

110th CONGRESS
2d Session
H. R. 6036

To amend the Internal Revenue Code of 1986 to establish lifelong learning accounts to provide an incentive to save for education.

IN THE HOUSE OF REPRESENTATIVES

May 13, 2008

Mr. EMANUEL (for himself and Mr. RAMSTAD) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to establish lifelong learning accounts to provide an incentive to save for education.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Lifelong Learning Accounts Act of 2008'.

SEC. 2. LIFELONG LEARNING ACCOUNTS.

(a) In General- Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

' SEC. 36. CONTRIBUTIONS TO LIFELONG LEARNING ACCOUNTS.

˘ (a) Credit Allowed- In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the contributions (other than rollover contributions described in subsection (e)(5)) paid in cash during such taxable year by or on behalf of such individual to a lifelong learning account of such individual.

˘ (b) Limitations and Definitions Related to Allowance of Credit-

˘ (1) DOLLAR LIMITATION- The amount of contributions taken into account under subsection (a) with respect to any eligible individual for any taxable year shall not exceed the lesser of--

˘ (A) \$2,500, or

˘ (B) an amount equal to the compensation (as defined in section 219(f)(1)) includible in the individual's gross income for such taxable year.

˘ (2) LIMITATIONS BASED ON MODIFIED ADJUSTED GROSS INCOME-

˘ (A) PHASEOUT OF DOLLAR LIMITATION BASED ON ACCOUNT BENEFICIARY'S MODIFIED ADJUSTED GROSS INCOME- The \$2,500 amount contained in paragraph (1)(A) shall be reduced (but not below zero) by the account beneficiary's reduction amount.

˘ (B) PER CONTRIBUTOR LIMITATION BASED ON CONTRIBUTOR'S MODIFIED ADJUSTED GROSS INCOME- In the case of a contributor who is an individual (other than an employer of the account beneficiary), the aggregate amount of the contributions of such contributor which may be taken into account under subsection (a) with respect to any eligible individual for any taxable year shall not exceed the excess (if any) of \$2,500 over such contributor's reduction amount.

˘ (C) ACCOUNT BENEFICIARY'S REDUCTION AMOUNT- For purposes of subparagraph (A), the account beneficiary's reduction amount is the amount which bears the same ratio to \$2,500 as--

˘ (i) the excess of--

˘ (I) the account beneficiary's modified adjusted gross income for such taxable year, over

˘ (II) \$100,000 (twice such amount in the case of a joint return), bears to

^ (ii) \$20,000 (twice such amount in the case of a joint return).

For purposes of the preceding sentence, the term ^ 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

^ (D) CONTRIBUTOR'S REDUCTION AMOUNT- For purposes of subparagraph (B), the contributor's reduction amount is the amount that would be determined under subparagraph (C) if ^ 'contributor' were substituted for ^ 'account beneficiary' each place it appears therein.

^ (E) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING A SEPARATE RETURN- In the case of a married individual filing a separate return, subparagraph (C)(i)(II) shall be applied by substituting ^ 'zero' for the dollar amount therein.

^ (3) TREATMENT OF EMPLOYER CONTRIBUTIONS-

^ (A) EXCLUSION FROM GROSS INCOME- Gross income shall not include any contribution to a lifelong learning account made by an employer of the account beneficiary to the extent that the aggregate amount of such contributions made during the taxable year does not exceed the limitation in effect under paragraph (1) (determined without regard to subparagraph (B) of this paragraph) for such taxable year with respect to such beneficiary.

^ (B) COORDINATION WITH CREDIT- The limitation which would (but for this subparagraph) apply under paragraph (1) with respect to the eligible individual for any taxable year shall be reduced (but not below zero) by the aggregate amount contributed to lifelong learning accounts of such individual which is excludable from the taxpayer's gross income for such taxable year under subparagraph (A) (and such amount shall not be taken into account in determining the credit under subsection (a)).

^ (4) APPLICABLE PERCENTAGE- For purposes of this section, the term ^ 'applicable percentage' means--

^ (A) 50 percent with respect to the first \$500 of contributions taken into account under subsection (a) with respect to any eligible individual for any taxable year, and

˘ (B) books, supplies, equipment, tools, and information technology devices, required for such course or education.

Such term shall not include amounts paid for any course or other education involving sports, games, or hobbies.

˘ (3) ACCOUNT BENEFICIARY- The term 'account beneficiary' means the individual on whose behalf the lifelong learning account was established.

˘ (4) CERTAIN RULES TO APPLY- Rules similar to the following rules shall apply for purposes of this section:

˘ (A) Section 219(f)(3) (relating to time when contributions deemed made).

˘ (B) Section 408(g) (relating to community property laws).

˘ (C) Section 408(h) (relating to custodial accounts).

