

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 323

To amend the Internal Revenue Code of 1986 to allow a deduction for contributions to a medical savings account, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. MCINTOSH 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 allow a deduction for contributions to a medical savings account, 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 “Health Care Savings  
5 Plan Act of 1995”.

6 **TITLE I—MEDICAL SAVINGS**  
7 **ACCOUNTS**

8 **SEC. 101. MEDICAL SAVINGS ACCOUNTS.**

9 (a) IN GENERAL.—Part VII of subchapter B of chap-  
10 ter 1 of the Internal Revenue Code of 1986 (relating to

1 additional itemized deductions for individuals) is amended  
2 by redesignating section 220 as section 221 and by insert-  
3 ing after section 219 the following new section:

4 **“SEC. 220. MEDICAL SAVINGS ACCOUNTS.**

5       “(a) DEDUCTION ALLOWED.—In the case of an eligi-  
6 ble individual, there shall be allowed as a deduction  
7 amounts paid in cash during the taxable year by or on  
8 behalf of such individual to a medical savings account.

9       “(b) LIMITATION.—

10           “(1) IN GENERAL.—The amount allowable as a  
11 deduction under subsection (a) to an individual for  
12 the taxable year shall not exceed the excess (if any)  
13 of—

14                   “(A) the lesser of—

15                           “(i) the applicable limit, or

16                           “(ii) the compensation (as defined in  
17 section 219(f)) includible in the individ-  
18 ual’s gross income for the taxable year,  
19 over

20                   “(B) the sum of—

21                           “(i) the value of employer-provided  
22 coverage for the medical expenses of such  
23 individual,

24                           “(ii) the amount paid by the individ-  
25 ual (other than from amounts distributed

1 from a medical savings account) for cov-  
2 erage under qualified catastrophic coverage  
3 health plan for coverage for such individ-  
4 ual, the spouse of such individual, and de-  
5 pendents (as defined in section 152) of  
6 such individual, plus

7 “(iii) the aggregate amount contrib-  
8 uted to such account during the taxable  
9 year pursuant to section 125(d)(3).

10 “(2) APPLICABLE LIMIT.—For purposes of  
11 paragraph (1), the applicable limit is the sum of—

12 “(A) \$4,800, plus

13 “(B) \$600 for each individual who is a de-  
14 pendent (as defined in section 152) of the indi-  
15 vidual for whose benefit the account is estab-  
16 lished.

17 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
18 poses of this section—

19 “(1) MEDICAL SAVINGS ACCOUNT.—The term  
20 ‘medical savings account’ means a trust created or  
21 organized in the United States exclusively for the  
22 purpose of paying the qualified medical expenses of  
23 the individual for whose benefit the trust is estab-  
24 lished, but only if the written governing instrument  
25 creating the trust meets the following requirements:

1           “(A) No contribution will be accepted un-  
2 less it is in cash and contributions will not be  
3 accepted for any taxable year in excess of the  
4 applicable limit (as defined in subsection  
5 (b)(2)).

6           “(B) The trustee is a bank (as defined in  
7 section 408(n)) or another person who dem-  
8 onstrates to the satisfaction of the Secretary  
9 that the manner in which such person will ad-  
10 minister the trust will be consistent with the re-  
11 quirements of this section.

12           “(C) No part of the trust assets will be in-  
13 vested in life insurance contracts.

14           “(D) The assets of the trust will not be  
15 commingled with other property except in a  
16 common trust fund or common investment  
17 fund.

18           “(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible  
19 individual’ means any individual if—

20           “(A) such individual is not covered by any  
21 employer-provided group health plan, or

22           “(B) such individual is covered by an em-  
23 ployer-provided group health plan which is a  
24 qualified catastrophic coverage health plan and  
25 is not covered by any other health plan.

1 “(3) QUALIFIED MEDICAL EXPENSES.—

2 “(A) IN GENERAL.—The term ‘qualified  
3 medical expenses’ means medical expenses other  
4 than amounts paid for a health plan which is  
5 not a qualified catastrophic coverage health  
6 plan.

