

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 337

To amend the Internal Revenue Code of 1986 to permit nondeductible tax-free individual retirement accounts.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mrs. ROUKEMA introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to permit nondeductible tax-free individual retirement accounts.

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. ESTABLISHMENT OF NONDEDUCTIBLE TAX-**

4 **FREE INDIVIDUAL RETIREMENT ACCOUNTS.**

5 (a) IN GENERAL.—Subpart A of part I of subchapter  
6 D of chapter 1 of the Internal Revenue Code of 1986 (re-  
7 lating to pension, profit-sharing, stock bonus plans, etc.)  
8 is amended by inserting after section 408 the following  
9 new section:

1 **“SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.**

2       “(a) GENERAL RULE.—Except as provided in this  
3 section, a special individual retirement account shall be  
4 treated for purposes of this title in the same manner as  
5 an individual retirement plan.

6       “(b) SPECIAL INDIVIDUAL RETIREMENT AC-  
7 COUNT.—For purposes of this title, the term ‘special indi-  
8 vidual retirement account’ means an individual retirement  
9 plan which is designated at the time of establishment of  
10 the plan as a special individual retirement account.

11       “(c) TREATMENT OF CONTRIBUTIONS.—

12               “(1) NO DEDUCTION ALLOWED.—No deduction  
13 shall be allowed under section 219 for a contribution  
14 to a special individual retirement account.

15               “(2) CONTRIBUTION LIMIT.—The aggregate  
16 amount of contributions for any taxable year to all  
17 special individual retirement accounts maintained for  
18 the benefit of an individual shall not exceed the ex-  
19 cess (if any) of—

20                       “(A) the maximum amount allowable as a  
21 deduction under section 219 with respect to  
22 such individual for such taxable year (deter-  
23 mined without regard to section 219(g)), over

24                       “(B) the amount so allowed.

25               “(3) SPECIAL RULES FOR QUALIFIED TRANS-  
26 FERS.—

1           “(A) IN GENERAL.—No rollover contribu-  
2           tion may be made to a special individual retire-  
3           ment account unless it is a qualified transfer.

4           “(B) LIMIT NOT TO APPLY.—The limita-  
5           tion under paragraph (2) shall not apply to a  
6           qualified transfer to a special individual retire-  
7           ment account.

8           “(d) TAX TREATMENT OF DISTRIBUTIONS.—

9           “(1) IN GENERAL.—Except as provided in this  
10          subsection, any amount paid or distributed out of a  
11          special individual retirement account shall not be in-  
12          cluded in the gross income of the distributee.

13          “(2) EXCEPTION FOR EARNINGS ON CONTRIBU-  
14          TIONS HELD LESS THAN 5 YEARS.—

15          “(A) IN GENERAL.—Any amount distrib-  
16          uted out of a special individual retirement ac-  
17          count which consists of earnings allocable to  
18          contributions made to the account during the 5-  
19          year period ending on the day before such dis-  
20          tribution shall be included in the gross income  
21          of the distributee for the taxable year in which  
22          the distribution occurs.

23          “(B) ORDERING RULE.—

24          “(i) FIRST-IN, FIRST-OUT RULE.—  
25          Distributions from a special individual re-

1           tirement account shall be treated as having  
2           been made—

3                   “(I) first from the earliest con-  
4                   tribution (and earnings allocable  
5                   thereto) remaining in the account at  
6                   the time of the distribution, and

7                   “(II) then from other contribu-  
8                   tions (and earnings allocable thereto)  
9                   in the order in which made.

10                   “(ii) ALLOCATIONS BETWEEN CON-  
11                   TRIBUTIONS AND EARNINGS.—Any portion  
12                   of a distribution allocated to a contribution  
13                   (and earnings allocable thereto) shall be  
14                   treated as allocated first to the earnings  
15                   and then to the contribution.

16                   “(iii) ALLOCATION OF EARNINGS.—  
17                   Earnings shall be allocated to a contribu-  
18                   tion in such manner as the Secretary may  
19                   by regulations prescribe.

20                   “(iv) CONTRIBUTIONS IN SAME  
21                   YEAR.—Except as provided in regulations,  
22                   all contributions made during the same  
23                   taxable year may be treated as 1 contribu-  
24                   tion for purposes of this subparagraph.

