

104TH CONGRESS
1ST SESSION

S. 1310

To amend the Internal Revenue Code of 1986 to expand the availability of individual retirement accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 11 (legislative day, OCTOBER 10), 1995

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand the availability of individual retirement 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Savings and Investment Incentive Act of 1995”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Internal Revenue Code of 1986.

3 **TITLE I—RETIREMENT SAVINGS**
4 **INCENTIVES**

5 **Subtitle A—IRA Deduction**

6 **SEC. 101. INCREASE IN INCOME LIMITATIONS.**

7 (a) IN GENERAL.—Subparagraph (B) of section
8 219(g)(3) is amended—

9 (1) by striking “\$40,000” in clause (i) and in-
10 sserting “\$80,000”, and

11 (2) by striking “\$25,000” in clause (ii) and in-
12 sserting “\$50,000”.

13 (b) PHASE-OUT OF LIMITATIONS.—Clause (ii) of sec-
14 tion 219(g)(2)(A) is amended by striking “\$10,000” and
15 inserting “an amount equal to 10 times the dollar amount
16 applicable for the taxable year under subsection
17 (b)(1)(A)”.

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

21 **SEC. 102. INFLATION ADJUSTMENT FOR DEDUCTIBLE**
22 **AMOUNT AND INCOME LIMITATIONS.**

23 (a) IN GENERAL.—Section 219 is amended by redess-
24 ignating subsection (h) as subsection (i) and by inserting
25 after subsection (g) the following new subsection:

1 “(h) COST-OF-LIVING ADJUSTMENTS.—

2 “(1) IN GENERAL.—In the case of any taxable
3 year beginning in a calendar year after 1996, each
4 dollar amount to which this subsection applies shall
5 be increased by an amount equal to—

6 “(A) such dollar amount, multiplied by

7 “(B) the cost-of-living adjustment deter-
8 mined under section 1(f)(3) for the calendar
9 year in which the taxable year begins, deter-
10 mined by substituting ‘calendar year 1995’ for
11 ‘calendar year 1992’ in subparagraph (B)
12 thereof.

13 “(2) DOLLAR AMOUNTS TO WHICH SUBSECTION
14 APPLIES.—This subsection shall apply to—

15 “(A) the \$2,000 amounts under subsection
16 (b)(1)(A) and (c), and

17 “(B) the applicable dollar amounts under
18 subsection (g)(3)(B).

19 “(3) ROUNDING RULES.—

20 “(A) DEDUCTION AMOUNTS.—If any
21 amount referred to in paragraph (2)(A) as ad-
22 justed under paragraph (1) is not a multiple of
23 \$500, such amount shall be rounded to the next
24 lowest multiple of \$500.

1 “(B) APPLICABLE DOLLAR AMOUNTS.—If
2 any amount referred to in paragraph (2)(B) as
3 adjusted under paragraph (1) is not a multiple
4 of \$5,000, such amount shall be rounded to the
5 next lowest multiple of \$5,000.”

6 (b) CONFORMING AMENDMENTS.—

7 (1) Clause (i) of section 219(c)(2)(A) is amend-
8 ed to read as follows:

9 “(i) the sum of \$250 and the dollar
10 amount in effect for the taxable year under
11 subsection (b)(1)(A), or”.

12 (2) Section 408(a)(1) is amended by striking
13 “in excess of \$2,000 on behalf of any individual”
14 and inserting “on behalf of any individual in excess
15 of the amount in effect for such taxable year under
16 section 219(b)(1)(A)”.

17 (3) Section 408(b)(2)(B) is amended by strik-
18 ing “\$2,000” and inserting “the dollar amount in
19 effect under section 219(b)(1)(A)”.

20 (4) Subparagraph (A) of section 408(d)(5) is
21 amended by striking “\$2,250” and inserting “the
22 dollar amount in effect for the taxable year under
23 section 219(c)(2)(A)(i)”.

24 (5) Section 408(j) is amended by striking
25 “\$2,000”.