7 “(B) MEDICAL EXPENSES.—The term  
8 ‘medical expenses’ means amounts paid by the  
9 individual for whose benefit the account was es-  
10 tablished for medical care (as defined in section  
11 213) of such individual, the spouse of such indi-  
12 vidual, and any dependent (as defined in section  
13 152) of such individual, but only to the extent  
14 such amounts are not compensated for by in-  
15 surance or otherwise.

16 “(4) QUALIFIED CATASTROPHIC COVERAGE  
17 HEALTH PLAN.—The term ‘qualified catastrophic  
18 coverage health plan’ means any health plan which  
19 is certified by the Secretary of Health and Human  
20 Services as a plan—

21 “(A) which provides no compensation for  
22 medical expenses not exceeding \$1,500 during  
23 any year,

24 “(5) TIME WHEN CONTRIBUTIONS DEEMED  
25 MADE.—A taxpayer shall be deemed to have made a

1 contribution on the last day of the preceding taxable  
2 year if the contribution is made on account of such  
3 taxable year and is made not later than the time  
4 prescribed by law for filing the return for such tax-  
5 able year (not including extensions thereof).

6 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

7 “(1) IN GENERAL.—Except as otherwise pro-  
8 vided in this subsection, any amount paid or distrib-  
9 uted out of a medical savings account shall be in-  
10 cluded in the gross income of the individual for  
11 whose benefit such account was established unless  
12 such amount is used exclusively to pay the qualified  
13 medical expenses of such individual.

14 “(2) EXCESS CONTRIBUTIONS RETURNED BE-  
15 FORE DUE DATE OF RETURN.—Paragraph (1) shall  
16 not apply to the distribution of any contribution paid  
17 during a taxable year to a medical savings account  
18 to the extent that such contribution exceeds the  
19 amount allowable as a deduction under subsection  
20 (a) if—

21 “(A) such distribution is received on or be-  
22 fore the day prescribed by law (including exten-  
23 sions of time) for filing such individual’s return  
24 for such taxable year,

1           “(B) no deduction is allowed under sub-  
2           section (a) with respect to such excess contribu-  
3           tion, and

4           “(C) such distribution is accompanied by  
5           the amount of net income attributable to such  
6           excess contribution.

7           Any net income described in subparagraph (C) shall  
8           be included in the gross income of the individual for  
9           the taxable year in which it is received.

10          “(e) TAX TREATMENT OF ACCOUNTS.—

11           “(1) ACCOUNT TAXED AS GRANTOR TRUST.—

12           “(A) IN GENERAL.—The individual for  
13           whose benefit a medical savings account is es-  
14           tablished shall be treated for purposes of this  
15           title as the owner thereof and shall be subject  
16           to tax thereon in accordance with subpart E of  
17           part I of subchapter J of this chapter (relating  
18           to grantors and others treated as substantial  
19           owners).

20           “(B) EXCLUSION FROM GROSS INCOME  
21           FOR \$300 OF EARNINGS.—Notwithstanding sub-  
22           paragraph (A), an amount shall be includible in  
23           the gross income of an individual for a taxable  
24           year by reason of subparagraph (A) only to the  
25           extent such amount exceeds \$300.

1           “(2) LOSS OF EXEMPTION OF ACCOUNT WHERE  
2 INDIVIDUAL ENGAGES IN PROHIBITED TRANS-  
3 ACTION.—

4           “(A) IN GENERAL.—If, during any taxable  
5 year of the individual for whose benefit the  
6 medical savings account was established, such  
7 individual engages in any transaction prohibited  
8 by section 4975 with respect to the account, the  
9 account ceases to be a medical savings account  
10 as of the first day of that taxable year.

11           “(B) ACCOUNT TREATED AS DISTRIBUTING  
12 ALL ITS ASSETS.—In any case in which any ac-  
13 count ceases to be a medical savings account by  
14 reason of subparagraph (A) on the first day of  
15 any taxable year, paragraph (1) of subsection  
16 (d) applies as if there were a distribution on  
17 such first day in an amount equal to the fair  
18 market value (on such first day) of all assets in  
19 the account (on such first day).

