

105TH CONGRESS  
1ST SESSION

# H. R. 1627

To amend the Internal Revenue Code of 1986 to provide tax incentives  
for higher education.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 1997

Mrs. JOHNSON of Connecticut (for herself, Mr. SHAYS, Mr. CAMP, Mr. ENGLISH of Pennsylvania, and Mr. MCCRERY) 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 provide  
tax incentives for higher education.

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 “Higher Education Access and Affordability Act of 1997”.

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 **SEC. 2. MODIFICATIONS OF TAX TREATMENT OF QUALI-**  
4 **FIED STATE TUITION PROGRAMS.**

5 (a) EXCLUSION OF DISTRIBUTIONS USED FOR EDU-  
6 CATIONAL PURPOSES.—Subparagraph (B) of section  
7 529(c)(3) is amended to read as follows:

8 “(B) DISTRIBUTIONS FOR QUALIFIED  
9 HIGHER EDUCATION EXPENSES.—Subpara-  
10 graph (A) shall not apply to any distribution to  
11 the extent—

12 “(i) the distribution is used exclusively  
13 to pay qualified higher education expenses  
14 of the distributee, or

15 “(ii) the distribution consists of pro-  
16 viding a benefit to the distributee which, if  
17 paid for by the distributee, would con-  
18 stitute payment of a qualified higher edu-  
19 cation expense.”

20 (b) QUALIFIED HIGHER EDUCATION EXPENSES TO  
21 INCLUDE ROOM AND BOARD.—Section 529(e)(3) is  
22 amended to read as follows:

23 “(3) QUALIFIED HIGHER EDUCATION EX-  
24 PENSES.—The term ‘qualified higher education ex-  
25 penses’ means the cost of attendance (within the

1 meaning of section 472 of the Higher Education Act  
2 of 1965 (20 U.S.C. 10871), as in effect on the date  
3 of the enactment of the Higher Education Access  
4 and Affordability Act of 1997) of a designated bene-  
5 ficiary at an eligible educational institution (as de-  
6 fined in section 135(c)(3)).”

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 1996.

10 **SEC. 3. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE**  
11 **PROGRAMS.**

12 (a) PERMANENT EXTENSION.—Section 127 (relating  
13 to exclusion for educational assistance programs) is  
14 amended by striking subsection (d) and by redesignating  
15 subsection (e) as subsection (d).

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall apply to taxable years beginning after  
18 December 31, 1996.

19 **SEC. 4. DEDUCTION FOR INTEREST ON EDUCATION LOANS.**

20 (a) IN GENERAL.—Part VII of subchapter B of chap-  
21 ter 1 (relating to additional itemized deductions for indi-  
22 viduals) is amended by redesignating section 221 as sec-  
23 tion 222 and by inserting after section 220 the following  
24 new section:

1 **“SEC. 221. INTEREST ON EDUCATION LOANS.**

2       “(a) ALLOWANCE OF DEDUCTION.—In the case of an  
3 individual, there shall be allowed as a deduction for the  
4 taxable year an amount equal to the interest paid by the  
5 taxpayer during the taxable year on any qualified edu-  
6 cation loan.

7       “(b) MAXIMUM DEDUCTION.—

8               “(1) IN GENERAL.—Except as provided in para-  
9 graph (2), the deduction allowed by subsection (a)  
10 for the taxable year shall not exceed \$2,500.

11               “(2) LIMITATION BASED ON MODIFIED AD-  
12 JUSTED GROSS INCOME.—

13                       “(A) IN GENERAL.—If the modified ad-  
14 justed gross income of the taxpayer for the tax-  
15 able year exceeds \$45,000 (\$65,000 in the case  
16 of a joint return), the amount which would (but  
17 for this paragraph) be allowable as a deduction  
18 under this section shall be reduced (but not  
19 below zero) by the amount which bears the  
20 same ratio to the amount which would be so al-  
21 lowable as such excess bears to \$20,000.

22                       “(B) MODIFIED ADJUSTED GROSS IN-  
23 COME.—The term ‘modified adjusted gross in-  
24 come’ means adjusted gross income deter-  
25 mined—

1 “(i) without regard to this section and  
2 sections 135, 911, 931, and 933, and

3 “(ii) after application of sections 86,  
4 219, and 469.

5 For purposes of sections 86, 135, 219, and  
6 469, adjusted gross income shall be determined  
7 without regard to the deduction allowed under  
8 this section.

