

**Amendment to the Amendment in the Nature of a Substitute to Subtitle B. Budget
Reconciliation Legislative Recommendations Relating to Retirement
Offered by Mr. Brady of Texas**

This amendment would restore the bipartisan agreement in H.R. 2954 (117th Congress), as reported by the Committee on Ways and Means by voice vote. (The Bipartisan Retirement Options and Main Street Protection Amendment.)

AMENDMENT

OFFERED BY MR. BRADY OF TEXAS

Strike part 1 and insert the following:

1 **PART 1—EXPANDING RETIREMENT**

2 **Subpart A—Expanding Coverage and Increasing**
3 **Retirement Savings**

4 **SEC. 131101. EXPANDING AUTOMATIC ENROLLMENT IN RE-**
5 **TIREMENT PLANS.**

6 (a) IN GENERAL.—Subpart B of part I of subchapter
7 D of chapter 1 is amended by inserting after section 414
8 the following new section:

9 **“SEC. 414A. REQUIREMENTS RELATED TO AUTOMATIC EN-**
10 **ROLLMENT.**

11 “(a) IN GENERAL.—Except as otherwise provided in
12 this section—

13 “(1) an arrangement shall not be treated as a
14 qualified cash or deferred arrangement described in
15 section 401(k) unless such arrangement meets the
16 automatic enrollment requirements of subsection (b),
17 and

18 “(2) an annuity contract otherwise described in
19 section 403(b)(1) which is purchased under a salary
20 reduction agreement shall not be treated as de-

1 scribed in such section unless such agreement meets
2 the automatic enrollment requirements of subsection
3 (b).

4 “(b) AUTOMATIC ENROLLMENT REQUIREMENTS.—

5 “(1) IN GENERAL.—An arrangement or agree-
6 ment meets the requirements of this subsection if
7 such arrangement or agreement is an eligible auto-
8 matic contribution arrangement (as defined in sec-
9 tion 414(w)(3)) which meets the requirements of
10 paragraphs (2) through (4).

11 “(2) ALLOWANCE OF PERMISSIBLE WITH-
12 DRAWALS.—An eligible automatic contribution ar-
13 rangement meets the requirements of this paragraph
14 if such arrangement allows employees to make per-
15 missible withdrawals (as defined in section
16 414(w)(2)).

17 “(3) MINIMUM CONTRIBUTION PERCENTAGE.—

18 “(A) IN GENERAL.—An eligible automatic
19 contribution arrangement meets the require-
20 ments of this paragraph if—

21 “(i) the uniform percentage of com-
22 pensation contributed by the participant
23 under such arrangement during the first
24 year of participation is not less than 3 per-
25 cent and not more than 10 percent (unless

1 the participant specifically elects not to
2 have such contributions made or to have
3 such contributions made at a different per-
4 centage), and

5 “(ii) effective for the first day of each
6 plan year starting after each completed
7 year of participation under such arrange-
8 ment such uniform percentage is increased
9 by 1 percentage point (to at least 10 per-
10 cent, but not more than 15 percent) unless
11 the participant specifically elects not to
12 have such contributions made or to have
13 such contributions made at a different per-
14 centage.

15 “(B) INITIAL REDUCED CEILING FOR CER-
16 TAIN PLANS.—In the case of any arrangement
17 to which this section applies (other than an ar-
18 rangement that meets the requirements of para-
19 graph (12) or (13) of section 401(k)), for plan
20 years ending before January 1, 2025, subpara-
21 graph (A)(ii) shall be applied by substituting
22 ‘10 percent’ for ‘15 percent’.

23 “(4) INVESTMENT REQUIREMENTS.—An eligible
24 automatic contribution arrangement meets the re-
25 quirements of this paragraph if amounts contributed

1 pursuant to such arrangement, and for which no in-
2 vestment is elected by the participant, are invested
3 consistent with the requirements of section
4 2550.404c-5 of title 29, Code of Federal Regula-
5 tions (or any successor regulations).