20           “(3) EFFECT OF PLEDGING ACCOUNT AS SECUR-  
21 RITY.—If, during any taxable year, the individual for  
22 whose benefit a medical savings account was estab-  
23 lished uses the account or any portion thereof as se-  
24 curity for a loan, the portion so used is treated as  
25 distributed to that individual.

1       “(f) ADDITIONAL TAX ON CERTAIN AMOUNTS IN-  
2 CLUDED IN GROSS INCOME.—

3           “(1) DISTRIBUTION NOT USED FOR QUALIFIED  
4 MEDICAL EXPENSES.—If a distribution from a medi-  
5 cal savings account is made, and not used to pay the  
6 qualified medical expenses of the individual for  
7 whose benefit the account was established, the tax li-  
8 ability of such individual for the taxable year in  
9 which such distribution is received shall be increased  
10 by an amount equal to 10 percent of the amount of  
11 the distribution which is includible in gross income  
12 for such taxable year.

13           “(2) DISQUALIFICATION CASES.—If an amount  
14 is includible in the gross income of an individual for  
15 a taxable year under subsection (e), his tax under  
16 this chapter for such taxable year shall be increased  
17 by an amount equal to 10 percent of such amount  
18 includible in his gross income.

19           “(3) PENALTY-FREE WITHDRAWALS TO EX-  
20 TENT AMOUNTS IN ACCOUNT EXCEED \$15,000.—

21           “(A) IN GENERAL.—Paragraph (1), and  
22 paragraph (2) to the extent it relates to sub-  
23 section (e)(3), shall not apply to the extent that  
24 the sum of—

1           “(i) the amount remaining in the  
2           medical savings accounts of such individual  
3           immediately after the distribution, plus

4           “(ii) the amount remaining at such  
5           time in the medical savings accounts of the  
6           spouse (if any) of such individual,

7           has a value at such time is at least \$15,000.

8           “(B) LOWER LIMIT FOR INDIVIDUALS AT-  
9           TAINING SOCIAL SECURITY RETIREMENT AGE.—  
10          The \$15,000 amount in subparagraph (A) shall  
11          be reduced by \$1,000 for each year by which  
12          the age (as of the close of the taxable year) of  
13          the individual for whose benefit the account was  
14          established exceeds retirement age (as defined  
15          in section 216(l) of the Social Security Act).

16          “(4) DISABILITY OR DEATH CASES.—Para-  
17          graphs (1) and (2) do not apply if the payment or  
18          distribution is made after the individual for whose  
19          benefit the medical savings account was established  
20          becomes disabled within the meaning of section  
21          72(m)(7) or dies.

22          “(g) SPECIAL RULES.—

23          “(1) COMMUNITY PROPERTY LAWS.—This sec-  
24          tion shall be applied without regard to any commu-  
25          nity property laws.

1           “(2) CUSTODIAL ACCOUNTS.—For purposes of  
2 this section, a custodial account shall be treated as  
3 a trust if—

4           “(A) the assets of such account are held by  
5 a bank (as defined in section 408(n)) or an-  
6 other person who demonstrates to the satisfac-  
7 tion of the Secretary that the manner in which  
8 he will administer the account will be consistent  
9 with the requirements of this section, and

10           “(B) the custodial account would, except  
11 for the fact that it is not a trust, constitute a  
12 medical savings account described in subsection  
13 (c).

14 For purposes of this title, in the case of a custodial  
15 account treated as a trust by reason of the preceding  
16 sentence, the custodian of such account shall be  
17 treated as the trustee thereof.

18           “(3) DENIAL OF DEDUCTIONS.—No amount  
19 paid or distributed from a medical savings account  
20 shall be taken into account in determining the de-  
21 duction provided by section 213.

22           “(h) INFLATION ADJUSTMENT.—

23           “(1) IN GENERAL.—In the case of any taxable  
24 year beginning in a calendar year after 1995, each

1 applicable dollar amount shall be increased by an  
2 amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment for the  
5 calendar year in which the taxable year begins.