9 “(C) INFLATION ADJUSTMENT.—In the  
10 case of any taxable year beginning after 1997,  
11 the \$45,000 and \$65,000 amounts referred to  
12 in subparagraph (A) shall be increased by an  
13 amount equal to—

14 “(i) such dollar amount, multiplied by

15 “(ii) the cost-of-living adjustment de-  
16 termined under section 1(f)(3) for the cal-  
17 endar year in which the taxable year be-  
18 gins, by substituting ‘1996’ for ‘1992’.

19 “(D) ROUNDING.—If any amount as ad-  
20 justed under subparagraph (C) is not a multiple  
21 of \$50, such amount shall be rounded to the  
22 nearest multiple of \$50.

23 “(e) DEPENDENTS NOT ELIGIBLE FOR DEDUC-  
24 TION.—No deduction shall be allowed by this section to  
25 an individual for the taxable year if a deduction under sec-

1 tion 151 with respect to such individual is allowed to an-  
2 other taxpayer for the taxable year beginning in the cal-  
3 endar year in which such individual's taxable year begins.

4 “(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A  
5 deduction shall be allowed under this section only with re-  
6 spect to interest paid on any qualified education loan dur-  
7 ing the first 60 months (whether or not consecutive) in  
8 which interest payments are required. For purposes of this  
9 paragraph, any loan and all refinancings of such loan shall  
10 be treated as 1 loan.

11 “(e) DEFINITIONS.—For purposes of this section—

12 “(1) QUALIFIED EDUCATION LOAN.—The term  
13 ‘qualified education loan’ means any indebtedness  
14 incurred to pay qualified higher education ex-  
15 penses—

16 “(A) which are incurred on behalf of the  
17 taxpayer, the taxpayer's spouse, or any depend-  
18 ent of the taxpayer as of the time the indebted-  
19 ness was incurred,

20 “(B) which are paid or incurred within a  
21 reasonable period of time before or after the in-  
22 debtedness is incurred, and

23 “(C) which are attributable to education  
24 furnished during a period during which the re-  
25 cipient was at least a half-time student.

1 Such term includes indebtedness used to refinance  
2 indebtedness which qualifies as a qualified education  
3 loan. The term ‘qualified education loan’ shall not  
4 include any indebtedness owed to a person who is re-  
5 lated (within the meaning of section 267(b) or  
6 707(b)(1)) to the taxpayer.

7 “(2) QUALIFIED HIGHER EDUCATION EX-  
8 PENSES.—The term ‘qualified higher education ex-  
9 penses’ means the cost of attendance (as defined in  
10 section 472 of the Higher Education Act of 1965,  
11 20 U.S.C. 1087ll, as in effect on the day before the  
12 date of the enactment of the Higher Education Ac-  
13 cess and Affordability Act of 1997) at an eligible  
14 educational institution, reduced by the sum of—

15 “(A) the amount excluded from gross in-  
16 come under section 135 by reason of such ex-  
17 penses,

18 “(B) the amount of the reduction de-  
19 scribed in section 135(d)(1), and

20 “(C) the amount distributed from an indi-  
21 vidual retirement plan if no penalty is imposed  
22 by section 72(t) on such amount by reason of  
23 such expenses.

24 For purposes of the preceding sentence, the term ‘el-  
25 ible educational institution’ has the same meaning

1 given such term by section 135(c)(3), except that  
2 such term shall also include an institution conduct-  
3 ing an internship or residency program leading to a  
4 degree or certificate awarded by an institution of  
5 higher education, a hospital, or a health care facility  
6 which offers postgraduate training.

7 “(3) HALF-TIME STUDENT.—The term ‘half-  
8 time student’ means any individual who would be a  
9 student as defined in section 151(c)(4) if ‘half-time’  
10 were substituted for ‘full-time’ each place it appears  
11 in such section.

12 “(4) DEPENDENT.—The term ‘dependent’ has  
13 the meaning given such term by section 152.

14 “(f) SPECIAL RULES.—

15 “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-  
16 tion shall be allowed under this section for any  
17 amount for which a deduction is allowable under any  
18 other provision of this chapter.

19 “(2) CERTAIN RULES TO APPLY.—Rules similar  
20 to the rules of subsections (d) and (e) of section 32  
21 shall apply for purposes of this section.”

22 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-  
23 PAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
24 of section 62 is amended by inserting after paragraph (16)  
25 the following new paragraph:

1           “(17) INTEREST ON EDUCATION LOANS.—The  
2 deduction allowed by section 221.”