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

4 **SEC. 103. COORDINATION OF IRA DEDUCTION LIMIT WITH**
5 **ELECTIVE DEFERRAL LIMIT.**

6 (a) IN GENERAL.—Section 219(b) (relating to maxi-
7 mum amount of deduction) is amended by adding at the
8 end the following new paragraph:

9 “(4) COORDINATION WITH ELECTIVE DEFER-
10 RAL LIMIT.—The amount determined under para-
11 graph (1) or subsection (c)(2) with respect to any
12 individual for any taxable year shall not exceed the
13 excess (if any) of—

14 “(A) the limitation applicable for the tax-
15 able year under section 402(g)(1), over

16 “(B) the elective deferrals (as defined in
17 section 402(g)(3)) of such individual for such
18 taxable year.”

19 (b) CONFORMING AMENDMENT.—Section 219(c) is
20 amended by adding at the end the following new para-
21 graph:

22 “(3) CROSS REFERENCE.—

“For reduction in paragraph (2) amount, see sub-
section (b)(4).”

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

4 **Subtitle B—Nondeductible Tax-**
5 **Free IRA’s**

6 **SEC. 111. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE**
7 **INDIVIDUAL RETIREMENT ACCOUNTS.**

8 (a) IN GENERAL.—Subpart A of part I of subchapter
9 D of chapter 1 (relating to pension, profit-sharing, stock
10 bonus plans, etc.) is amended by inserting after section
11 408 the following new section:

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

13 “(a) GENERAL RULE.—Except as provided in this
14 chapter, a special individual retirement account shall be
15 treated for purposes of this title in the same manner as
16 an individual retirement plan.

17 “(b) SPECIAL INDIVIDUAL RETIREMENT AC-
18 COUNT.—For purposes of this title, the term ‘special indi-
19 vidual retirement account’ means an individual retirement
20 plan which is designated at the time of establishment of
21 the plan as a special individual retirement account.

22 “(c) TREATMENT OF CONTRIBUTIONS.—

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

1 “(2) CONTRIBUTION LIMIT.—The aggregate
2 amount of contributions for any taxable year to all
3 special individual retirement accounts maintained for
4 the benefit of an individual shall not exceed the ex-
5 cess (if any) of—

6 “(A) the maximum amount allowable as a
7 deduction under section 219 with respect to
8 such individual for such taxable year, over

9 “(B) the amount so allowed.

10 “(3) SPECIAL RULES FOR QUALIFIED TRANS-
11 FERS.—

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

15 “(B) LIMIT NOT TO APPLY.—The limita-
16 tion under paragraph (2) shall not apply to a
17 qualified transfer to a special individual retire-
18 ment account.

19 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

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

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

1 “(A) IN GENERAL.—Any amount distrib-
2 uted out of a special individual retirement ac-
3 count which consists of earnings allocable to
4 contributions made to the account during the 5-
5 year period ending on the day before such dis-
6 tribution shall be included in the gross income
7 of the distributee for the taxable year in which
8 the distribution occurs.

9 “(B) ORDERING RULE.—

10 “(i) FIRST-IN, FIRST-OUT RULE.—
11 Distributions from a special individual re-
12 tirement account shall be treated as having
13 been made—

14 “(I) first from the earliest con-
15 tribution (and earnings allocable
16 thereto) remaining in the account at
17 the time of the distribution, and

18 “(II) then from other contribu-
19 tions (and earnings allocable thereto)
20 in the order in which made.

21 “(ii) ALLOCATIONS BETWEEN CON-
22 TRIBUTIONS AND EARNINGS.—Any portion
23 of a distribution allocated to a contribution
24 (and earnings allocable thereto) shall be

1 treated as allocated first to the earnings
2 and then to the contribution.

3 “(iii) ALLOCATION OF EARNINGS.—
4 Earnings shall be allocated to a contribu-
5 tion in such manner as the Secretary may
6 by regulations prescribe.

7 “(iv) CONTRIBUTIONS IN SAME
8 YEAR.—Except as provided in regulations,
9 all contributions made during the same
10 taxable year may be treated as 1 contribu-
11 tion for purposes of this subparagraph.