6 “(2) COST-OF-LIVING ADJUSTMENT.—For pur-  
7 poses of paragraph (1), the cost-of-living adjustment  
8 for any calendar year is the percentage (if any) by  
9 which—

10 “(A) the deemed average total wages (as  
11 defined in section 209(k) of the Social Security  
12 Act) for the preceding calendar year, exceeds

13 “(B) the deemed average total wages (as  
14 so defined) for calendar year 1994.

15 “(3) APPLICABLE DOLLAR AMOUNT.—For pur-  
16 poses of paragraph (1), the term ‘applicable dollar  
17 amount’ means—

18 “(A) the \$4,800 and \$600 amounts in sub-  
19 section (b),

20 “(B) the \$1,500 amounts in subsection  
21 (c)(4),

22 “(C) the \$300 amount in subsection (e)(1),  
23 and

24 “(D) the \$15,000 amount in subsection  
25 (f)(3).

1           “(4) ROUNDING.—If any amount as adjusted  
2           under paragraph (1) is not a multiple of \$10, such  
3           amount shall be rounded to the nearest multiple of  
4           \$10 (or, if such amount is a multiple of \$5 and not  
5           of \$10, such amount shall be rounded to the next  
6           highest multiple of \$10).

7           “(i) REPORTS.—The trustee of a medical savings ac-  
8           count shall make such reports regarding such account to  
9           the Secretary and to the individual for whose benefit the  
10          account is maintained with respect to contributions, dis-  
11          tributions, and such other matters as the Secretary may  
12          require under regulations. The reports required by this  
13          subsection shall be filed at such time and in such manner  
14          and furnished to such individuals at such time and in such  
15          manner as may be required by those regulations.”

16          (b) DEDUCTION ALLOWED IN ARRIVING AT AD-  
17          JUSTED GROSS INCOME.—Paragraph (7) of section 62(a)  
18          of such Code (relating to retirement savings) is amend-  
19          ed—

20                 (1) by inserting “OR MEDICAL EXPENSE” after  
21                 “RETIREMENT” in the heading of such paragraph,  
22                 and

23                 (2) by inserting before the period at the end  
24                 thereof the following: “and the deduction allowed by

1 section 220 (relating to deduction of certain pay-  
2 ments to medical savings accounts)’’.

3 (c) EXCLUSION OF EMPLOYER CONTRIBUTIONS TO  
4 MEDICAL SAVINGS ACCOUNTS FROM EMPLOYMENT  
5 TAXES.—

6 (1) SOCIAL SECURITY TAXES.—

7 (A) Subsection (a) of section 3121 of such  
8 Code is amended by striking ‘‘or’’ at the end of  
9 paragraph (20), by striking the period at the  
10 end of paragraph (21) and inserting ‘‘; or’’, and  
11 by inserting after paragraph (21) the following  
12 new paragraph:

13 ‘‘(22) remuneration paid to or on behalf of  
14 an employee if (and to the extent that) at the  
15 time of payment of such remuneration it is rea-  
16 sonable to believe that a corresponding deduc-  
17 tion is allowable under section 220.’’

18 (B) Subsection (a) of section 209 of the  
19 Social Security Act is amended by striking ‘‘or’’  
20 at the end of paragraph (17), by striking the  
21 period at the end of paragraph (18) and insert-  
22 ing ‘‘; or’’, and by inserting after paragraph  
23 (18) the following new paragraph:

24 ‘‘(19) remuneration paid to or on behalf of an  
25 employee if (and to the extent that) at the time of

1 payment of such remuneration it is reasonable to be-  
2 lieve that a corresponding deduction is allowable  
3 under section 220 of the Internal Revenue Code of  
4 1986.”

5 (2) RAILROAD RETIREMENT TAX.—Subsection  
6 (e) of section 3231 of such Code is amended by add-  
7 ing at the end thereof the following new paragraph:

8 “(10) EMPLOYER CONTRIBUTIONS TO MEDICAL  
9 SAVINGS ACCOUNTS.—The term ‘compensation’ shall  
10 not include any payment made to or on behalf of an  
11 employee if (and to the extent that) at the time of  
12 payment of such remuneration it is reasonable to be-  
13 lieve that a corresponding deduction is allowable  
14 under section 220.”