6 “(c) EXCEPTIONS.—For purposes of this section—

7 “(1) SIMPLE PLANS.—Subsection (a) shall not
8 apply to any simple plan (within the meaning of sec-
9 tion 401(k)(11)).

10 “(2) EXCEPTION FOR PLANS OR ARRANGE-
11 MENTS ESTABLISHED BEFORE ENACTMENT OF SEC-
12 TION.—

13 “(A) IN GENERAL.—Subsection (a) shall
14 not apply to—

15 “(i) any qualified cash or deferred ar-
16 rangement established before the date of
17 the enactment of this section, or

18 “(ii) any annuity contract purchased
19 under a plan established before the date of
20 the enactment of this section.

21 “(B) POST-ENACTMENT ADOPTION OF
22 MULTIPLE EMPLOYER PLAN.—Subparagraph
23 (A) shall not apply in the case of an employer
24 adopting after such date of enactment a plan
25 maintained by more than one employer, and

1 subsection (a) shall apply with respect to such
2 employer as if such plan were a single plan.

3 “(3) EXCEPTION FOR GOVERNMENTAL AND
4 CHURCH PLANS.—Subsection (a) shall not apply to
5 any governmental plan (within the meaning of sec-
6 tion 414(d)) or any church plan (within the meaning
7 of section 414(e)).

8 “(4) EXCEPTION FOR NEW AND SMALL BUSI-
9 NESSES.—

10 “(A) NEW BUSINESS.—Subsection (a)
11 shall not apply to any qualified cash or deferred
12 arrangement, or any annuity contract pur-
13 chased under a plan, while the employer main-
14 taining such plan (and any predecessor em-
15 ployer) has been in existence for less than 3
16 years.

17 “(B) SMALL BUSINESSES.—Subsection (a)
18 shall not apply to any qualified cash or deferred
19 arrangement, any annuity contract purchased
20 under a plan, earlier than the date that is 1
21 year after the close of the first taxable year
22 with respect to which the employer maintaining
23 the plan normally employed more than 10 em-
24 ployees.

1 ‘50 employees’ for ‘100 employees’, subsection (a)
2 shall be applied by substituting ‘100 percent’ for ‘50
3 percent’.”.

4 (b) ADDITIONAL CREDIT FOR EMPLOYER CONTRIBU-
5 TIONS BY CERTAIN SMALL EMPLOYERS.—Section 45E, as
6 amended by subsection (a), is amended by adding at the
7 end the following new subsection:

8 “(f) ADDITIONAL CREDIT FOR EMPLOYER CON-
9 TRIBUTIONS BY CERTAIN ELIGIBLE EMPLOYERS.—

10 “(1) IN GENERAL.—In the case of an eligible
11 employer, the credit allowed for the taxable year
12 under subsection (a) (determined without regard to
13 this subsection) shall be increased by an amount
14 equal to the applicable percentage of employer con-
15 tributions (other than any elective deferrals (as de-
16 fined in section 402(g)(3))) by the employer to an
17 eligible employer plan (other than a defined benefit
18 plan (as defined in section 414(j))).

19 “(2) LIMITATIONS.—

20 “(A) DOLLAR LIMITATION.—The amount
21 determined under paragraph (1) (before the ap-
22 plication of subparagraph (B)) with respect to
23 any employee of the employer shall not exceed
24 \$1,000.

1 “(B) CREDIT PHASE-IN.—In the case of
 2 any eligible employer which had for the pre-
 3 ceding taxable year more than 50 employees,
 4 the amount determined under paragraph (1)
 5 (without regard to this subparagraph) shall be
 6 reduced by an amount equal to the product
 7 of—

8 “(i) the amount otherwise so deter-
 9 mined under paragraph (1), multiplied by

10 “(ii) a percentage equal to 2 percent-
 11 age points for each employee of the em-
 12 ployer for the preceding taxable year in ex-
 13 cess of 50 employees.