1 “(C) CROSS REFERENCE.—

“For additional tax for early withdrawal, see section 72(t).

2 “(3) QUALIFIED TRANSFER.—

3 “(A) IN GENERAL.—Paragraph (2) shall  
4 not apply to any distribution which is trans-  
5 ferred in a qualified transfer to another special  
6 individual retirement account.

7 “(B) CONTRIBUTION PERIOD.—For pur-  
8 poses of paragraph (2), the special individual  
9 retirement account to which any contributions  
10 are transferred shall be treated as having held  
11 such contributions during any period such con-  
12 tributions were held (or are treated as held  
13 under this subparagraph) by the special individ-  
14 ual retirement account from which transferred.

15 “(4) SPECIAL RULES RELATING TO CERTAIN  
16 TRANSFERS.—

17 “(A) IN GENERAL.—Notwithstanding any  
18 other provision of law, in the case of a qualified  
19 transfer to a special individual retirement ac-  
20 count from an individual retirement plan which  
21 is not a special individual retirement account—

22 “(i) there shall be included in gross  
23 income any amount which, but for the

1 qualified transfer, would be includible in  
2 gross income, but

3 “(ii) section 72(t) shall not apply to  
4 such amount.

5 “(B) TIME FOR INCLUSION.—In the case  
6 of any qualified transfer which occurs before  
7 January 1, 1994, any amount includible in  
8 gross income under subparagraph (A) with re-  
9 spect to such contribution shall be includible  
10 ratably over the 4-taxable year period beginning  
11 in the taxable year in which the amount was  
12 paid or distributed out of the individual retire-  
13 ment plan.

14 “(e) QUALIFIED TRANSFER.—For purposes of this  
15 section—

16 “(1) IN GENERAL.—The term ‘qualified trans-  
17 fer’ means a transfer to a special individual retire-  
18 ment account from another such account or from an  
19 individual retirement plan but only if such transfer  
20 meets the requirements of section 408(d)(3).

21 “(2) LIMITATION.—A transfer otherwise de-  
22 scribed in paragraph (1) shall not be treated as a  
23 qualified transfer if the taxpayer’s adjusted gross in-  
24 come for the taxable year of the transfer exceeds the  
25 sum of the applicable dollar amount plus \$10,000.

1 This paragraph shall not apply to a transfer from a  
2 special individual retirement account to another spe-  
3 cial individual retirement account.

4 “(3) DEFINITIONS.—For purposes of this sub-  
5 section, the terms ‘adjusted gross income’ and ‘ap-  
6 plicable dollar amount’ have the meanings given  
7 such terms by section 219(g)(3), except subpara-  
8 graph (A)(ii) thereof shall be applied without regard  
9 to the phrase ‘or the deduction allowable under this  
10 section’.”

11 (b) EARLY WITHDRAWAL PENALTY.—Section 72(t)  
12 of such Code is amended by adding at the end thereof  
13 the following new paragraph:

14 “(6) RULES RELATING TO SPECIAL INDIVIDUAL  
15 RETIREMENT ACCOUNTS.—In the case of a special  
16 individual retirement account under section 408A—

17 “(A) this subsection shall only apply to  
18 distributions out of such account which consist  
19 of earnings allocable to contributions made to  
20 the account during the 5-year period ending on  
21 the day before such distribution, and

22 “(B) paragraph (2)(A)(i) shall not apply to  
23 any distribution described in subparagraph  
24 (A).”

1 (c) EXCESS CONTRIBUTIONS.—Section 4973(b) of  
2 such Code is amended by adding at the end thereof the  
3 following new sentence: “For purposes of paragraphs  
4 (1)(B) and (2)(C), the amount allowable as a deduction  
5 under section 219 shall be computed without regard to  
6 section 408A.”

7 (d) CONFORMING AMENDMENT.—The table of sec-  
8 tions for subpart A of part I of subchapter D of chapter  
9 1 of such Code is amended by inserting after the item  
10 relating to section 408 the following new item:

“Sec. 408A. Special individual retirement accounts.”

11 (e) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendments made by this section  
14 shall apply to taxable years beginning after Decem-  
15 ber 31, 1993.

16 (2) QUALIFIED TRANSFERS IN 1993.—The  
17 amendments made by this section shall apply to any  
18 qualified transfer during any taxable year beginning  
19 in 1993.

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