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113TH CONGRESS
2D SESSION

H. R. 3989

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for amounts contributed to disaster savings accounts to help defray the cost of preparing their homes to withstand a disaster and to repair or replace property damaged or destroyed in a disaster.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2014

Mr. ROSS 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 individuals a deduction for amounts contributed to disaster savings accounts to help defray the cost of preparing their homes to withstand a disaster and to repair or replace property damaged or destroyed in a disaster.

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 ''Disaster Savings Accounts Act of 2013''.

SEC. 2. DEDUCTION FOR CONTRIBUTIONS TO DISASTER SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

"SEC. 224. DISASTER SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an eligible individual, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid during such taxable year by or on behalf of such individual to a disaster savings account of such individual.

"(b) LIMITATION.—

"(1) IN GENERAL.—The amount allowed as a deduction under subsection (a) to an individual for the taxable year shall not exceed $5,000.

"(2) PARTIAL YEAR OF ELIGIBILITY.—In the case of an individual who is an eligible individual for only a portion of the taxable year, the limitation under paragraph (1) shall be the same proportion of $5,000 as such portion bears to the entire taxable year.

"(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual if such individual occupied any residence in the United States at any time during the taxable year.

"(d) DISASTER SAVINGS ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'disaster savings account' means a trust created or organized in the United States as a disaster savings account exclusively for the purpose of paying the qualified disaster expenses of the account beneficiary, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds the dollar limitation in effect under subsection (b).

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) QUALIFIED DISASTER EXPENSES.—The term 'qualified disaster expenses' means—

"(A) disaster mitigation expenses, and

"(B) disaster recovery expenses.

"(3) DISASTER MITIGATION EXPENSES.—The term 'disaster mitigation expenses' means expenses for any of the following with respect to the residence referred to in subsection (c):

"(A) Safe rooms.

"(B) Opening protection, including impact and wind resistant windows, exterior doors, and garage doors.

"(C) Reinforcement of roof-to-wall and floor-to-wall connections for wind or seismic activity.

"(D) Roof covering for impact, fire, or high wind resistance.

"(E) Cripple and shear walls to resist seismic activity.

"(F) Flood resistant building materials.

"(G) Elevating structures and utilities above base flood elevation.

"(H) Fire resistant exterior wall assemblies/systems.

"(I) Lightning protection systems.

"(J) Whole home standby generators.

"(K) Any activity specified by the Secretary as appropriate to mitigate the risks of future hazards (including earthquake, flood, hail, hurricane, lightning, power outage, tornado, and wildfire) and other natural disasters.

"(4) DISASTER RECOVERY EXPENSES.—The term 'disaster recovery expenses' means with respect to the residence referred to in subsection (c) any expense incurred to replace or repair disaster-related uninsured personal casualty personal losses totaling $3,000 or greater.

"(5) DISASTER-RELATED UNINSURED PERSONAL CASUALTY LOSS.—The term 'disaster-related uninsured personal casualty loss' means a personal casualty loss (as defined in section 165(h)(4)(B), determined without regard to the second sentence thereof) attributable to a State or federally declared disaster for which a deduction is allowable under section 165 (without regard to subsection (h)(1)).

"(6) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' has the meaning given such term by section 165(h)(3)(C).

"(7) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means the individual on whose behalf the disaster savings account was established.

"(e) TREATMENT OF ACCOUNT.—

"(1) IN GENERAL.—A disaster savings account is exempt from taxation under this subtitle unless such account has ceased to be a disaster savings 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 disaster savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay disaster mitigation expenses.

“(f) TAX TREATMENT OF DISTRIBUTIONS.—

“(1) AMOUNTS USED FOR DISASTER MITIGATION EXPENSES.—Any amount paid or distributed out of a disaster savings account which is used exclusively to pay qualified disaster expenses of any account beneficiary shall not be includible in gross income.

“(2) INCLUSION OF AMOUNTS NOT USED FOR DISASTER MITIGATION EXPENSES.—Any amount paid or distributed out of a disaster savings account which is not used exclusively to pay the qualified disaster expenses of the account beneficiary shall be included in the gross income of such beneficiary.

“(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—

“(A) IN GENERAL.—If any excess contribution is contributed for a taxable year to any disaster savings account of an individual, paragraph (2) shall not apply to distributions from the disaster savings 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—

"(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

"(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.

"(B) EXCESS CONTRIBUTION.—For purposes of subparagraph (A), the term 'excess contribution' means any contribution (other than a rollover contribution described in paragraph (5)) which is not deductible under this section.

"(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR DISASTER MITIGATION EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter on the account beneficiary for any taxable year in which there is a payment or distribution from a disaster savings account of such beneficiary which is includible in gross income under paragraph (2) shall be increased by 20 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

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

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a disaster savings account to the account beneficiary to the extent the amount received is paid into a disaster savings 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 disaster savings 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 disaster savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(g) COST-OF-LIVING ADJUSTMENT.—

"(1) IN GENERAL.—The $5,000 amount in subsection (b) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins determined by substituting 'calendar year 2012' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any increase under paragraph (1) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(h) SPECIAL RULES.—

"(1) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(2) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no deduction shall be allowed under this section in the case of a taxable year covering a period of less than 12 months.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(F) Section 224(f)(7) (relating to transfer of account incident to divorce).

"(G) Section 224(f)(8) (relating to treatment after death of account beneficiary).

"(4) COORDINATION WITH CASUALTY LOSS DEDUCTION.—No deduction shall be allowed under section 165 for a loss for which a disaster recovery expense payment is made from a disaster savings account.

"(i) REPORTS.—The Secretary may require the trustee of a disaster savings account to make such reports regarding such account to the Secretary and to the account beneficiary with respect to contributions, distributions, the return of excess contributions, and such other matters as the Secretary determines appropriate.".

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (21) the following new paragraph:

"(22) DISASTER SAVINGS ACCOUNTS.—The deduction allowed by section 224.".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to certain tax-favored accounts and annuities) 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 disaster savings account (within the meaning of section 224(d)),", and

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

"(h) EXCESS CONTRIBUTIONS TO DISASTER SAVINGS ACCOUNTS.—For purposes of this section, in the case of disaster savings accounts (within the meaning of section 224(d)), the term 'excess contributions' means the sum of—

"(1) the aggregate amount contributed for the taxable year to the accounts (other than a rollover contribution described in section 224(f)(5)) which is not allowable as a deduction under section 224 for such year, and

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

"(A) the distributions out of the accounts which were included in gross income under section 224(f)(2), and

"(B) the excess (if any) of—

"(i) the maximum amount allowable as a deduction under section 224(b) for the taxable year, over "(ii) the amount contributed to the accounts for the taxable year.

For purposes of this subsection, any contribution which is distributed out of the disaster savings account in a distribution to which section 224(f)(3) applies shall be treated as an amount not contributed.".

(d) FAILURE TO PROVIDE REPORTS ON DISASTER SAVINGS ACCOUNTS.—Paragraph (2) of section 6693(a) of such Code (relating to reports) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) section 224(i) (relating to disaster savings accounts),".

(e) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 224. Disaster savings accounts.
"Sec. 225. Cross reference.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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