15 (3) UNEMPLOYMENT TAX.—Subsection (b) of  
16 section 3306 of such Code is amended by striking  
17 “or” at the end of paragraph (15), by striking the  
18 period at the end of paragraph (16) and inserting “;  
19 or”, and by inserting after paragraph (16) the fol-  
20 lowing new paragraph:

21 “(17) remuneration paid to or on behalf of  
22 an employee if (and to the extent that) at the  
23 time of payment of such remuneration it is rea-  
24 sonable to believe that a corresponding deduc-  
25 tion is allowable under section 220.”

1           (4) WITHHOLDING TAX.—Subsection (a) of sec-  
2           tion 3401 of such Code is amended by striking “or”  
3           at the end of paragraph (19), by striking the period  
4           at the end of paragraph (20) and inserting “; or”,  
5           and by inserting after paragraph (20) the following  
6           new paragraph:

7                   “(21) remuneration paid to or on behalf of  
8                   an employee if (and to the extent that) at the  
9                   time of payment of such remuneration it is rea-  
10                  sonable to believe that a corresponding deduc-  
11                  tion is allowable under section 220.”

12          (d) TAX ON EXCESS CONTRIBUTIONS.—Section 4973  
13          of such Code (relating to tax on excess contributions to  
14          individual retirement accounts, certain section 403(b) con-  
15          tracts, and certain individual retirement annuities) is  
16          amended—

17                  (1) by inserting “**MEDICAL SAVINGS AC-**  
18                  **COUNTS,**” after “**ACCOUNTS,**” in the heading of  
19                  such section,

20                  (2) by redesignating paragraph (2) of sub-  
21                  section (a) as paragraph (3) and by inserting after  
22                  paragraph (1) the following:

23                          “(2) a medical savings account (within the  
24                          meaning of section 220(c)),”,

1           (3) by striking “or” at the end of paragraph  
2           (1) of subsection (a), and

3           (4) by adding at the end thereof the following  
4           new subsection:

5           “(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS  
6 ACCOUNTS.—For purposes of this section, in the case of  
7 a medical savings account, the term ‘excess contributions’  
8 means the amount by which the amount contributed for  
9 the taxable year to the account exceeds the amount allow-  
10 able as a deduction under section 220 for such taxable  
11 year. For purposes of this subsection, any contribution  
12 which is distributed out of the medical savings account  
13 and a distribution to which section 220(d)(2) applies shall  
14 be treated as an amount not contributed.”

15           (e) TAX ON PROHIBITED TRANSACTIONS.—Section  
16 4975 of such Code (relating to prohibited transactions)  
17 is amended—

18           (1) by adding at the end of subsection (c) the  
19           following new paragraph:

20           “(4) SPECIAL RULE FOR MEDICAL SAVINGS AC-  
21 COUNTS.—An individual for whose benefit a medical  
22 savings account is established shall be exempt from  
23 the tax imposed by this section with respect to any  
24 transaction concerning such account (which would  
25 otherwise be taxable under this section) if, with re-

1 spect to such transaction, the account ceases to be  
2 a medical savings account by reason of the applica-  
3 tion of section 220(e)(2)(A) to such account.”, and

4 (2) by inserting “or a medical savings account  
5 described in section 220(c)” in subsection (e)(1)  
6 after “described in section 408(a)”.

7 (f) FAILURE TO PROVIDE REPORTS ON MEDICAL  
8 SAVINGS ACCOUNTS.—Section 6693 of such Code (relat-  
9 ing to failure to provide reports on individual retirement  
10 account or annuities) is amended—

11 (1) by inserting “**OR ON MEDICAL SAVINGS**  
12 **ACCOUNTS**” after “**ANNUITIES**” in the heading of  
13 such section, and

14 (2) by adding at the end of subsection (a) the  
15 following: “The person required by section 220(i) to  
16 file a report regarding a medical savings account at  
17 the time and in the manner required by such section  
18 shall pay a penalty of \$50 for each failure unless it  
19 is shown that such failure is due to reasonable  
20 cause.”