14 “(3) APPLICABLE PERCENTAGE.—For purposes
 15 of this section, the applicable percentage for the tax-
 16 able year during which the eligible employer plan is
 17 established with respect to the eligible employer shall
 18 be 100 percent, and for taxable years thereafter
 19 shall be determined under the following table:

**“In the case of the following The applicable percentage shall
 taxable year beginning be:
 after the taxable year
 during which plan is es-
 tablished with respect to
 the eligible employer:**

1st	100%
2nd	75%
3rd	50%
4th	25%
Any taxable year thereafter	0%

1 “(4) DETERMINATION OF ELIGIBLE EMPLOYER;
2 NUMBER OF EMPLOYEES.—For purposes of this sub-
3 section, whether an employer is an eligible employer
4 and the number of employees of an employer shall
5 be determined under the rules of subsection (c), ex-
6 cept that paragraph (2) thereof shall only apply to
7 the taxable year during which the eligible employer
8 plan to which this section applies is established with
9 respect to the eligible employer.”.

10 (c) DISALLOWANCE OF DEDUCTION.—Section
11 45E(e)(2) is amended to read as follows:

12 “(2) DISALLOWANCE OF DEDUCTION.—No de-
13 duction shall be allowed—

14 “(A) for that portion of the qualified start-
15 up costs paid or incurred for the taxable year
16 which is equal to so much of the portion of the
17 credit determined under subsection (a) as is
18 properly allocable to such costs, and

19 “(B) for that portion of the employer con-
20 tributions by the employer for the taxable year
21 which is equal to so much of the credit increase
22 determined under subsection (f) as is properly
23 allocable to such contributions.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2021.

4 **SEC. 131103. PROMOTION OF SAVER'S CREDIT.**

5 (a) IN GENERAL.—The Secretary of the Treasury
6 shall take such steps as the Secretary determines are nec-
7 essary and appropriate to increase public awareness of the
8 credit provided under section 25B of the Internal Revenue
9 Code of 1986.

10 (b) REPORT TO CONGRESS.—

11 (1) IN GENERAL.—Not later than 90 days after
12 the date of the enactment of this Act, the Secretary
13 shall provide a report to Congress to summarize the
14 anticipated promotion efforts of the Treasury under
15 subsection (a).

16 (2) CONTENTS.—Such report shall include—

17 (A) a description of plans for—

18 (i) the development and distribution
19 of digital and print materials, including the
20 distribution of such materials to States for
21 participants in State facilitated retirement
22 savings programs, and

23 (ii) the translation of such materials
24 into the 10 most commonly spoken lan-
25 guages in the United States after English

1 (as determined by reference to the most re-
2 cent American Community Survey of the
3 Bureau of the Census), and
4 (B) such other information as the Sec-
5 retary determines is necessary.

6 **SEC. 131104. INCREASE IN AGE FOR REQUIRED BEGINNING**
7 **DATE FOR MANDATORY DISTRIBUTIONS.**

8 (a) IN GENERAL.—Section 401(a)(9)(C)(i)(I) is
9 amended by striking “age 72” and inserting “the applica-
10 ble age”.

11 (b) SPOUSE BENEFICIARIES; SPECIAL RULE FOR
12 OWNERS.—Subparagraphs (B)(iv)(I) and (C)(ii)(I) of sec-
13 tion 401(a)(9) are each amended by striking “age 72” and
14 inserting “the applicable age”.

15 (c) APPLICABLE AGE.—Section 401(a)(9)(C) is
16 amended by adding at the end the following new clause:

17 “(v) APPLICABLE AGE.—

18 “(I) In the case of an individual
19 who attains age 72 after December
20 31, 2021, and age 73 before January
21 1, 2029, the applicable age is 73.

22 “(II) In the case of an individual
23 who attains age 73 after December
24 31, 2028, and age 74 before January
25 1, 2032, the applicable age is 74.

