEE.—The term 'qualified airline employee' means an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier which—

''(A) is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code, and

''(B) was terminated or became subject to the restrictions contained in paragraphs (2) and (3) of section 402(b) of the Pension Protection Act of 2006 [Pub. L. 109–280, 26 U.S.C. 430 note].

''(3) REPORTING REQUIREMENTS.—If a commercial passenger airline carrier pays 1 or more airline payment amounts, the carrier shall, within 90 days of such payment (or, if later, within 90 days of the date of the enactment of this Act [Dec. 23, 2008]), report—

''(A) to the Secretary of the Treasury, the names of the qualified airline employees to whom such amounts were paid, and

''(B) to the Secretary and to such employees, the years and the amounts of the payments.

Such reports shall be in such form, and contain such additional information, as the Secretary may prescribe.

''(c) EFFECTIVE DATE.—This section shall apply to transfers made after the date of the enactment of this Act [Dec. 23, 2008] with respect to airline payment amounts paid before, on, or after such date.''

§ 409. Qualifications for tax credit employee stock ownership plans

(a) Tax credit employee stock ownership plan defined

Except as otherwise provided in this title, for purposes of this title, the term ''tax credit employee stock ownership plan'' means a defined contribution plan which—

(1) meets the requirements of section 401(a),

(2) is designed to invest primarily in employer securities, and

(3) meets the requirements of subsections (b), (c), (d), (e), (f), (g), (h), and (*o*) of this section.

(b) Required allocation of employer securities

(1) In general

A plan meets the requirements of this subsection if—

(A) the plan provides for the allocation for the plan year of all employer securities transferred to it or purchased by it (because of the requirements of section 41(c)(1)(B))[1] to the accounts of all participants who are entitled to share in such allocation, and

(B) for the plan year the allocation to each participant so entitled is an amount which

[1] See References in Text note below.