tion] shall apply to taxable years beginning after December 31, 1980.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(7) of Pub. L. 95–600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95–600, set out as a note under section 11 of this title.

Section 403(d)(3) of Pub. L. 95–600 provided that: ''The amendments made by paragraphs (2), (3), and (4) of subsection (c) [amending this section and sections 857 and 904 of this title] shall take effect on the date of the enactment of this Act [Nov. 6, 1978].''

Section 701(n)(2) of Pub. L. 95–600 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to taxable years beginning after December 31, 1973.''

EFFECTIVE DATE

Section 2101(e) of Pub. L. 94–455 provided that: ''Except as provided in subsection (f)(2) [set out as a note under section 216 of this title], the amendments made by this section [enacting this section and amending sections 216 and 6012 of this title] shall apply to taxable years beginning after December 31, 1973.''

PART VIII—HIGHER EDUCATION SAVINGS ENTITIES

Sec.
529. Qualified tuition programs.
530. Coverdell education savings accounts.

AMENDMENTS

2004—Pub. L. 108–311, title IV, § 408(b)(2), Oct. 4, 2004, 118 Stat. 1192, amended directory language of Pub. L. 107–22, § 1(a)(6). See 2001 Amendment note below.

2001—Pub. L. 107–22, § 1(a)(6), July 26, 2001, 115 Stat. 196, as amended by Pub. L. 108–311, title IV, § 408(b)(2), Oct. 4, 2004, 118 Stat. 1192, substituted ''Coverdell education savings accounts'' for ''Education individual retirement accounts'' in item 530.

Pub. L. 107–16, title IV, § 402(a)(4)(E), June 7, 2001, 115 Stat. 61, struck out ''State'' before ''tuition'' in item 529.

1997—Pub. L. 105–34, title II, §§ 211(e)(1)(A), 213(e)(3), Aug. 5, 1997, 111 Stat. 812, 817, substituted ''HIGHER EDUCATION SAVINGS ENTITIES'' for ''QUALIFIED STATE TUITION PROGRAMS'' in heading and added item 530.

§ 529. Qualified tuition programs

(a) General rule

A qualified tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

(b) Qualified tuition program

For purposes of this section—

(1) In general

The term ''qualified tuition program'' means a program established and maintained by a State or agency or instrumentality thereof or by 1 or more eligible educational institutions—

(A) under which a person—

(i) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or

(ii) in the case of a program established and maintained by a State or agency or instrumentality thereof, may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

(B) which meets the other requirements of this subsection.

Except to the extent provided in regulations, a program established and maintained by 1 or more eligible educational institutions shall not be treated as a qualified tuition program unless such program provides that amounts are held in a qualified trust and such program has received a ruling or determination that such program meets the applicable requirements for a qualified tuition program. For purposes of the preceding sentence, the term ''qualified trust'' means a trust which is created or organized in the United States for the exclusive benefit of designated beneficiaries and with respect to which the requirements of paragraphs (2) and (5) of section 408(a) are met.

(2) Cash contributions

A program shall not be treated as a qualified tuition program unless it provides that purchases or contributions may only be made in cash.

(3) Separate accounting

A program shall not be treated as a qualified tuition program unless it provides separate accounting for each designated beneficiary.

(4) No investment direction

A program shall not be treated as a qualified tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not directly or indirectly direct the investment of any contributions to the program (or any earnings thereon).

(5) No pledging of interest as security

A program shall not be treated as a qualified tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

(6) Prohibition on excess contributions

A program shall not be treated as a qualified tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

(c) Tax treatment of designated beneficiaries and contributors

(1) In general

Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

(A) a designated beneficiary under a qualified tuition program, or

(B) a contributor to such program on behalf of a designated beneficiary,

with respect to any distribution or earnings under such program.

(2) Gift tax treatment of contributions

For purposes of chapters 12 and 13—

(A) In general

Any contribution to a qualified tuition program on behalf of any designated beneficiary—

(i) shall be treated as a completed gift to such beneficiary which is not a future interest in property, and

(ii) shall not be treated as a qualified transfer under section 2503(e).