1 “(III) In the case of an indi-
2 vidual who attains age 74 after De-
3 cember 31, 2031, the applicable age is
4 75.”.

5 (d) CONFORMING AMENDMENTS.—The last sentence
6 of section 408(b) is amended by striking “age 72” and
7 inserting “the applicable age (determined under section
8 401(a)(9)(C)(v) for the calendar year in which such tax-
9 able year begins)”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to distributions required to be
12 made after December 31, 2021, with respect to individuals
13 who attain age 72 after such date.

14 **SEC. 131105. INDEXING IRA CATCH-UP LIMIT.**

15 (a) IN GENERAL.—Subparagraph (C) of section
16 219(b)(5) is amended by adding at the end the following
17 new clause:

18 “(iii) INDEXING OF CATCH-UP LIMITA-
19 TION.—In the case of any taxable year be-
20 ginning in a calendar year after 2022, the
21 \$1,000 amount under subparagraph (B)(ii)
22 shall be increased by an amount equal to—
23 “(I) such dollar amount, multi-
24 plied by

1 “(II) the cost-of-living adjust-
2 ment determined under section 1(f)(3)
3 for the calendar year in which the tax-
4 able year begins, determined by sub-
5 stituting ‘calendar year 2021’ for ‘cal-
6 endar year 2016’ in subparagraph
7 (A)(ii) thereof.

8 If any amount after adjustment under the
9 preceding sentence is not a multiple of
10 \$100, such amount shall be rounded to the
11 next lower multiple of \$100.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2022.

15 **SEC. 131106. HIGHER CATCH-UP LIMIT TO APPLY AT AGE 62,**
16 **63, AND 64.**

17 (a) IN GENERAL.—

18 (1) PLANS OTHER THAN SIMPLE PLANS.—Sec-
19 tion 414(v)(2)(B)(i) is amended by inserting the fol-
20 lowing before the period: “(\$10,000, in the case of
21 an eligible participant who has attained age 62, but
22 not age 65, before the close of the taxable year)”.

23 (2) SIMPLE PLANS.—Section 414(v)(2)(B)(ii) is
24 amended by inserting the following before the pe-
25 riod: “(\$5,000, in the case of an eligible participant

1 who has attained age 62, but not age 65, before the
2 close of the taxable year)”.

3 (b) COST-OF-LIVING ADJUSTMENTS.—Subparagraph
4 (C) of section 414(v)(2) is amended by adding at the end
5 the following: “In the case of a year beginning after De-
6 cember 31, 2022, the Secretary shall adjust annually the
7 \$10,000 amount in subparagraph (B)(i) and the \$5,000
8 amount in subparagraph (B)(ii) for increases in the cost-
9 of-living at the same time and in the same manner as ad-
10 justments under the preceding sentence; except that the
11 base period taken into account shall be the calendar quar-
12 ter beginning July 1, 2021.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2022.

16 **SEC. 131107. MULTIPLE EMPLOYER 403(b) PLANS.**

17 (a) IN GENERAL.—Section 403(b) is amended by
18 adding at the end the following new paragraph:

19 “(15) MULTIPLE EMPLOYER PLANS.—

20 “(A) IN GENERAL.—Except in the case of
21 a church plan, this subsection shall not be
22 treated as failing to apply to an annuity con-
23 tract solely by reason of such contract being
24 purchased under a plan maintained by more
25 than 1 employer.

1 “(B) TREATMENT OF EMPLOYERS FAILING
2 TO MEET REQUIREMENTS OF PLAN.—

3 “(i) IN GENERAL.—In the case of a
4 plan maintained by more than 1 employer,
5 this subsection shall not be treated as fail-
6 ing to apply to an annuity contract held
7 under such plan merely because of one or
8 more employers failing to meet the require-
9 ments of this subsection if such plan satis-
10 fies rules similar to the rules of section
11 413(e)(2) with respect to any such em-
12 ployer failure.