˘ (d) Tax Treatment of Accounts-

˘ (1) IN GENERAL- A lifelong learning account is exempt from taxation under this subtitle unless such account has ceased to be a lifelong learning account. Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

˘ (2) ACCOUNT TERMINATIONS- Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to lifelong learning accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified education expenses.

˘ (e) Tax Treatment of Distributions-

˘ (1) INCLUSION IN GROSS INCOME- Any amount distributed out of a lifelong learning account shall be included in gross income by the distributee.

˘ (2) ADDITIONAL TAX-

˘ (A) IN GENERAL- Except as otherwise provided in this subsection, the tax imposed by this chapter on the account beneficiary for any taxable year in which there is a nonqualified distribution from a lifelong learning account shall be increased by 10 percent of the amount of such distribution.

˘ (B) EXCEPTIONS- Subparagraph (A) shall not apply if the distribution is made after the account beneficiary dies, becomes disabled (within the meaning of section 72(m)(7)), or has attained age 70.

ˆ (3) NONQUALIFIED DISTRIBUTION- For purposes of this section, the term `nonqualified distribution' means the excess (if any) of--

ˆ (A) the aggregate distributions from the account during the taxable year, over

ˆ (B) the qualified education expenses of the account beneficiary for the taxable year.

ˆ (4) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN-

ˆ (A) IN GENERAL- If any excess contribution is contributed for a taxable year to any lifelong learning account of an individual, paragraphs (1) and (2) shall not apply to distributions from the lifelong learning accounts of such individual (to the extent such distributions do not exceed the aggregate excess contributions to all such accounts of such individual for such year) if--

ˆ (i) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

ˆ (ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in the gross income of the individual for the taxable year in which it is received.

ˆ (B) EXCESS CONTRIBUTION- For purposes of subparagraph (A), the term `excess contribution' means any contribution (other than a rollover contribution described in paragraph (6)) which is not taken into account for purposes of determining the credit allowed under subsection (a) or the amount excludable from the taxpayer's gross income under subsection (b)(3).

ˆ (5) ROLLOVER CONTRIBUTION- An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

ˆ (A) IN GENERAL- Paragraphs (1) and (2) shall not apply to any amount paid or distributed from a lifelong learning account to the account beneficiary to the extent the amount received is paid into a lifelong learning account for the benefit of such

beneficiary not later than the 60th day after the day on which the beneficiary receives the payment or distribution.

` (B) LIMITATION- This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a lifelong learning account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a lifelong learning account to which paragraphs (1) and (2) did not apply by reason of the application of this paragraph.

` (6) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE- The transfer of an individual's interest in a lifelong learning account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a lifelong learning account with respect to which such spouse is the account beneficiary.

` (7) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY-

` (A) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE- If the account beneficiary's surviving spouse acquires such beneficiary's interest in a lifelong learning account by reason of being the designated beneficiary of such account at the death of the account beneficiary, such lifelong learning account shall be treated as if the spouse were the account beneficiary.

` (B) OTHER CASES-

` (i) IN GENERAL- If, by reason of the death of the account beneficiary, any person acquires the account beneficiary's interest in a lifelong learning account in a case to which subparagraph (A) does not apply--

` (I) such account shall cease to be a lifelong learning account as of the date of death, and

` (II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such

person is not the estate of such beneficiary, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such beneficiary, in such beneficiary's gross income for the last taxable year of such beneficiary.

` (ii) DEDUCTION FOR ESTATE TAXES- An appropriate deduction shall be allowed under section 691(c) to any person (other than the decedent or the decedent's spouse) with respect to amounts included in gross income under clause (i) by such person.

` (f) Reports- The trustee of a lifelong learning account shall make such reports regarding such account to the Secretary and to the account beneficiary with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.'

(b) Tax on Excess Contributions- Section 4973 of the Internal Revenue Code of 1986 is amended--

(1) by striking `or' at the end of subsection (a)(4), by inserting `or' at the end of subsection (a)(5), and by inserting after subsection (a)(5) the following new paragraph:

` (6) a lifelong learning account (within the meaning of section 36(c)),', and

(2) by adding at the end the following new subsection:

` (h) Excess Contributions to Lifelong Learning Accounts- For purposes of this section, in the case of lifelong learning accounts (within the meaning of section 36(c)), the term `excess contributions' means the sum of--

` (1) the aggregate amount contributed for the taxable year to the accounts (other than rollover contributions described in section 36(e)(5)) which is not taken into account for purposes of determining the credit allowed under section 36(a) or the amount excludable from the taxpayer's gross income under section 36(b)(3), and

` (2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of--

- ˆ (A) the distributions out of the accounts with respect to which additional tax was imposed under section 36(e)(2)(A) for the taxable year, and
- ˆ (B) the excess (if any) of--
 - ˆ (i) the maximum amount of contributions which may be taken into account under section 36(a) for the taxable year, over
 - ˆ (ii) the amount contributed to the accounts for the taxable year.

