

Calendar No. 227

105TH CONGRESS
1ST Session

H. R. 2646

AN ACT

To amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses; to increase the maximum annual amount of contributions to such accounts, and for other purposes.

OCTOBER 27, 1997

Read the second time and placed on the calendar

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105TH CONGRESS
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H. R. 2646

IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 1997

Received and read the first time

OCTOBER 27, 1997

Read the second time and placed on the calendar

AN ACT

To amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such 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.**

4 This Act may be cited as the “Education Savings Act
5 for Public and Private Schools”.

6 **SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**
7 **TIREMENT ACCOUNTS.**

8 (a) **TAX-FREE EXPENDITURES FOR ELEMENTARY**
9 **AND SECONDARY SCHOOL EXPENSES.—**

10 (1) **IN GENERAL.—**Section 530(b)(2) of the In-
11 ternal Revenue Code of 1986 is amended to read as
12 follows:

13 “(2) **QUALIFIED EDUCATION EXPENSES.—**

14 “(A) **IN GENERAL.—**The term ‘qualified
15 education expenses’ means—

16 “(i) qualified higher education ex-
17 penses (as defined in section 529(e)(3)),
18 and

19 “(ii) qualified elementary and second-
20 ary education expenses (as defined in para-
21 graph (4)) but only with respect to
22 amounts in the account which are attrib-
23 utable to contributions for any taxable year
24 ending before January 1, 2003, and earn-
25 ings on such contributions.

1 Such expenses shall be reduced as provided in
2 section 25A(g)(2).

3 “(B) QUALIFIED STATE TUITION PRO-
4 GRAMS.—Such term shall include amounts paid
5 or incurred to purchase tuition credits or cer-
6 tificates, or to make contributions to an ac-
7 count, under a qualified State tuition program
8 (as defined in section 529(b)) for the benefit of
9 the beneficiary of the account.”.

10 (2) QUALIFIED ELEMENTARY AND SECONDARY
11 EDUCATION EXPENSES.—Section 530(b) of such
12 Code is amended by adding at the end the following
13 new paragraph:

14 “(4) QUALIFIED ELEMENTARY AND SECONDARY
15 EDUCATION EXPENSES.—

16 “(A) IN GENERAL.—The term ‘qualified el-
17 ementary and secondary education expenses’
18 means tuition, fees, tutoring, special needs serv-
19 ices, books, supplies, computer equipment (in-
20 cluding related software and services) and other
21 equipment, transportation, and supplementary
22 expenses required for the enrollment or attend-
23 ance of the designated beneficiary of the trust
24 at a public, private, or religious school.

1 “(B) SPECIAL RULE FOR HOME-
2 SCHOOLING.—Such term shall include expenses
3 described in subparagraph (A) required for edu-
4 cation provided for homeschooling if the re-
5 quirements of any applicable State or local law
6 are met with respect to such education.

7 “(C) SCHOOL.—The term ‘school’ means
8 any school which provides elementary education
9 or secondary education (through grade 12), as
10 determined under State law.”.

11 (3) CONFORMING AMENDMENTS.—Subsections
12 (b)(1) and (d)(2) of section 530 of such Code are
13 each amended by striking “higher” each place it ap-
14 pears in the text and heading thereof.

15 (b) TEMPORARY INCREASE IN MAXIMUM ANNUAL
16 CONTRIBUTIONS.—

17 (1) IN GENERAL.—Section 530(b)(1)(A)(iii) of
18 the Internal Revenue Code of 1986 is amended by
19 striking “\$500” and inserting “the contribution
20 limit for such taxable year”.

21 (2) CONTRIBUTION LIMIT.—Section 530(b) of
22 such Code is amended by adding at the end the fol-
23 lowing new paragraph:

1 “(4) CONTRIBUTION LIMIT.—The term ‘con-
2 tribution limit’ means \$2,500 (\$500 in the case of
3 any taxable year ending after December 31, 2002).”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) Section 530(d)(4)(C) of such Code is
6 amended by striking “\$500” and inserting “the
7 contribution limit for such taxable year”.

8 (B) Section 4973(e)(1)(A) of such Code is
9 amended by striking “\$500” and inserting “the
10 contribution limit (as defined in section
11 530(b)(4)) for such taxable year”.

12 (c) WAIVER OF AGE LIMITATIONS FOR CHILDREN
13 WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b)
14 of the Internal Revenue Code of 1986 is amended by add-
15 ing at the end the following flush sentence:

16 “The age limitations in the preceding sentence shall
17 not apply to any designated beneficiary with special
18 needs (as determined under regulations prescribed
19 by the Secretary).”.

20 (d) CORPORATIONS PERMITTED TO CONTRIBUTE TO
21 ACCOUNTS.—Paragraph (1) of section 530(c) of the Inter-
22 nal Revenue Code of 1986 is amended by striking “The
23 maximum amount which a contributor” and inserting “In
24 the case of a contributor who is an individual, the maxi-
25 mum amount the contributor”.

1 (e) EFFECTIVE DATE; REFERENCES.—

2 (1) EFFECTIVE DATE.—The amendments made
3 by this section shall take effect as if included in the
4 amendments made by section 213 of the Taxpayer
5 Relief Act of 1997.

6 (2) REFERENCES.—Any reference in this sec-
7 tion to any section of the Internal Revenue Code of
8 1986 shall be a reference to such section as added
9 by the Taxpayer Relief Act of 1997.

10 **SEC. 3. OVERRULING OF SCHMIDT BAKING COMPANY CASE.**

11 (a) IN GENERAL.—The Internal Revenue Code of
12 1986 shall be applied without regard to the result reached
13 in the case of Schmidt Baking Company, Inc. v. Commis-
14 sioner of Internal Revenue, 107 T.C. 271 (1996).

15 (b) REGULATIONS.—The Secretary of the Treasury
16 or the Secretary's delegate shall prescribe regulations to
17 reflect subsection (a).

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Subsections (a) and (b) shall
20 apply to taxable years ending after October 8, 1997.

21 (2) CHANGE IN METHOD OF ACCOUNTING.—In
22 the case of any taxpayer required by this section to
23 change its method of accounting for its first taxable
24 year ending after October 8, 1997—

1 (A) such change shall be treated as initi-
2 ated by the taxpayer,

3 (B) such change shall be treated as made
4 with the consent of the Secretary of the Treas-
5 ury, and

6 (C) the net amount of the adjustments re-
7 quired to be taken into account by the taxpayer
8 under section 481 of the Internal Revenue Code
9 of 1986 shall be taken into account in such first
10 taxable year.

 Passed the House of Representatives October 23,
1997.

Attest:

ROBIN H. CARLE,

Clerk.