3           (c) REPORTING REQUIREMENT.—

4           (1) IN GENERAL.—Subpart B of part III of  
5 subchapter A of chapter 61 (relating to information  
6 concerning transactions with other persons) is  
7 amended by inserting after section 6050R the fol-  
8 lowing new section:

9           **“SEC. 6050S. RETURNS RELATING TO EDUCATION LOAN IN-**  
10                           **TEREST RECEIVED IN TRADE OR BUSINESS**  
11                           **FROM INDIVIDUALS.**

12           “(a) EDUCATION LOAN INTEREST OF \$600 OR  
13 MORE.—Any person—

14                   “(1) who is engaged in a trade or business, and

15                   “(2) who, in the course of such trade or busi-  
16 ness, receives from any individual interest aggregat-  
17 ing \$600 or more for any calendar year on 1 or  
18 more qualified education loans,

19 shall make the return described in subsection (b) with re-  
20 spect to each individual from whom such interest was re-  
21 ceived at such time as the Secretary may by regulations  
22 prescribe.

23           “(b) FORM AND MANNER OF RETURNS.—A return  
24 is described in this subsection if such return—

1           “(1) is in such form as the Secretary may pre-  
2       scribe,

3           “(2) contains—

4               “(A) the name, address, and TIN of the  
5       individual from whom the interest described in  
6       subsection (a)(2) was received,

7               “(B) the amount of such interest received  
8       for the calendar year, and

9               “(C) such other information as the Sec-  
10      retary may prescribe.

11      “(c) APPLICATION TO GOVERNMENTAL UNITS.—For  
12     purposes of subsection (a)—

13           “(1) TREATED AS PERSONS.—The term ‘per-  
14     son’ includes any governmental unit (and any agency  
15     or instrumentality thereof).

16           “(2) SPECIAL RULES.—In the case of a govern-  
17     mental unit or any agency or instrumentality there-  
18     of—

19               “(A) subsection (a) shall be applied with-  
20     out regard to the trade or business requirement  
21     contained therein, and

22               “(B) any return required under subsection  
23     (a) shall be made by the officer or employee ap-  
24     propriately designated for the purpose of mak-  
25     ing such return.

1       “(d) STATEMENTS TO BE FURNISHED TO INDIVID-  
2 UALS WITH RESPECT TO WHOM INFORMATION IS RE-  
3 QUIRED.—Every person required to make a return under  
4 subsection (a) shall furnish to each individual whose name  
5 is required to be set forth in such return a written state-  
6 ment showing—

7               “(1) the name and address of the person re-  
8 quired to make such return and the phone number  
9 of the information contract of such person, and

10               “(2) the aggregate amount of interest described  
11 in subsection (a)(2) received by the person required  
12 to make such return from the individual to whom  
13 the statement is required to be furnished.

14 The written statement required under the preceding sen-  
15 tence shall be furnished on or before January 31 of the  
16 year following the calendar year for which the return  
17 under subsection (a) was required to be made.

18       “(e) QUALIFIED EDUCATION LOAN DEFINED.—For  
19 purposes of this section, except as provided in regulations  
20 prescribed by the Secretary, the term ‘qualified education  
21 loan’ has the meaning given such term by section  
22 221(e)(1).

23       “(f) RETURNS WHICH WOULD BE REQUIRED TO BE  
24 MADE BY 2 OR MORE PERSONS.—Except to the extent  
25 provided in regulations prescribed by the Secretary, in the

1 case of interest received by any person on behalf of an-  
2 other person, only the person first receiving such interest  
3 shall be required to make the return under subsection  
4 (a).”.

5 (2) ASSESSABLE PENALTIES.—Section 6724(d)  
6 (relating to definitions) is amended—

7 (A) in paragraph (1)(B), by redesignating  
8 clauses (x) through (xv) as clauses (xi) through  
9 (xvi), respectively, and by inserting after clause  
10 (ix) the following new clause:

11 “(x) section 6050S (relating to re-  
12 turns relating to education loan interest re-  
13 ceived in trade or business from individ-  
14 uals),”, and

15 (B) in paragraph (2), by striking “or” at  
16 the end of the next to last subparagraph, by  
17 striking the period at the end of the last sub-  
18 paragraph and inserting “, or”, and by adding  
19 at the end the following new subparagraph:

20 “(Z) section 6050S(d) (relating to returns  
21 relating to education loan interest received in  
22 trade or business from individuals).”

23 (d) CLERICAL AMENDMENT.—The table of sections  
24 for part VII of subchapter B of chapter 1 is amended by

1 striking the last item and inserting the following new  
2 items:

“Sec. 221. Interest on education loans.  
“Sec. 222. Cross reference.”.