12 “(C) CROSS REFERENCE.—

“**For additional tax for early withdrawal, see sec-
tion 72(t).**”

13 “(3) QUALIFIED TRANSFER.—

14 “(A) IN GENERAL.—Paragraph (2) shall
15 not apply to any distribution which is trans-
16 ferred in a qualified transfer to another special
17 individual retirement account.

18 “(B) CONTRIBUTION PERIOD.—For pur-
19 poses of paragraph (2), the special individual
20 retirement account to which any contributions
21 are transferred shall be treated as having held
22 such contributions during any period such con-
23 tributions were held (or are treated as held

1 under this subparagraph) by the special individ-
2 ual retirement account from which transferred.

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

5 “(A) IN GENERAL.—Notwithstanding any
6 other provision of law, in the case of a qualified
7 transfer to a special individual retirement ac-
8 count from an individual retirement plan which
9 is not a special individual retirement account—

10 “(i) there shall be included in gross
11 income any amount which, but for the
12 qualified transfer, would be includible in
13 gross income, but

14 “(ii) section 72(t) shall not apply to
15 such amount.

16 “(B) TIME FOR INCLUSION.—In the case
17 of any qualified transfer which occurs before
18 January 1, 1997, any amount includible in
19 gross income under subparagraph (A) with re-
20 spect to such contribution shall be includible
21 ratably over the 4-taxable year period beginning
22 in the taxable year in which the amount was
23 paid or distributed out of the individual retire-
24 ment plan.

25 “(e) QUALIFIED TRANSFER.—

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

6 “(2) LIMITATION.—A transfer otherwise de-
7 scribed in paragraph (1) shall not be treated as a
8 qualified transfer if the taxpayer’s adjusted gross in-
9 come for the taxable year of the transfer exceeds the
10 sum of—

11 “(A) the applicable dollar amount, plus

12 “(B) the dollar amount applicable for the
13 taxable year under section 219(g)(2)(A)(ii).

14 This paragraph shall not apply to a transfer from a
15 special individual retirement account to another spe-
16 cial individual retirement account.

17 “(3) DEFINITIONS.—For purposes of this sub-
18 section, the terms ‘adjusted gross income’ and ‘ap-
19 plicable dollar amount’ have the meanings given
20 such terms by section 219(g)(3), except subpara-
21 graph (A)(ii) thereof shall be applied without regard
22 to the phrase ‘or the deduction allowable under this
23 section.’”

1 (b) EARLY WITHDRAWAL PENALTY.—Section 72(t)
2 is amended by adding at the end the following new para-
3 graph:

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

7 “(A) this subsection shall only apply to
8 distributions out of such account which consist
9 of earnings allocable to contributions made to
10 the account during the 5-year period ending on
11 the day before such distribution, and

12 “(B) paragraph (2)(A)(i) shall not apply to
13 any distribution described in subparagraph
14 (A).”

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

20 (d) CONFORMING AMENDMENT.—The table of sec-
21 tions for subpart A of part I of subchapter D of chapter
22 1 is amended by inserting after the item relating to section
23 408 the following new item:

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

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

4 **TITLE II—PENALTY-FREE**
5 **DISTRIBUTIONS**

6 **SEC. 201. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**
7 **USED WITHOUT PENALTY TO PURCHASE**
8 **FIRST HOMES, TO PAY HIGHER EDUCATION**
9 **OR FINANCIALLY DEVASTATING MEDICAL EX-**
10 **PENSES, OR BY THE UNEMPLOYED.**

11 (a) IN GENERAL.—Paragraph (2) of section 72(t)
12 (relating to exceptions to 10-percent additional tax on
13 early distributions from qualified retirement plans) is
14 amended by adding at the end the following new subpara-
15 graph:

16 “(D) DISTRIBUTIONS FROM CERTAIN
17 PLANS FOR FIRST HOME PURCHASES OR EDU-
18 CATIONAL EXPENSES.—Distributions to an in-
19 dividual from an individual retirement plan—

20 “(i) which are qualified first-time
21 homebuyer distributions (as defined in
22 paragraph (7)); or

23 “(ii) to the extent such distributions
24 do not exceed the qualified higher edu-

1 cation expenses (as defined in paragraph
2 (8)) of the taxpayer for the taxable year.”