21 (g) CLERICAL AMENDMENTS.—

22 (1) The table of sections for part VII of sub-  
23 chapter B of chapter 1 of such Code is amended by  
24 striking the item relating to section 220 and insert-  
25 ing the following:

“Sec. 220. Medical savings accounts.

“Sec. 221. Cross reference.”

1           (2) The table of sections for chapter 43 of such  
2 Code is amended by striking the item relating to sec-  
3 tion 4973 and inserting the following:

“Sec. 4973. Tax on excess contributions to individual retirement  
accounts, medical savings accounts, certain 403(b)  
contracts, and certain individual retirement annu-  
ities.”

4           (3) The table of sections for subchapter B of  
5 chapter 68 of such Code is amended by inserting “or  
6 on medical savings accounts” after “annuities” in  
7 the item relating to section 6693.

8           (h) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 1995.

11 **SEC. 102. UNUSED AMOUNTS IN FLEXIBLE SPENDING AC-**  
12 **COUNTS TRANSFERABLE TO MEDICAL SAV-**  
13 **INGS ACCOUNTS.**

14           (a) IN GENERAL.—Subsection (d) of section 125 of  
15 the Internal Revenue Code of 1986 (relating to cafeteria  
16 plans) is amended by adding at the end thereof the follow-  
17 ing new paragraph:

18           “(3) UNUSED AMOUNTS TRANSFERABLE TO  
19 MEDICAL SAVINGS ACCOUNTS.—

20           “(A) IN GENERAL.—Subsection (a) shall  
21 not fail to apply to a participant in a plan, and  
22 a plan shall not fail to be treated as a cafeteria

1 plan, solely because under the plan amounts not  
2 paid out as reimbursements under a flexible  
3 spending arrangement for health and disability  
4 for the benefit of an individual are contributed  
5 to a medical savings account (as defined in sec-  
6 tion 220(c)) for the benefit of such individual.

7 “(B) SPECIAL RULES.—

8 “(i) TIMING OF CONTRIBUTIONS.—

9 Contributions made under this paragraph  
10 shall be made on the last day of the plan  
11 year of the cafeteria plan.

12 “(ii) AVAILABILITY REQUIREMENT.—

13 Subparagraph (A) shall apply only if the  
14 plan is available to at least 80 percent of  
15 the employees of the employer. For pur-  
16 poses of the preceding sentence, there shall  
17 be excluded employees who are excluded  
18 under section 414(q)(8) or who would be  
19 so excluded if ‘30’ were substituted for  
20 ‘17½’ in subparagraph (B) thereof.”

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 1995.

1 **SEC. 103. DEDUCTION FOR AMOUNTS PAID FOR QUALIFIED**  
2 **CATASTROPHIC COVERAGE HEALTH PLAN.**

3 (a) IN GENERAL.—Section 213 of the Internal Reve-  
4 nue Code of 1986 (relating to medical, dental, etc., ex-  
5 penses) is amended by adding at the end thereof the fol-  
6 lowing new subsection:

7 “(g) FULL DEDUCTION FOR AMOUNTS PAID FOR  
8 QUALIFIED CATASTROPHIC COVERAGE HEALTH  
9 PLANS.—In the case of amounts paid for coverage under  
10 a qualified catastrophic coverage health plan (as defined  
11 in section 220(c))—

12 “(1) subsection (a) shall be applied without re-  
13 gard to the limitation based on adjusted gross in-  
14 come, and

15 “(2) such amounts shall not be taken into ac-  
16 count in determining whether any other amounts are  
17 allowable as a deduction under this section.”

18 (b) TECHNICAL AMENDMENT.—Paragraph (2) of  
19 section 162(l) of such Code is amended by adding at the  
20 end thereof the following new subparagraph:

21 “(C) QUALIFIED CATASTROPHIC COV-  
22 ERAGE.—Paragraph (1) shall not apply to any  
23 amount allowed as a deduction under section  
24 213 for amounts paid for coverage under a  
25 qualified catastrophic coverage health plan (as  
26 defined in section 220(c)).”

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1995.

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