3 (e) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to any qualified education loan (as  
5 defined in section 221(e)(1) of the Internal Revenue Code  
6 of 1986, as added by this section) incurred on, before, or  
7 after the date of the enactment of this Act, but only with  
8 respect to any loan interest payment due after December  
9 31, 1996.

10 **SEC. 5. PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL**  
11 **RETIREMENT PLANS FOR HIGHER EDU-**  
12 **CATION EXPENSES.**

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

18 “(E) **DISTRIBUTIONS FROM INDIVIDUAL**  
19 **RETIREMENT PLANS FOR HIGHER EDUCATION**  
20 **EXPENSES.**—Distributions to an individual  
21 from an individual retirement plan to the extent  
22 such distributions do not exceed the qualified  
23 higher education expenses (as defined in para-

1 graph (7)) of the taxpayer for the taxable  
2 year.”

3 (b) QUALIFIED HIGHER EDUCATION EXPENSES.—

4 Section 72(t) is amended by adding at the end the follow-  
5 ing new paragraph:

6 “(7) QUALIFIED HIGHER EDUCATION EX-  
7 PENSES.—For purposes of paragraph (2)(E)—

8 “(A) IN GENERAL.—The term ‘qualified  
9 higher education expenses’ means the cost of  
10 attendance (as defined in section 472 of the  
11 Higher Education Act of 1965, 20 U.S.C.  
12 10871l, as in effect on the day before the date  
13 of the enactment of the Higher Education Ac-  
14 cess and Affordability Act of 1997) of—

15 “(i) the taxpayer,

16 “(ii) the taxpayer’s spouse, or

17 “(iii) any child (as defined in section  
18 151(e)(3)), grandchild, or ancestor of the  
19 taxpayer or the taxpayer’s spouse,

20 at an eligible educational institution (as defined  
21 in section 135(c)(3)).

22 “(B) COORDINATION WITH OTHER PROVI-  
23 SIONS.—The amount of qualified higher edu-  
24 cation expenses for any taxable year shall be re-  
25 duced by the sum of—

1                   “(i) the amount excluded from gross  
2                   income under section 135 by reason of  
3                   such expenses, and

4                   “(ii) the amount of the reduction de-  
5                   scribed in section 135(d)(1).”

6           (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to distributions after the date of  
8 the enactment of this Act.

9   **SEC. 6. EDUCATION INVESTMENT ACCOUNTS.**

10       (a) IN GENERAL.—Part VIII of subchapter F of  
11 chapter 1 (relating to qualified State tuition programs)  
12 is amended by adding at the end the following new section:

13   **“SEC. 530. EDUCATION INVESTMENT ACCOUNTS.**

14       “(a) GENERAL RULE.—An education investment ac-  
15 count shall be exempt from taxation under this subtitle.  
16 Notwithstanding the preceding sentence, the education in-  
17 vestment account shall be subject to the taxes imposed by  
18 section 511 (relating to imposition of tax on unrelated  
19 business income of charitable organizations).

20       “(b) LIMITATIONS ON ACCOUNTS.—

21               “(1) ACCOUNT MAY NOT BE ESTABLISHED FOR  
22               BENEFIT OF MORE THAN 1 INDIVIDUAL.—An edu-  
23               cation investment account may not be established for  
24               the benefit of more than 1 individual.

1           “(2) SPECIAL RULE WHERE MORE THAN 1 AC-  
2           COUNT.—If, at any time during a calendar year, 2  
3           or more education investment accounts are main-  
4           tained for the benefit of an individual, only the ac-  
5           count first established shall be treated as an edu-  
6           cation investment account for purposes of this sec-  
7           tion. This paragraph shall not apply to the extent  
8           more than 1 account exists solely by reason of a roll-  
9           over contribution.

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

12                 “(1) EDUCATION INVESTMENT ACCOUNT.—The  
13                 term ‘education investment account’ means a trust  
14                 created or organized in the United States exclusively  
15                 for the purpose of paying the qualified higher edu-  
16                 cation expenses of the account holder, but only if the  
17                 written governing instrument creating the trust  
18                 meets the following requirements:

19                         “(A) No contribution will be accepted—

20                                 “(i) unless it is in cash,

21                                 “(ii) except in the case of rollover con-  
22                                 tributions from another education invest-  
23                                 ment account, in excess of \$1,500 for any  
24                                 calendar year, and

1                   “(iii) after the date on which the ac-  
2                   count holder attains age 18.