13 “(ii) ADDITIONAL REQUIREMENTS IN
14 CASE OF NON-GOVERNMENTAL PLANS.—A
15 plan shall not be treated as meeting the re-
16 quirements of this subparagraph unless the
17 plan meets the requirements of subpara-
18 graph (A) or (B) of section 413(e)(1), ex-
19 cept in the case of a multiple employer
20 plan maintained solely by any of the fol-
21 lowing: A State, a political subdivision of a
22 State, or an agency or instrumentality of
23 any one or more of the foregoing.”.

24 (b) ANNUAL REGISTRATION FOR 403(b) MULTIPLE
25 EMPLOYER PLAN.—Section 6057 is amended by redesis-

1 nating subsection (g) as subsection (h) and by inserting
2 after subsection (f) the following new subsection:

3 “(g) 403(b) MULTIPLE EMPLOYER PLANS TREATED
4 AS ONE PLAN.—In the case of annuity contracts to which
5 this section applies and to which section 403(b) applies
6 by reason of the plan under which such contracts are pur-
7 chased meeting the requirements of paragraph (15) there-
8 of, such plan shall be treated as a single plan for purposes
9 of this section.”.

10 (c) ANNUAL INFORMATION RETURNS FOR 403(b)
11 MULTIPLE EMPLOYER PLAN.—Section 6058 is amended
12 by redesignating subsection (f) as subsection (g) and by
13 inserting after subsection (e) the following new subsection:

14 “(f) 403(b) MULTIPLE EMPLOYER PLANS TREATED
15 AS ONE PLAN.—In the case of annuity contracts to which
16 this section applies and to which section 403(b) applies
17 by reason of the plan under which such contracts are pur-
18 chased meeting the requirements of paragraph (15) there-
19 of, such plan shall be treated as a single plan for purposes
20 of this section.”.

21 (d) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
22 COME SECURITY ACT OF 1974.—

23 (1) TREATED AS POOLED EMPLOYER PLAN.—

1 (A) IN GENERAL.—Section 3(43)(A) of the
2 Employee Retirement Income Security Act of
3 1974 is amended—

4 (i) in clause (ii), by striking “section
5 501(a) of such Code or” and inserting
6 “501(a) of such Code, a plan that consists
7 of contracts described in section 403(b) of
8 such Code, or”; and

9 (ii) in the flush text at the end, by
10 striking “the plan.” and inserting “the
11 plan, but such term shall include any pro-
12 gram (other than a governmental plan)
13 maintained for the benefit of the employees
14 of more than 1 employer that consists of
15 contracts described in section 403(b) of
16 such Code and that meets the require-
17 ments of subparagraph (A) or (B) of sec-
18 tion 413(e)(1) of such Code.”.

19 (B) CONFORMING AMENDMENTS.—Sec-
20 tions 3(43)(B)(v)(II) and 3(44)(A)(i)(I) of such
21 Act are each amended by striking “section
22 401(a) of such Code or” and inserting “401(a)
23 of such Code, a plan that consists of contracts
24 described in section 403(b) of such Code, or”.

1 (2) FIDUCIARIES.—Section 3(43)(B)(ii) of such
2 Act is amended—

3 (A) by striking “trustees meeting the re-
4 quirements of section 408(a)(2) of the Internal
5 Revenue Code of 1986” and inserting “trustees
6 (or other fiduciaries in the case of a plan that
7 consists of contracts described in section 403(b)
8 of the Internal Revenue Code of 1986) meeting
9 the requirements of section 408(a)(2) of such
10 Code”, and

11 (B) by striking “holding” and inserting
12 “holding (or causing to be held under the terms
13 of a plan consisting of such contracts)”.

14 (e) REGULATIONS RELATING TO PLAN TERMI-
15 NATION.—The Secretary of the Treasury (or the Sec-
16 retary’s designee) shall prescribe such regulations as may
17 be necessary to clarify the treatment of a plan termination
18 by an employer in the case of plans to which section
19 403(b)(15) of such Code applies.

