

114TH CONGRESS
2D SESSION

H. R. 5193

To amend the Internal Revenue Code of 1986 to make improvements in the rules related to qualified tuition programs and qualified ABLE programs.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2016

Ms. JENKINS of Kansas 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 make improvements in the rules related to qualified tuition programs and qualified ABLE programs.

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 “529 and ABLE Ac-
5 count Improvement Act of 2016”.

6 **SEC. 2. EMPLOYER CONTRIBUTIONS TO QUALIFIED TUI-**
7 **TION PROGRAMS AND QUALIFIED ABLE PRO-**
8 **GRAMS.**

9 (a) IN GENERAL.—Subsection (a) of section 132 of
10 the Internal Revenue Code of 1986 is amended by striking

1 “or” at the end of paragraph (7), by striking the period
2 at the end of paragraph (8) and inserting “, or”, and by
3 adding at the end the following new paragraph:

4 “(9) qualified tuition program and qualified
5 ABLE program contributions.”.

6 (b) QUALIFIED TUITION PROGRAM AND QUALIFIED
7 ABLE PROGRAM CONTRIBUTIONS DEFINED.—Section
8 132 of such Code is amended by redesignating subsection
9 (o) as subsection (p) and inserting after subsection (n)
10 the following new subsection:

11 “(o) QUALIFIED TUITION PROGRAM AND QUALIFIED
12 ABLE PROGRAM CONTRIBUTIONS DEFINED.—

13 “(1) IN GENERAL.—For purposes of this sec-
14 tion, the term ‘qualified tuition and qualified ABLE
15 program contributions’ means contributions (includ-
16 ing matching contributions) made by an employer
17 directly to a qualified tuition program (as described
18 in section 529) or qualified ABLE program (as de-
19 scribed in section 529A) designated by an employee
20 if—

21 “(A) such contribution is made to an ac-
22 count under such program for which the des-
23 igned beneficiary is the employee or a mem-
24 ber of the family of the employee (within the
25 meaning of section 529(e)(2)), and

1 “(B) such contribution is made in connec-
2 tion with a qualified payroll deduction contribu-
3 tion program established by the employer.

4 “(2) QUALIFIED PAYROLL DEDUCTION CON-
5 TRIBUTION PROGRAM.—For purposes of this sub-
6 section, the term ‘qualified payroll deduction con-
7 tribution program’ means a program established by
8 an employer—

9 “(A) under which employees may elect to
10 make contributions to accounts described in
11 paragraph (1)(A) which reduce the amount of
12 wages received directly by such employee by the
13 amount of such contribution, and

14 “(B) which is made available on substan-
15 tially the same terms to each member of a
16 group of employees which is defined under a
17 reasonable classification set up by the employer
18 which does not discriminate in favor of highly
19 compensated employees (as defined in section
20 414(q)).

21 “(3) LIMITATION ON EXCLUSION.—The amount
22 of qualified tuition and qualified ABLE program
23 contributions which may be excluded from gross in-
24 come under subsection (a)(9) with respect to any
25 employee shall not exceed \$100 in any calendar year.

1 “(4) NONDISCRIMINATION RULE FOR EM-
2 PLOYER CONTRIBUTIONS.—Subsection (a)(9) shall
3 only apply to contributions provided with respect to
4 a highly compensated employee if such contributions
5 meet the requirements of paragraph (2)(B).

6 “(5) INFLATION ADJUSTMENT.—

7 “(A) IN GENERAL.—In the case of any
8 taxable year beginning in a calendar year after
9 2016, the \$100 amount contained in paragraph
10 (3) shall be increased by an amount equal to—

11 “(i) such dollar amount, multiplied by

12 “(ii) the cost-of-living adjustment de-
13 termined under section 1(f)(3) for the cal-
14 endar year in which the taxable year be-
15 gins, determined by substituting ‘calendar
16 year 2015’ for ‘calendar year 1992’ in sub-
17 paragraph (B) thereof.

18 “(B) ROUNDING.—Any increase deter-
19 mined under subparagraph (A) shall be rounded
20 to the nearest multiple of \$25.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to contributions made after De-
23 cember 31, 2016.

1 **SEC. 3. TAX CREDIT FOR SMALL EMPLOYER COSTS OF ES-**
2 **TABLISHING DIRECT PAYROLL DEDUCTION**
3 **INTO QUALIFIED TUITION PROGRAMS AND**
4 **QUALIFIED ABLE PROGRAMS.**

5 (a) IN GENERAL.—Section 45E of the Internal Rev-
6 enue Code of 1986 is amended by adding at the end the
7 following new subsection:

8 “(f) APPLICATION TO PROGRAMS FOR PAYROLL DE-
9 DUCTION CONTRIBUTIONS TO QUALIFIED TUITION PRO-
10 GRAMS AND QUALIFIED ABLE PROGRAMS.—In the case
11 of a qualified payroll deduction contribution program (as
12 defined in section 132(o)(2)) established by an employer—

13 “(1) such program shall be treated as an eligi-
14 ble employer plan for purposes of this section,

15 “(2) this section (including the limitation of
16 subsection (b)) shall be applied separately with re-
17 spect to such programs and any other eligible em-
18 ployer plans of the employer, and

19 “(3) subsection (d)(1)(A)(ii) shall be applied by
20 substituting ‘education’ for ‘retirement-related edu-
21 cation’.”.

