

105TH CONGRESS
1ST SESSION

H. R. 2646

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

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 1997

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

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Education Savings Act
5 for Public and Private Schools”.

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

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

5 (1) **IN GENERAL.**—Section 530(b)(2) of the In-
6 ternal Revenue Code of 1986 is amended to read as
7 follows:

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

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

11 “(i) qualified higher education ex-
12 penses (as defined in section 529(e)(3)),
13 and

14 “(ii) qualified elementary and second-
15 ary education expenses (as defined in para-
16 graph (4)).

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

19 “(B) **QUALIFIED STATE TUITION PRO-**
20 **GRAMS.**—Such term shall include amounts paid
21 or incurred to purchase tuition credits or cer-
22 tificates, or to make contributions to an ac-
23 count, under a qualified State tuition program
24 (as defined in section 529(b)) for the benefit of
25 the beneficiary of the account.”

1 (2) QUALIFIED ELEMENTARY AND SECONDARY
2 EDUCATION EXPENSES.—Section 530(b) of such
3 Code is amended by adding at the end the following
4 new paragraph:

5 “(4) QUALIFIED ELEMENTARY AND SECONDARY
6 EDUCATION EXPENSES.—

7 “(A) IN GENERAL.—The term ‘qualified el-
8 mentary and secondary education expenses’
9 means tuition, fees, tutoring, special needs serv-
10 ices, books, supplies, equipment, transportation,
11 and supplementary expenses required for the
12 enrollment or attendance of the designated ben-
13 eficiary of the trust at a public, private, or reli-
14 gious school.

15 “(B) SPECIAL RULE FOR
16 HOMESCHOOLING.—Such term shall include ex-
17 penses described in subparagraph (A) required
18 for education provided for homeschooling if the
19 requirements of any applicable State or local
20 law are met with respect to such education.

21 “(C) SCHOOL.—The term ‘school’ means
22 any school which provides elementary education
23 or secondary education (through grade 12), as
24 determined under State law.”

1 (3) CONFORMING AMENDMENTS.—Subsections
2 (b)(1) and (d)(2) of section 530 of such Code are
3 each amended by striking “higher” each place it ap-
4 pears in the text and heading thereof.

5 (b) INCREASE IN MAXIMUM ANNUAL CONTRIBU-
6 TIONS.—

7 (1) IN GENERAL.—Section 530(b)(1)(A)(iii) of
8 the Internal Revenue Code of 1986 is amended by
9 striking “\$500” and inserting “\$2,500”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 530(d)(4)(C) of such Code is
12 amended by striking “\$500” and inserting
13 “\$2,500”.

14 (B) Section 4973(e)(1)(A) of such Code is
15 amended by striking “\$500” and inserting
16 “\$2,500”.

17 (c) WAIVER OF AGE LIMITATIONS FOR CHILDREN
18 WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b)
19 of the Internal Revenue Code of 1986 is amended by add-
20 ing at the end the following flush sentence:

21 “The age limitations in the preceding sentence shall
22 not apply to any designated beneficiary with special
23 needs (as determined under regulations prescribed
24 by the Secretary).”

1 (d) CORPORATIONS PERMITTED TO CONTRIBUTE TO
2 ACCOUNTS.—Paragraph (1) of section 530(c) of the Inter-
3 nal Revenue Code of 1986 is amended by striking “The
4 maximum amount which a contributor” and inserting “In
5 the case of a contributor who is an individual, the maxi-
6 mum amount the contributor”.

7 (e) EFFECTIVE DATE; REFERENCES.—

8 (1) EFFECTIVE DATE.—The amendments made
9 by this section shall take effect as if included in the
10 amendments made by section 213 of the Taxpayer
11 Relief Act of 1997.

12 (2) REFERENCES.—Any reference in this sec-
13 tion to any section of the Internal Revenue Code of
14 1986 shall be a reference to such section as added
15 by the Taxpayer Relief Act of 1997.

16 **SEC. 3. OVERRULING OF SCHMIDT BAKING COMPANY CASE.**

17 (a) IN GENERAL.—The Internal Revenue Code of
18 1986 shall be applied (other than with respect to severance
19 pay) without regard to the result reached in the case of
20 Schmidt Baking Company, Inc. v. Commissioner of Inter-
21 nal Revenue, 107 T.C. 271 (1996).

22 (b) REGULATIONS.—The Secretary of the Treasury
23 or the Secretary’s delegate shall prescribe regulations to
24 reflect subsection (a).

25 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Subsections (a) and (b) shall
2 apply to taxable years ending after October 8, 1997.

3 (2) CHANGE IN METHOD OF ACCOUNTING.—In
4 the case of any taxpayer required by this section to
5 change its method of accounting for its first taxable
6 year ending after October 8, 1997—

7 (A) such change shall be treated as initi-
8 ated by the taxpayer,

9 (B) such change shall be treated as made
10 with the consent of the Secretary of the Treas-
11 ury, and

12 (C) the net amount of the adjustments re-
13 quired to be taken into account by the taxpayer
14 under section 481 of the Internal Revenue Code
15 of 1986 shall be taken into account in such first
16 taxable year.

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