20 (f) MODIFICATION OF MODEL PLAN LANGUAGE,
21 ETC.—

22 (1) PLAN NOTIFICATIONS.—The Secretary of
23 the Treasury (or the Secretary’s designee) shall
24 modify the model plan language published under sec-
25 tion 413(e)(5) of the Internal Revenue Code of 1986

1 to include language which notifies participating em-
2 ployers described in section 501(c)(3), and which are
3 exempt from tax under section 501(a), that the plan
4 is subject to the Employee Retirement Income Secu-
5 rity Act of 1974 and that such employer is a plan
6 sponsor with respect to its employees participating
7 in the multiple employer plan and, as such, has cer-
8 tain fiduciary duties with respect to the plan and to
9 its employees.

10 (2) MODEL PLANS FOR MULTIPLE EMPLOYER
11 403(b) NON-GOVERNMENTAL PLANS.—For plans to
12 which section 403(b)(15)(A) of the Internal Revenue
13 Code of 1986 applies (other than a plan maintained
14 for its employees by a State, a political subdivision
15 of a State, or an agency or instrumentality of any
16 one or more of the foregoing) the Secretary shall
17 publish model plan language similar to model plan
18 language published under section 413(e)(5) of such
19 Code.

20 (3) EDUCATIONAL OUTREACH TO EMPLOYERS
21 EXEMPT FROM TAX.—The Secretary shall provide
22 education and outreach to increase awareness to em-
23 ployers described in section 501(c)(3), and which are
24 exempt from tax under section 501(a), that multiple
25 employer plans are subject to the Employee Retire-

1 ment Income Security Act of 1974 and that such
2 employer is a plan sponsor with respect to its em-
3 ployees participating in the multiple employer plan
4 and, as such, has certain fiduciary duties with re-
5 spect to the plan and to its employees.

6 (g) NO INFERENCE WITH RESPECT TO CHURCH
7 PLANS.—Regarding any application of section 403(b) of
8 the Internal Revenue Code of 1986 to an annuity contract
9 purchased under a church plan (as defined in section
10 414(e) of such Code) maintained by more than 1 em-
11 ployer, or to any application of rules similar to section
12 413(e) of such Code to such a plan, no inference shall
13 be made from section 403(b)(15)(A) of such Code (as
14 added by this Act) not applying to such plans.

15 (h) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendments made by
17 this section shall apply to plan years beginning after
18 December 31, 2021.

19 (2) RULE OF CONSTRUCTION.—Nothing in the
20 amendments made by subsection (a) shall be con-
21 strued as limiting the authority of the Secretary of
22 the Treasury or the Secretary's delegate (determined
23 without regard to such amendment) to provide for
24 the proper treatment of a failure to meet any re-
25 quirement applicable under such Code with respect

1 to one employer (and its employees) in the case of
2 a plan to which section 403(b)(15) applies.

3 **SEC. 131108. TREATMENT OF STUDENT LOAN PAYMENTS AS**
4 **ELECTIVE DEFERRALS FOR PURPOSES OF**
5 **MATCHING CONTRIBUTIONS.**

6 (a) IN GENERAL.—Section 401(m)(4)(A) is amended
7 by striking “and” at the end of clause (i), by striking the
8 period at the end of clause (ii) and inserting “, and”, and
9 by adding at the end the following new clause:

10 “(iii) subject to the requirements of
11 paragraph (13), any employer contribution
12 made to a defined contribution plan on be-
13 half of an employee on account of a quali-
14 fied student loan payment.”.