22 (b) CLERICAL AMENDMENTS.—

23 (1) The heading for section 45E of such Code
24 is amended by striking “**PENSION**”.

25 (2) The table of sections for subpart D of part
26 IV of subchapter A of chapter 1 of such Code is

1 amended by striking the item relating to section 45E
2 and inserting the following new item:

“Sec. 45E. Small employer plan startup costs.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to costs paid or incurred in taxable
5 years beginning after the date of the enactment of this
6 Act.

7 **SEC. 4. EXEMPTIONS FROM ADDITIONAL TAX FOR CERTAIN**
8 **DISTRIBUTIONS FROM QUALIFIED TUITION**
9 **PROGRAMS.**

10 (a) **IN GENERAL.**—Section 529(c)(6) of the Internal
11 Revenue Code of 1986 is amended by striking the last sen-
12 tence and inserting the following: “This paragraph shall
13 not apply to the extent that—

14 “(A) a payment or distribution is contrib-
15 uted to an individual retirement plan of the ac-
16 count owner or the designated beneficiary with
17 respect to the calendar year in which the pay-
18 ment or distribution is received,

19 “(B) a payment or distribution is used
20 (within 90 days of the payment or distribution)
21 to make a payment of interest or principal on
22 a qualified education loan (as defined in section
23 222(d)(1)) on behalf of the designated bene-
24 ficiary or a member of the family of such des-

1 ignated beneficiary within the meaning of sec-
2 tion 529(e)(2)), or

3 “(C) the recipient of a payment or dis-
4 tribution makes (within 90 days of the receipt
5 of the payment or distribution) a contribution
6 to an organization described in section
7 170(b)(1)(A) (other than any organization de-
8 scribed in section 509(a)(3) or any fund or ac-
9 count described in section 4966(d)(2)), but only
10 if—

11 “(i) a deduction for the entire pay-
12 ment or distribution is allowable under sec-
13 tion 170, and

14 “(ii) the total payments and distribu-
15 tions taken into account under this sub-
16 paragraph with respect to such recipient
17 for any taxable year does not exceed
18 \$1,000.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to distributions after the date of
21 the enactment of this Act.

1 **SEC. 5. CLARIFICATION REGARDING INVESTMENT DIREC-**
2 **TION IN QUALIFIED TUITION PROGRAMS AND**
3 **QUALIFIED ABLE PROGRAMS.**

4 (a) INVESTMENT DIRECTION IN QUALIFIED TUITION
5 PROGRAMS.—Paragraph (4) of section 529(b) of the In-
6 ternal Revenue Code of 1986 is amended by adding at the
7 end the following: “For purposes of this paragraph, rebal-
8 ancing investments among broad-based investment strate-
9 gies established under the program shall not be treated
10 as investment direction by a contributor or designated
11 beneficiary unless the specific investments within those
12 broad-based strategies are directed by the contributor or
13 designated beneficiary.”.

14 (b) INVESTMENT DIRECTION IN QUALIFIED ABLE
15 PROGRAMS.—Paragraph (4) of section 529A(b) of such
16 Code is amended by adding at the end the following: “For
17 purposes of this paragraph, rebalancing investments
18 among broad-based investment strategies established
19 under the program shall not be treated as investment di-
20 rection by a designated beneficiary unless the specific in-
21 vestments within those broad-based strategies are directed
22 by the designated beneficiary.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply with respect to calendar years be-
25 ginning after the date of the enactment of this Act.

1 **SEC. 6. ROLLOVERS BETWEEN QUALIFIED TUITION PRO-**
 2 **GRAMS AND QUALIFIED ABLE PROGRAMS.**

3 (a) ROLLOVERS FROM QUALIFIED TUITION PRO-
 4 GRAMS TO QUALIFIED ABLE PROGRAMS.—Clause (i) of
 5 section 529(c)(3)(C) of the Internal Revenue Code of 1986
 6 is amended by striking “or” at the end of subclause (I),
 7 by striking the period at the end of subclause (II) and
 8 inserting “, or”, and by adding at the end the following
 9 new subclause:

10 “(III) to an ABLE account (as
 11 defined in section 529A(e)(6)) of the
 12 designated beneficiary or a member of
 13 the family of the designated bene-
 14 ficiary.

15 Subclause (III) shall not apply to so much
 16 of a distribution which, when added to all
 17 other contributions made to the ABLE ac-
 18 count for the taxable year, exceeds the lim-
 19 itation under section 529A(b)(2)(B).”.

20 (b) ROLLOVERS FROM QUALIFIED ABLE PROGRAMS
 21 TO QUALIFIED TUITION PROGRAMS.—Clause (i) of section
 22 529A(c)(1)(C) of such Code is amended—

23 (1) by striking “such payment or distribution,
 24 into another” and inserting “such payment or dis-
 25 tribution—

26 “(I) into another”;

1 (2) by striking the period at the end and insert-
2 ing “, or”, and

3 (3) by adding at the end the following new sub-
4 clause:

5 “(II) to a qualified tuition pro-
6 gram (as described in section 529) for
7 the benefit of the same designated
8 beneficiary or a member of the family
9 of such designated beneficiary.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to distributions after the date of
12 the enactment of this Act.

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