(B) Treatment of excess contributions

If the aggregate amount of contributions described in subparagraph (A) during the calendar year by a donor exceeds the limitation for such year under section 2503(b), such aggregate amount shall, at the election of the donor, be taken into account for purposes of such section ratably over the 5-year period beginning with such calendar year.

(3) Distributions

(A) In general

Any distribution under a qualified tuition program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

(B) Distributions for qualified higher education expenses

For purposes of this paragraph—

(i) In-kind distributions

No amount shall be includible in gross income under subparagraph (A) by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense.

(ii) Cash distributions

In the case of distributions not described in clause (i), if—

(I) such distributions do not exceed the qualified higher education expenses (reduced by expenses described in clause (i)), no amount shall be includible in gross income, and

(II) in any other case, the amount otherwise includible in gross income shall be reduced by an amount which bears the same ratio to such amount as such expenses bear to such distributions.

(iii) Exception for institutional programs

In the case of any taxable year beginning before January 1, 2004, clauses (i) and (ii) shall not apply with respect to any distribution during such taxable year under a qualified tuition program established and maintained by 1 or more eligible educational institutions.

(iv) Treatment as distributions

Any benefit furnished to a designated beneficiary under a qualified tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

(v) Coordination with Hope and Lifetime Learning credits

The total amount of qualified higher education expenses with respect to an individual for the taxable year shall be reduced—

(I) as provided in section 25A(g)(2), and

(II) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person under section 25A.

(vi) Coordination with Coverdell education savings accounts

If, with respect to an individual for any taxable year—

(I) the aggregate distributions to which clauses (i) and (ii) and section 530(d)(2)(A) apply, exceed

(II) the total amount of qualified higher education expenses otherwise taken into account under clauses (i) and (ii) (after the application of clause (v)) for such year,

the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under clauses (i) and (ii) and section 530(d)(2)(A).

(C) Change in beneficiaries or programs

(i) Rollovers

Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred—

(I) to another qualified tuition program for the benefit of the designated beneficiary, or

(II) to the credit of another designated beneficiary under a qualified tuition program who is a member of the family of the designated beneficiary with respect to which the distribution was made.

(ii) Change in designated beneficiaries

Any change in the designated beneficiary of an interest in a qualified tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the family of the old beneficiary.

(iii) Limitation on certain rollovers

Clause (i)(I) shall not apply to any transfer if such transfer occurs within 12 months from the date of a previous transfer to any qualified tuition program for the benefit of the designated beneficiary.

(D) Operating rules

For purposes of applying section 72—

(i) to the extent provided by the Secretary, all qualified tuition programs of which an individual is a designated beneficiary shall be treated as one program,

(ii) except to the extent provided by the Secretary, all distributions during a taxable year shall be treated as one distribution, and

(iii) except to the extent provided by the Secretary, the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

(4) Estate tax treatment

(A) In general

No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

(B) Amounts includible in estate of designated beneficiary in certain cases

Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.

(C) Amounts includible in estate of donor making excess contributions

In the case of a donor who makes the election described in paragraph (2)(B) and who dies before the close of the 5-year period referred to in such paragraph, notwithstanding subparagraph (A), the gross estate of the donor shall include the portion of such contributions properly allocable to periods after the date of death of the donor.

(5) Other gift tax rules

For purposes of chapters 12 and 13—

(A) Treatment of distributions

Except as provided in subparagraph (B), in no event shall a distribution from a qualified tuition program be treated as a taxable gift.

(B) Treatment of designation of new beneficiary

The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) unless the new beneficiary is—

(i) assigned to the same generation as (or a higher generation than) the old beneficiary (determined in accordance with section 2651), and

(ii) a member of the family of the old beneficiary.