For purposes of this subsection, any contribution which is distributed out of the lifelong learning account in a distribution to which section 36(e)(5) applies shall be treated as an amount not contributed.'

(c) Tax on Prohibited Transactions-

(1) Paragraph (1) of section 4975(e) of the Internal Revenue Code of 1986 (relating to prohibited transactions) is amended by redesignating subparagraph (G) as subparagraph (H), by striking `or' at the end of subparagraph (F), and by inserting after subparagraph (F) the following new subparagraph:

- ˆ (G) a lifelong learning account described in section 36(c), or'.

(2) Subsection (c) of section 4975 of such Code is amended by adding at the end the following new paragraph:

ˆ (7) SPECIAL RULE FOR LIFELONG LEARNING ACCOUNTS- An individual for whose benefit a lifelong learning account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a lifelong learning account by reason of the application of section 36(d)(2) to such account.'

(d) Failure To Provide Reports on Lifelong Learning Accounts- Paragraph (2) of section 6693(a) of the Internal Revenue Code of 1986 is amended by striking `and' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

- ˆ (E) section 36(f) (relating to lifelong learning accounts), and'.

(e) Exclusion From Employment Taxes-

(1) FEDERAL INSURANCE CONTRIBUTIONS ACT- Subsection (a) of section 3121 of the Internal Revenue Code of 1986 is amended by striking `or' at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting `; or', and by inserting after paragraph (22) the following new paragraph:
` (23) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 36(b)(3).'

(2) RAILROAD RETIREMENT TAX- Subsection (e) of section 3231 of such Code is amended by adding at the end the following new paragraph:
` (13) LEARNING ACCOUNT CONTRIBUTIONS- The term `compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 36(b)(3).'

(3) UNEMPLOYMENT TAX- Subsection (b) of section 3306 of such Code is amended by striking `or' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting `; or', and by inserting after paragraph (19) the following new paragraph:
` (20) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 36(b)(3).'

(4) WITHHOLDING TAX- Subsection (a) of section 3401 of such Code is amended by striking `or' at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting `; or', and by inserting after paragraph (22) the following new paragraph:
` (23) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 36(b)(3).'

(5) EMPLOYER CONTRIBUTIONS REQUIRED TO BE SHOWN ON W-2- Subsection (a) of section 6051 of such Code is amended by striking `and' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting `, and', and by inserting after paragraph (13) the following new paragraph:

` (14) the amount contributed to any learning account (as defined in section 224) on behalf of such employee.'

(6) SOCIAL SECURITY TRUST FUNDS HELD HARMLESS- There is hereby appropriated (out of any money in the Treasury not otherwise appropriated) for each fiscal year to each fund under the Social Security Act an amount equal to the reduction in the transfers to such fund for such fiscal year by reason of the amendment made by paragraph (1).

(f) Exemption From ERISA Requirements- Subsection (b) of section 4 of the Employee Retirement Income Security Act of 1974 is amended by striking `or' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ` ; or', and by inserting after paragraph (5) the following new paragraph:

` (6) such plan is maintained solely for the purposes of establishing, and making contributions to, lifelong learning accounts (as defined in section 36 of the Internal Revenue Code of 1986) on behalf of employees.'

(g) Conforming Amendments-

(1) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating the item relating to section 36 as an item relating to section 37 and by inserting before such item the following new item:

` Sec. 36. Contributions to lifelong learning accounts.'

(2) Section 6211(b)(4)(A) of such Code is amended by striking ` 34,' and all that follows through ` 6428' and inserting ` 34, 35, 36, 53(e), and 6428'.

(3) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ` , 36,' after ` section 35'.

(h) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 3. CREDIT FOR EMPLOYER CONTRIBUTIONS TO LIFELONG LEARNING ACCOUNTS AND ADMINISTRATIVE EXPENSES OF CERTAIN SMALL EMPLOYERS.

(a) In General- Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

` SEC. 450. LIFELONG LEARNING ACCOUNTS CREDIT.

(b) Credit Part of General Business Credit- Section 38(b) of such Code is amended by striking `and' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting `, plus', and by adding at the end the following new paragraph:

`(32) the lifelong learning accounts credit determined under section 450.'

(c) Deduction for Unused Credit- Section 196(c) of such Code is amended by striking `and' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting `, and', and by adding at the end the following new paragraph:

`(14) the lifelong learning accounts credit determined under section 450.'

(d) Clerical Amendment- The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

`Sec. 450. Lifelong learning accounts credit.'

(e) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

END