3 (b) FINANCIALLY DEVASTATING MEDICAL EX-
4 PENSES.—

5 (1) IN GENERAL.—Section 72(t)(3)(A) is
6 amended by striking “(B),”.

7 (2) CERTAIN LINEAL DESCENDANTS AND AN-
8 CESTORS TREATED AS DEPENDENTS AND LONG-
9 TERM CARE SERVICES TREATED AS MEDICAL
10 CARE.—Subparagraph (B) of section 72(t)(2) is
11 amended by striking “medical care” and all that fol-
12 lows and inserting “medical care determined—

13 “(i) without regard to whether the
14 employee itemizes deductions for such tax-
15 able year, and

16 “(ii) in the case of an individual re-
17 tirement plan—

18 “(I) by treating such employee’s
19 dependents as including all children,
20 grandchildren and ancestors of the
21 employee or such employee’s spouse
22 and

23 “(II) by treating qualified long-
24 term care services (as defined in para-

1 graph (9)) as medical care for pur-
2 poses of this subparagraph (B).”

3 (3) CONFORMING AMENDMENT.—Subparagraph
4 (B) of section 72(t)(2) is amended by striking “or
5 (C)” and inserting “, (C) or (D)”.

6 (c) DEFINITIONS.—Section 72(t), as amended by this
7 Act, is amended by adding at the end the following new
8 paragraphs:

9 “(7) QUALIFIED FIRST-TIME HOMEBUYER DIS-
10 TRIBUTIONS.—For purposes of paragraph (2)(D)(i):

11 “(A) IN GENERAL.—The term ‘qualified
12 first-time homebuyer distribution’ means any
13 payment or distribution received by an individ-
14 ual to the extent such payment or distribution
15 is used by the individual before the close of the
16 60th day after the day on which such payment
17 or distribution is received to pay qualified ac-
18 quisition costs with respect to a principal resi-
19 dence of a first-time homebuyer who is such in-
20 dividual or the spouse, child (as defined in sec-
21 tion 151(c)(3)), or grandchild of such individ-
22 ual.

23 “(B) QUALIFIED ACQUISITION COSTS.—
24 For purposes of this paragraph, the term
25 ‘qualified acquisition costs’ means the costs of

1 acquiring, constructing, or reconstructing a res-
2 idence. Such term includes any usual or reason-
3 able settlement, financing, or other closing
4 costs.

5 “(C) FIRST-TIME HOMEBUYER; OTHER
6 DEFINITIONS.—For purposes of this paragraph:

7 “(i) FIRST-TIME HOMEBUYER.—The
8 term ‘first-time homebuyer’ means any in-
9 dividual if—

10 “(I) such individual (and if mar-
11 ried, such individual’s spouse) had no
12 present ownership interest in a prin-
13 cipal residence during the 3-year pe-
14 riod ending on the date of acquisition
15 of the principal residence to which
16 this paragraph applies, and

17 “(II) subsection (h) or (k) of sec-
18 tion 1034 did not suspend the run-
19 ning of any period of time specified in
20 section 1034 with respect to such in-
21 dividual on the day before the date
22 the distribution is applied pursuant to
23 subparagraph (A).

24 In the case of an individual described in
25 section 143(i)(1)(C) for any year, an own-

1 ership interest shall not include any inter-
2 est under a contract of deed described in
3 such section. An individual who loses an
4 ownership interest in a principal residence
5 incident to a divorce or legal separation is
6 deemed for purposes of this subparagraph
7 to have had no ownership interest in such
8 principal residence within the period re-
9 ferred to in subparagraph (A)(II).