(6) Additional tax

The tax imposed by section 530(d)(4) shall apply to any payment or distribution from a qualified tuition program in the same manner as such tax applies to a payment or distribution from an[1] Coverdell education savings account. This paragraph shall not apply to any payment or distribution in any taxable year beginning before January 1, 2004, which is includible in gross income but used for qualified higher education expenses of the designated beneficiary.

(d) Reports

Each officer or employee having control of the qualified tuition program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

(e) Other definitions and special rules

For purposes of this section—

(1) Designated beneficiary

The term ''designated beneficiary'' means—

(A) the individual designated at the commencement of participation in the qualified tuition program as the beneficiary of amounts paid (or to be paid) to the program,

(B) in the case of a change in beneficiaries described in subsection (c)(3)(C), the individual who is the new beneficiary, and

(C) in the case of an interest in a qualified tuition program purchased by a State or local government (or agency or instrumentality thereof) or an organization described in section 501(c)(3) and exempt from taxation under section 501(a) as part of a scholarship program operated by such government or organization, the individual receiving such interest as a scholarship.

(2) Member of family

The term ''member of the family'' means, with respect to any designated beneficiary—

(A) the spouse of such beneficiary;

(B) an individual who bears a relationship to such beneficiary which is described in subparagraphs (A) through (G) of section 152(d)(2);

(C) the spouse of any individual described in subparagraph (B); and

(D) any first cousin of such beneficiary.

(3) Qualified higher education expenses

(A) In general

The term ''qualified higher education expenses'' means—

(i) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution;

(ii) expenses for special needs services in the case of a special needs beneficiary which are incurred in connection with such enrollment or attendance[2]

(iii) expenses paid or incurred in 2009 or 2010 for the purchase of any computer technology or equipment (as defined in section 170(e)(6)(F)(i)) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution.

Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.

(B) Room and board included for students who are at least half-time

(i) In general

In the case of an individual who is an eligible student (as defined in section 25A(b)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the

[1] So in original. Probably should be ''a''.

[2] So in original. Probably should be followed by ''; and''.

qualified tuition program) incurred by the designated beneficiary for room and board while attending such institution. For purposes of subsection (b)(6), a designated beneficiary shall be treated as meeting the requirements of this clause.

(ii) Limitation

The amount treated as qualified higher education expenses by reason of clause (i) shall not exceed—

(I) the allowance (applicable to the student) for room and board included in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*), as in effect on the date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001) as determined by the eligible educational institution for such period, or

(II) if greater, the actual invoice amount the student residing in housing owned or operated by the eligible educational institution is charged by such institution for room and board costs for such period.

(4) Application of section 514

An interest in a qualified tuition program shall not be treated as debt for purposes of section 514.

(5) Eligible educational institution

The term ''eligible educational institution'' means an institution—

(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

(B) which is eligible to participate in a program under title IV of such Act.

(f) Regulations

Notwithstanding any other provision of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and to prevent abuse of such purposes, including regulations under chapters 11, 12, and 13 of this title.

(Added Pub. L. 104–188, title I, §1806(a), Aug. 20, 1996, 110 Stat. 1895; amended Pub. L. 105–34, title II, §211(a), (b), (d), (e)(2)(A), title XVI, §1601(h)(1)(A), (B), Aug. 5, 1997, 111 Stat. 810, 812, 1092; Pub. L. 105–206, title VI, §6004(c)(2), (3), July 22, 1998, 112 Stat. 793; Pub. L. 106–554, §1(a)(7) [title III, §319(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A–646; Pub. L. 107–16, title IV, §402(a)(1)–(3), (4)(A), (C), (D), (b)(1), (c)–(g), June 7, 2001, 115 Stat. 60–63; Pub. L. 107–22, §1(b)(3)(C), July 26, 2001, 115 Stat. 197; Pub. L. 107–147, title IV, §417(11), Mar. 9, 2002, 116 Stat. 56; Pub. L. 108–311, title II, §207(21), title IV, §406(a), Oct. 4, 2004, 118 Stat. 1178, 1189; Pub. L. 109–135, title IV, §412(ee)(3), Dec. 21, 2005, 119 Stat. 2639; Pub. L. 109–280, title XIII, §1304(b), Aug. 17, 2006, 120 Stat. 1110; Pub. L. 111–5, div. B, title I, §1005(a), Feb. 17, 2009, 123 Stat. 316.)