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

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

11                  “(D) The assets of the trust shall not be  
12                  commingled with other property except in a  
13                  common trust fund or common investment  
14                  fund.

15                  “(E) Any balance in the education invest-  
16                  ment account on the day after the date on  
17                  which the account holder attains age 30 (or, if  
18                  earlier, the date on which such holder dies)  
19                  shall be distributed within 30 days of such date  
20                  to the account holder (or in the case of death,  
21                  the beneficiary).

22                  “(2) TIME WHEN CONTRIBUTIONS DEEMED  
23                  MADE.—A taxpayer shall be deemed to have made a  
24                  contribution on the last day of the preceding taxable  
25                  year if the contribution is made on account of such

1 taxable year and is made not later than the time  
2 prescribed by law for filing the return for such tax-  
3 able year (not including extensions thereof).

4 “(3) QUALIFIED HIGHER EDUCATION EX-  
5 PENSES.—

6 “(A) IN GENERAL.—The term ‘qualified  
7 higher education expenses’ has the meaning  
8 given such term by section 529(e)(3), except  
9 that such expenses shall be reduced by—

10 “(i) the amount excluded from gross  
11 income under section 135 by reason of  
12 such expenses, and

13 “(ii) the amount of the reduction de-  
14 scribed in section 135(d)(1) (other than  
15 subparagraph (E)).

16 “(B) STATE TUITION PLANS.—Such term  
17 shall include amounts paid or incurred to pur-  
18 chase tuition credits or certificates, or to make  
19 contributions to an account, under a qualified  
20 State tuition program (as defined in section  
21 529(b)).

22 “(4) ELIGIBLE EDUCATIONAL INSTITUTION.—  
23 The term ‘eligible educational institution’ has the  
24 meaning given such term by section 135(c)(3).

1           “(5) ACCOUNT HOLDER.—The term ‘account  
2 holder’ means the individual for whose benefit the  
3 education investment account is established.

4           “(d) TAX TREATMENT OF DISTRIBUTIONS.—

5           “(1) IN GENERAL.—Except as otherwise pro-  
6 vided in this subsection, any amount paid or distrib-  
7 uted out of an education investment account shall be  
8 included in gross income of the payee or distributee  
9 for the taxable year in the manner prescribed by sec-  
10 tion 72. For purposes of the preceding sentence,  
11 rules similar to the rules of section 408(d)(2) shall  
12 apply.

13           “(2) DISTRIBUTION USED TO PAY EDU-  
14 CATIONAL EXPENSES.—Paragraph (1) shall not  
15 apply to any payment or distribution out of an edu-  
16 cation investment account to the extent such pay-  
17 ment or distribution is used exclusively to pay the  
18 qualified higher education expenses of the account  
19 holder.

20           “(3) SPECIAL RULE FOR APPLYING SECTION  
21 2503.—If any payment or distribution from an edu-  
22 cation investment account is used exclusively for the  
23 payment to an eligible educational institution of the  
24 qualified higher education expenses of the account

1 holder, such payment shall be treated as a qualified  
2 transfer for purposes of section 2503(e).

3 “(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT  
4 USED FOR EDUCATIONAL EXPENSES.—

5 “(A) IN GENERAL.—The tax imposed by  
6 this chapter for any taxable year on any tax-  
7 payer who receives a payment or distribution  
8 from an education investment account which is  
9 includible in gross income under paragraph (1)  
10 shall be increased by 10 percent of the amount  
11 which is so includible.

12 “(B) EXCEPTION FOR DISABILITY, DEATH,  
13 OR SCHOLARSHIP.—Subparagraph (A) shall not  
14 apply if the payment or distribution is—

15 “(i) made on account of the death or  
16 disability of the account holder, or

17 “(ii) made on account of a scholarship  
18 (or allowance or payment described in sec-  
19 tion 135(d)(1) (B) or (C)) received by the  
20 account holder to the extent the amount of  
21 the payment or distribution does not ex-  
22 ceed the amount of the scholarship, allow-  
23 ance, or payment.

24 “(C) EXCESS CONTRIBUTIONS RETURNED  
25 BEFORE DUE DATE OF RETURN.—Subpara-

1 graph (A) shall not apply to the distribution to  
2 a contributor of any contribution paid during a  
3 taxable year to an education investment account  
4 to the extent that such contribution, when  
5 added to previous contributions to the account  
6 during the taxable year, exceeds \$1,500 if—

7 “(i) such distribution is received on or  
8 before the day prescribed by law (including  
9 extensions of time) for filing such contribu-  
10 tor’s return for such taxable year, and

11 “(ii) such distribution is accompanied  
12 by the amount of net income attributable  
13 to such excess contribution.