10 “(ii) PRINCIPAL RESIDENCE.—The
11 term ‘principal residence’ has the same
12 meaning as when used in section 1034.

13 “(iii) DATE OF ACQUISITION.—The
14 term ‘date of acquisition’ means the date—

15 “(I) on which a binding contract
16 to acquire the principal residence to
17 which subparagraph (A) applies is en-
18 tered into, or

19 “(II) on which construction or re-
20 construction of such a principal resi-
21 dence is commenced.

22 “(D) SPECIAL RULE WHERE DELAY IN AC-
23 QUISITION.—If any distribution from any indi-
24 vidual retirement plan fails to meet the require-
25 ments of subparagraph (A) solely by reason of

1 a delay or cancellation of the purchase or con-
2 struction of the residence, the amount of the
3 distribution may be contributed to an individual
4 retirement plan as provided in section
5 408(d)(3)(A)(i) (determined by substituting
6 ‘120 days’ for ‘60 days’ in such section), except
7 that—

8 “(i) section 408(d)(3)(B) shall not be
9 applied to such contribution, and

10 “(ii) such amount shall not be taken
11 into account in determining whether sec-
12 tion 408(d)(3)(A)(i) applies to any other
13 amount.

14 “(8) QUALIFIED HIGHER EDUCATION EX-
15 PENSES.—For purposes of paragraph (2)(D)(ii)—

16 “(A) IN GENERAL.—The term ‘qualified
17 higher education expenses’ means tuition and
18 fees required for the enrollment or attendance
19 of—

20 “(i) the taxpayer,

21 “(ii) the taxpayer’s spouse,

22 “(iii) a dependent of the taxpayer
23 with respect to whom the taxpayer is al-
24 lowed a deduction under section 151, or

1 “(iv) the taxpayer’s child (as defined
2 in section 151(c)(3)) or grandchild,
3 as an eligible student at an institution of higher
4 education (as defined in paragraphs (1)(D) and
5 (2) of section 220(c)).

6 “(B) EXCEPTIONS.—The term ‘qualified
7 higher education expenses’ does not include ex-
8 penses described in subparagraphs (B) and (C)
9 of section 220(c)(1).

10 “(C) COORDINATION WITH SAVINGS BOND
11 PROVISIONS.—The amount of qualified higher
12 education expenses for any taxable year shall be
13 reduced by any amount excludable from gross
14 income under section 135.

15 “(9) QUALIFIED LONG-TERM CARE SERVICES.—
16 For purposes of paragraph (2)(B):

17 “(A) IN GENERAL.—The term ‘qualified
18 long-term care services’ means necessary diag-
19 nostic, curing, mitigating, treating, preventive,
20 therapeutic, and rehabilitative services, and
21 maintenance and personal care services (wheth-
22 er performed in a residential or nonresidential
23 setting) which—

24 “(i) are required by an individual dur-
25 ing any period the individual is an inca-

1 pacitated individual (as defined in subpara-
2 graph (B)),

3 “(ii) have as their primary purpose—

4 “(I) the provision of needed as-
5 sistance with 1 or more activities of
6 daily living (as defined in subpara-
7 graph (C)), or

8 “(II) protection from threats to
9 health and safety due to severe cog-
10 nitive impairment, and

11 “(iii) are provided pursuant to a con-
12 tinuing plan of care prescribed by a li-
13 censed professional (as defined in subpara-
14 graph (D)).

15 “(B) INCAPACITATED INDIVIDUAL.—The
16 term ‘incapacitated individual’ means any indi-
17 vidual who—

18 “(i) is unable to perform, without sub-
19 stantial assistance from another individual
20 (including assistance involving cueing or
21 substantial supervision), at least 2 activi-
22 ties of daily living as defined in subpara-
23 graph (C), or

24 “(ii) has severe cognitive impairment
25 as defined by the Secretary in consultation

1 with the Secretary of Health and Human
2 Services.

3 Such term shall not include any individual oth-
4 erwise meeting the requirements of the preced-
5 ing sentence unless a licensed professional with-
6 in the preceding 12-month period has certified
7 that such individual meets such requirements.