REFERENCES IN TEXT

The date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001, referred to in subsec. (e)(3)(B)(ii)(I), is the date of enactment of Pub. L. 107–16, which was approved June 7, 2001.

The date of the enactment of this paragraph, referred to in subsec. (e)(5)(A), probably means the date of enactment of Pub. L. 105–34, which enacted subsec. (e)(5) and which was approved Aug. 5, 1997.

The Higher Education Act of 1965, referred to in subsec. (e)(5), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2009—Subsec. (e)(3)(A). Pub. L. 111–5 added cl. (iii) and concluding provisions.

2006—Subsec. (f). Pub. L. 109–280, which directed the addition of subsec. (f) to section 529, without specifying the act to be amended, was executed by making the addition to this section, which is section 529 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Subsec. (c)(6). Pub. L. 109–135 substituted ''Coverdell education savings account'' for ''education individual retirement account''.

2004—Subsec. (c)(5)(B). Pub. L. 108–311, §406(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651).''

Subsec. (e)(2)(B). Pub. L. 108–311, §207(21), substituted ''subparagraphs (A) through (G) of section 152(d)(2)'' for ''paragraphs (1) through (8) of section 152(a)''.

2002—Subsec. (e)(3)(B)(i). Pub. L. 107–147 substituted ''subsection (b)(6)'' for ''subsection (b)(7)''.

2001—Pub. L. 107–16, §402(a)(4)(D), struck out ''State'' before ''tuition'' in section catchline.

Subsec. (a). Pub. L. 107–16, §402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (b). Pub. L. 107–16, §402(a)(4)(C), substituted ''Qualified tuition'' for ''Qualified State tuition'' in heading.

Subsec. (b)(1). Pub. L. 107–16, §402(a)(1), (4)(A), in introductory provisions, substituted ''qualified tuition'' for ''qualified State tuition'' and inserted ''or by 1 or more eligible educational institutions'' after ''thereof'', and added concluding provisions.

Subsec. (b)(1)(A)(ii). Pub. L. 107–16, §402(a)(2), inserted ''in the case of a program established and maintained by a State or agency or instrumentality thereof,'' before ''may make''.

Subsec. (b)(2). Pub. L. 107–16, §402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (b)(3) to (7). Pub. L. 107–16, §402(a)(3)(A), (4)(A), redesignated pars. (4) to (7) as (3) to (6), respectively, substituted ''qualified tuition'' for ''qualified State tuition'' wherever appearing, and struck out heading and text of former par. (3). Text read as follows: ''A program shall not be treated as a qualified State tuition program unless it imposes a more than de minimis penalty on any refund of earnings from the account which are not—

''(A) used for qualified higher education expenses of the designated beneficiary,

''(B) made on account of the death or disability of the designated beneficiary, or

''(C) made on account of a scholarship (or allowance or payment described in section 135(d)(1)(B) or (C)) received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment.''

Subsec. (c)(1)(A), (3)(A). Pub. L. 107–16, §402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(B). Pub. L. 107–16, § 402(b)(1), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''Any benefit furnished to a designated beneficiary under a qualified tuition program shall be treated as a distribution to the beneficiary.''

Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(B)(vi). Pub. L. 107–22 substituted ''Coverdell education savings'' for ''education individual retirement'' in heading.

Subsec. (c)(3)(C). Pub. L. 107–16, § 402(c)(3), inserted ''or programs'' after ''beneficiaries'' in heading.

Subsec. (c)(3)(C)(i). Pub. L. 107–16, § 402(c)(1), substituted ''transferred—'' for ''transferred'', added subcl. (I), and designated existing provisions ''to the credit'' as subcl. (II).

Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(C)(ii). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(C)(iii). Pub. L. 107–16, § 402(c)(2), added cl. (iii).

Subsec. (c)(3)(D)(i). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(D)(ii). Pub. L. 107–16, § 402(g)(1), inserted ''except to the extent provided by the Secretary,'' before ''all distributions''.

Subsec. (c)(3)(D)(iii). Pub. L. 107–16, § 402(g)(2), inserted ''except to the extent provided by the Secretary,'' before ''the value''.

Subsec. (c)(6). Pub. L. 107–16, § 402(a)(3)(B), added par. (6).

Subsecs. (d), (e)(1)(A), (C). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (e)(2)(D). Pub. L. 107–16, § 402(d), added subpar. (D).

Subsec. (e)(3)(A). Pub. L. 107–16, § 402(f), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: ''The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution.''

Subsec. (e)(3)(B)(i). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (e)(3)(B)(ii). Pub. L. 107–16, § 402(e), reenacted heading without change and amended text of cl. (ii) generally. Prior to amendment, text read as follows: ''The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087*ll*, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period.''

Subsec. (e)(4). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

2000—Subsec. (e)(3)(B). Pub. L. 106–554 struck out ''under guaranteed plans'' after ''students'' in heading.

1998—Subsec. (c)(3)(A). Pub. L. 105–206, § 6004(c)(2), substituted ''section 72'' for ''section 72(b)''.

Subsec. (e)(2). Pub. L. 105–206, § 6004(c)(3), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''The term 'member of the family' means—

''(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

''(B) the spouse of any individual described in subparagraph (A).''

1997—Subsec. (b)(5). Pub. L. 105–34, § 211(b)(4), inserted ''directly or indirectly'' after ''may not''.

Subsec. (c)(2). Pub. L. 105–34, § 211(b)(3)(A)(i), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''In no event shall a contribution to a qualified State tuition program on behalf of a designated beneficiary be treated as a taxable gift for purposes of chapter 12.''

Subsec. (c)(3)(A). Pub. L. 105–34, § 211(d), substituted ''section 72(b)'' for ''section 72''.

Subsec. (c)(4). Pub. L. 105–34, § 211(b)(3)(B), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''The value of any interest in any qualified State tuition program which is attributable to contributions made by an individual to such program on behalf of any designated beneficiary shall be includible in the gross estate of the contributor for purposes of chapter 11.''

Subsec. (c)(5). Pub. L. 105–34, § 211(b)(3)(A)(ii), amended heading and text of par. (5) generally. Prior to amendment, text read as follows: ''For purposes of section 2503(e), the waiver (or payment to an educational institution) of qualified higher education expenses of a designated beneficiary under a qualified State tuition program shall be treated as a qualified transfer.''

Subsec. (d). Pub. L. 105–34, § 211(e)(2)(A), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

''(d) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—If there is a distribution to any individual with respect to an interest in a qualified State tuition program during any calendar year, each officer or employee having control of the qualified State tuition program or their designee shall make such reports as the Secretary may require regarding such distribution to the Secretary and to the designated beneficiary or the individual to whom the distribution was made. Any such report shall include such information as the Secretary may prescribe.

''(2) Timing of reports.—Any report required by this subsection—

''(A) shall be filed at such time and in such matter as the Secretary prescribes, and

''(B) shall be furnished to individuals not later than January 31 of the calendar year following the calendar year to which such report relates.''

Subsec. (e)(1)(B). Pub. L. 105–34, § 1601(h)(1)(A), substituted ''subsection (c)(3)(C)'' for ''subsection (c)(2)(C)''.

Subsec. (e)(1)(C). Pub. L. 105–34, § 1601(h)(1)(B), inserted ''(or agency or instrumentality thereof)'' after ''local government''.