14 Any net income described in clause (ii) shall be  
15 included in the gross income of the contributor  
16 for the taxable year in which such excess con-  
17 tribution was made.

18 “(5) ROLLOVER CONTRIBUTIONS.—Paragraph  
19 (1) shall not apply to any amount paid or distrib-  
20 uted from an education investment account to the  
21 extent that the amount received is paid into another  
22 education investment account for the benefit of the  
23 account holder not later than the 60th day after the  
24 day on which the holder receives the payment or dis-  
25 tribution. The preceding sentence shall not apply to

1 any payment or distribution if it applied to any prior  
2 payment or distribution during the 12-month period  
3 ending on the date of the payment or distribution.

4 “(6) SPECIAL RULES FOR DEATH AND DI-  
5 VORCE.—Rules similar to the rules of section 220(f)  
6 (7) and (8) shall apply.

7 “(e) TAX TREATMENT OF ACCOUNTS.—Rules similar  
8 to the rules of paragraphs (2) and (4) of section 408(e)  
9 shall apply to any education investment account, and any  
10 amount treated as distributed under such rules shall be  
11 treated as not used to pay qualified higher education ex-  
12 penses.

13 “(f) COMMUNITY PROPERTY LAWS.—This section  
14 shall be applied without regard to any community property  
15 laws.

16 “(g) CUSTODIAL ACCOUNTS.—For purposes of this  
17 section, a custodial account shall be treated as a trust if  
18 the assets of such account are held by a bank (as defined  
19 in section 408(n)) or another person who demonstrates,  
20 to the satisfaction of the Secretary, that the manner in  
21 which he will administer the account will be consistent  
22 with the requirements of this section, and if the custodial  
23 account would, except for the fact that it is not a trust,  
24 constitute an account described in subsection (b)(1). For  
25 purposes of this title, in the case of a custodial account

1 treated as a trust by reason of the preceding sentence,  
2 the custodian of such account shall be treated as the trust-  
3 ee thereof.

4 “(h) REPORTS.—The trustee of an education invest-  
5 ment account shall make such reports regarding such ac-  
6 count to the Secretary and to the account holder with re-  
7 spect to contributions, distributions, and such other mat-  
8 ters as the Secretary may require under regulations. The  
9 reports required by this subsection shall be filed at such  
10 time and in such manner and furnished to such individuals  
11 at such time and in such manner as may be required by  
12 those regulations.”

13 (b) TAX ON PROHIBITED TRANSACTIONS.—Section  
14 4975 (relating to prohibited transactions) is amended—

15 (1) by adding at the end of subsection (c) the  
16 following new paragraph:

17 “(5) SPECIAL RULE FOR EDUCATION INVEST-  
18 MENT ACCOUNTS.—An individual for whose benefit  
19 an education investment account is established and  
20 any contributor to such account shall be exempt  
21 from the tax imposed by this section with respect to  
22 any transaction concerning such account (which  
23 would otherwise be taxable under this section) if,  
24 with respect to such transaction, the account ceases

1 to be an education investment account by reason of  
2 the application of section 530 to such account.”; and

3 (2) in subsection (e)(1), by striking “or” at the  
4 end of subparagraph (D), by redesignating subpara-  
5 graph (E) as subparagraph (F), and by inserting  
6 after subparagraph (D) the following new subpara-  
7 graph:

8 “(E) an education investment account de-  
9 scribed in section 530, or”.

10 (c) FAILURE TO PROVIDE REPORTS ON EDUCATION  
11 INVESTMENT ACCOUNTS.—Section 6693 (relating to fail-  
12 ure to provide reports on individual retirement accounts  
13 or annuities) is amended—

14 (1) by striking “**INDIVIDUAL RETIREMENT**”  
15 and inserting “**CERTAIN TAX-FAVORED**” in the  
16 heading of such section, and

17 (2) in subsection (a)(2), by striking “and” at  
18 the end of subparagraph (A), by striking the period  
19 at the end of subparagraph (B) and inserting “,  
20 and”, and by adding at the end the following new  
21 subparagraph:

22 “(C) section 530(h) (relating to education  
23 investment accounts).”

24 (d) COORDINATION WITH SAVINGS BOND EXCLU-  
25 SION.—Section 135(d)(1) is amended by striking “or” at



1       (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1996.

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