15 (b) QUALIFIED STUDENT LOAN PAYMENT.—Section
16 401(m)(4) is amended by adding at the end the following
17 new subparagraph:

18 “(D) QUALIFIED STUDENT LOAN PAY-
19 MENT.—The term ‘qualified student loan pay-
20 ment’ means a payment made by an employee
21 in repayment of a qualified education loan (as
22 defined section 221(d)(1)) incurred by the em-
23 ployee to pay qualified higher education ex-
24 penses, but only—

1 “(i) to the extent such payments in
2 the aggregate for the year do not exceed
3 an amount equal to—

4 “(I) the limitation applicable
5 under section 402(g) for the year (or,
6 if lesser, the employee’s compensation
7 (as defined in section 415(c)(3)) for
8 the year), reduced by

9 “(II) the elective deferrals made
10 by the employee for such year, and

11 “(ii) if the employee certifies to the
12 employer making the matching contribu-
13 tion under this paragraph that such pay-
14 ment has been made on such loan.

15 For purposes of this subparagraph, the term
16 ‘qualified higher education expenses’ means the
17 cost of attendance (as defined in section 472 of
18 the Higher Education Act of 1965, as in effect
19 on the day before the date of the enactment of
20 the Taxpayer Relief Act of 1997) at an eligible
21 educational institution (as defined in section
22 221(d)(2)).”.

23 (c) MATCHING CONTRIBUTIONS FOR QUALIFIED
24 STUDENT LOAN PAYMENTS.—Section 401(m) is amended
25 by redesignating paragraph (13) as paragraph (14), and

1 by inserting after paragraph (12) the following new para-
2 graph:

3 “(13) MATCHING CONTRIBUTIONS FOR QUALI-
4 FIED STUDENT LOAN PAYMENTS.—

5 “(A) IN GENERAL.—For purposes of para-
6 graph (4)(A)(iii), an employer contribution
7 made to a defined contribution plan on account
8 of a qualified student loan payment shall be
9 treated as a matching contribution for purposes
10 of this title if—

11 “(i) the plan provides matching con-
12 tributions on account of elective deferrals
13 at the same rate as contributions on ac-
14 count of qualified student loan payments,

15 “(ii) the plan provides matching con-
16 tributions on account of qualified student
17 loan payments only on behalf of employees
18 otherwise eligible to receive matching con-
19 tributions on account of elective deferrals,

20 “(iii) under the plan, all employees el-
21 igible to receive matching contributions on
22 account of elective deferrals are eligible to
23 receive matching contributions on account
24 of qualified student loan payments, and

1 “(iv) the plan provides that matching
2 contributions on account of qualified stu-
3 dent loan payments vest in the same man-
4 ner as matching contributions on account
5 of elective deferrals.

6 “(B) TREATMENT FOR PURPOSES OF NON-
7 DISCRIMINATION RULES, ETC.—

8 “(i) NONDISCRIMINATION RULES.—
9 For purposes of subparagraph (A)(iii),
10 subsection (a)(4), and section 410(b),
11 matching contributions described in para-
12 graph (4)(A)(iii) shall not fail to be treated
13 as available to an employee solely because
14 such employee does not have debt incurred
15 under a qualified education loan (as de-
16 fined in section 221(d)(1)).

17 “(ii) STUDENT LOAN PAYMENTS NOT
18 TREATED AS PLAN CONTRIBUTION.—Ex-
19 cept as provided in clause (iii), a qualified
20 student loan payment shall not be treated
21 as a contribution to a plan under this title.

22 “(iii) MATCHING CONTRIBUTION
23 RULES.—Solely for purposes of meeting
24 the requirements of paragraph (11)(B) or
25 (12) of this subsection, or paragraph

1 (11)(B)(i)(II), (12)(B), or (13)(D) of sub-
2 section (k), a plan may treat a qualified
3 student loan payment as an elective deferr-
4 al or an elective contribution, whichever is
5 applicable.

6 “(iv) ACTUAL DEFERRAL PERCENT-
7 AGE TESTING.—In determining whether a
8 plan meets the requirements of subsection
9 (k)(3)(A)(ii) for a plan year, the plan may
10 apply the requirements of such subsection
11 separately with respect to all employees
12 who receive matching contributions de-
13 scribed in paragraph (4)(A)(iii) for the
14 plan year.