Subsec. (e)(2). Pub. L. 105–34, § 211(b)(1), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''The term 'member of the family' has the same meaning given such term as section 2032A(e)(2).''

Subsec. (e)(3). Pub. L. 105–34, § 211(a), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution (as defined in section 135(c)(3)).''

Subsec. (e)(5). Pub. L. 105–34, § 211(b)(2), added par. (5).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–5, div. B, title I, § 1005(b), Feb. 17, 2009, 123 Stat. 316, provided that: ''The amendments made by this section [amending this section] shall apply to expenses paid or incurred after December 31, 2008.''

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 207(21) of Pub. L. 108–311 applicable to taxable years beginning after Dec. 31, 2004, see section 208 of Pub. L. 108–311, set out as a note under section 2 of this title.

Amendment by section 406(a) of Pub. L. 108–311 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 406(h) of Pub. L. 108–311, set out as a note under section 55 of this title.

EFFECTIVE DATE OF 2001 AMENDMENTS

Amendment by Pub. L. 107–22 effective July 26, 2001, see section 1(c) of Pub. L. 107–22, set out as a note under section 26 of this title.

Amendment by Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2001, see section 402(h) of Pub. L. 107–16, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by 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 211(f) of Pub. L. 105–34 provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 135 and 6693 of this title] shall take effect on January 1, 1998.

''(2) EXPENSES TO INCLUDE ROOM AND BOARD.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1806 of the Small Business Job Protection Act of 1996 [Pub. L. 104–188].

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The amendment made by subsection (b)(2) [amending this section] shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

''(4) COORDINATION WITH EDUCATION SAVINGS BONDS.—The amendment made by subsection (c) [amending section 135 of this title] shall apply to taxable years beginning after December 31, 1997.

''(5) ESTATE AND GIFT TAX CHANGES.—

''(A) GIFT TAX CHANGES.—Paragraphs (2) and (5) of section 529(c) of the Internal Revenue Code of 1986, as amended by this section, shall apply to transfers (including designations of new beneficiaries) made after the date of the enactment of this Act [Aug. 5, 1997].

''(B) ESTATE TAX CHANGES.—Paragraph (4) of such section 529(c) shall apply to estates of decedents dying after June 8, 1997.

''(6) TRANSITION RULE FOR PRE-AUGUST 20, 1996 CONTRACTS.—In the case of any contract issued prior to August 20, 1996, section 529(c)(3)(C) of the Internal Revenue Code of 1986 shall be applied for taxable years ending after August 20, 1996, without regard to the requirement that a distribution be transferred to a member of the family or the requirement that a change in beneficiaries may be made only to a member of the family.''

Amendment by section 1601(h)(1)(A), (B) of Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE

Section 1806(c) of Pub. L. 104–188, as amended by Pub. L. 105–34, title XVI, § 1601(h)(1)(C), Aug. 5, 1997, 111 Stat. 1092, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 135 of this title] shall apply to taxable years ending after the date of the enactment of this Act [Aug. 20, 1996].

''(2) TRANSITION RULE.—If—

''(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

''(B) such program meets the requirements of a qualified State tuition program before the later of—

''(i) the date which is 1 year after such date of enactment, or

''(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment,

then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings.

For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.''

§ 530. Coverdell education savings accounts

(a) General rule

A Coverdell education savings account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the Coverdell education savings account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

(b) Definitions and special rules

For purposes of this section—

(1) Coverdell education savings account

The term ''Coverdell education savings account'' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of an individual who is the designated beneficiary of the trust (and designated as a Coverdell education savings account at the time created or organized), but only if the written governing instrument creating the trust meets the following requirements:

(A) No contribution will be accepted—

(i) unless it is in cash,

(ii) after the date on which such beneficiary attains age 18, or

(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding $2,000.

(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section or who has so demonstrated with respect to any individual retirement plan.

(C) No part of the trust assets will be invested in life insurance contracts.

(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

(E) Except as provided in subsection (d)(7), any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death of such beneficiary.