8 “(C) ACTIVITIES OF DAILY LIVING.—Each
9 of the following is an activity of daily living:

10 “(i) Eating.

11 “(ii) Toileting.

12 “(iii) Transferring.

13 “(iv) Bathing.

14 “(v) Dressing.

15 “(D) LICENSED PROFESSIONAL.—The
16 term ‘licensed professional’ means—

17 “(i) a physician or registered profes-
18 sional nurse, or

19 “(ii) any other individual who meets
20 such requirements as may be prescribed by
21 the Secretary after consultation with the
22 Secretary of Health and Human Services.

23 “(E) CERTAIN SERVICES NOT IN-
24 CLUDED.—The term ‘qualified long-term care

1 services' shall not include any services provided
2 to an individual—

3 “(i) by a relative (directly or through
4 a partnership, corporation, or other entity)
5 unless the relative is a licensed professional
6 with respect to such services, or

7 “(ii) by a corporation or partnership
8 which is related (within the meaning of
9 section 267(b) or 707(b)) to the individual.

10 For purposes of this subparagraph, the term
11 ‘relative’ means an individual bearing a rela-
12 tionship to the individual which is described in
13 paragraphs (1) through (8) of section 152(a).”

14 (d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN
15 UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section
16 72(t) is amended by adding at the end the following new
17 subparagraph:

18 “(E) DISTRIBUTIONS TO UNEMPLOYED IN-
19 DIVIDUALS.—A distribution from an individual
20 retirement plan to an individual after separa-
21 tion from employment, if—

22 “(i) such individual has received un-
23 employment compensation for 12 consecu-
24 tive weeks under any Federal or State un-

1 employment compensation law by reason of
2 such separation, and

3 “(ii) such distributions are made dur-
4 ing any taxable year during which such un-
5 employment compensation is paid or the
6 succeeding taxable year.”

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to payments and distributions after
9 December 31, 1995.

10 **SEC. 202. CONTRIBUTIONS MUST BE HELD AT LEAST 5**
11 **YEARS IN CERTAIN CASES.**

12 (a) IN GENERAL.—Section 72(t), as amended by this
13 Act, is amended by adding at the end the following new
14 paragraph:

15 “(10) CERTAIN CONTRIBUTIONS MUST BE HELD
16 5 YEARS.—

17 “(A) IN GENERAL.—Paragraph (2)(A)(i)
18 shall not apply to any amount distributed out
19 of an individual retirement plan (other than a
20 special individual retirement account) which is
21 allocable to contributions made to the plan dur-
22 ing the 5-year period ending on the date of
23 such distribution (and earnings on such con-
24 tributions).

1 “(B) ORDERING RULE.—For purposes of
2 this paragraph, distributions shall be treated as
3 having been made—

4 “(i) first from the earliest contribu-
5 tion (and earnings allocable thereto) re-
6 maining in the account at the time of the
7 distribution, and

8 “(ii) then from other contributions
9 (and earnings allocable thereto) in the
10 order in which made.

11 Earnings shall be allocated to contributions in
12 such manner as the Secretary may prescribe.

13 “(C) SPECIAL RULE FOR ROLLOVERS.—

14 “(i) PENSION PLANS.—Subparagraph
15 (A) shall not apply to distributions out of
16 an individual retirement plan which are al-
17 locable to rollover contributions to which
18 section 402(c), 403(a)(4), or 403(b)(8) ap-
19 plied.

20 “(ii) CONTRIBUTION PERIOD.—For
21 purposes of subparagraph (A), amounts
22 shall be treated as having been held by a
23 plan during any period such contributions
24 were held (or are treated as held under

1 this clause) by any individual retirement
2 plan from which transferred.

3 “(D) SPECIAL ACCOUNTS.—For rules ap-
4 plicable to special individual retirement ac-
5 counts under section 408A, see paragraph (8).”

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to contributions (and earnings allo-
8 cable thereto) which are made after December 31, 1995.

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