15 “(C) EMPLOYER MAY RELY ON EMPLOYEE
16 CERTIFICATION.—The employer may rely on an
17 employee certification of payment under para-
18 graph (4)(D)(ii).”.

19 (d) SIMPLE RETIREMENT ACCOUNTS.—Section
20 408(p)(2) is amended by adding at the end the following
21 new subparagraph:

22 “(F) MATCHING CONTRIBUTIONS FOR
23 QUALIFIED STUDENT LOAN PAYMENTS.—

24 “(i) IN GENERAL.—Subject to the
25 rules of clause (iii), an arrangement shall

1 not fail to be treated as meeting the re-
2 quirements of subparagraph (A)(iii) solely
3 because under the arrangement, solely for
4 purposes of such subparagraph, qualified
5 student loan payments are treated as
6 amounts elected by the employee under
7 subparagraph (A)(i)(I) to the extent such
8 payments do not exceed—

9 “(I) the applicable dollar amount
10 under subparagraph (E) (after appli-
11 cation of section 414(v)) for the year
12 (or, if lesser, the employee’s com-
13 pensation (as defined in section
14 415(c)(3)) for the year), reduced by

15 “(II) any other amounts elected
16 by the employee under subparagraph
17 (A)(i)(I) for the year.

18 “(ii) QUALIFIED STUDENT LOAN PAY-
19 MENT.—For purposes of this subpara-
20 graph—

21 “(I) IN GENERAL.—The term
22 ‘qualified student loan payment’
23 means a payment made by an em-
24 ployee in repayment of a qualified
25 education loan (as defined in section

1 221(d)(1)) incurred by the employee
2 to pay qualified higher education ex-
3 penses, but only if the employee cer-
4 tifies to the employer making the
5 matching contribution that such pay-
6 ment has been made on such a loan.

7 “(II) QUALIFIED HIGHER EDU-
8 CATION EXPENSES.—The term ‘quali-
9 fied higher education expenses’ has
10 the same meaning as when used in
11 section 401(m)(4)(D).

12 “(iii) APPLICABLE RULES.—Clause (i)
13 shall apply to an arrangement only if,
14 under the arrangement—

15 “(I) matching contributions on
16 account of qualified student loan pay-
17 ments are provided only on behalf of
18 employees otherwise eligible to elect
19 contributions under subparagraph
20 (A)(i)(I), and

21 “(II) all employees otherwise eli-
22 gible to participate in the arrange-
23 ment are eligible to receive matching
24 contributions on account of qualified
25 student loan payments.”.

1 (e) 403(b) PLANS.—Section 403(b)(12)(A) is amend-
2 ed by adding at the end the following: “The fact that the
3 employer offers matching contributions on account of
4 qualified student loan payments as described in section
5 401(m)(13) shall not be taken into account in determining
6 whether the arrangement satisfies the requirements of
7 clause (ii) (and any regulation thereunder).”.

8 (f) 457(b) PLANS.—Section 457(b) is amended by
9 adding at the end the following: “A plan which is estab-
10 lished and maintained by an employer which is described
11 in subsection (e)(1)(A) shall not be treated as failing to
12 meet the requirements of this subsection solely because the
13 plan, or another plan maintained by the employer which
14 meets the requirements of section 401(a) or 403(b), pro-
15 vides for matching contributions on account of qualified
16 student loan payments as described in section
17 401(m)(13).”.

18 (g) REGULATORY AUTHORITY.—The Secretary shall
19 prescribe regulations for purposes of implementing the
20 amendments made by this section, including regulations—

21 (1) permitting a plan to make matching con-
22 tributions for qualified student loan payments, as
23 defined in sections 401(m)(4)(D) and 408(p)(2)(F)
24 of the Internal Revenue Code of 1986, as added by
25 this section, at a different frequency than matching

1 contributions are otherwise made under the plan,
2 provided that the frequency is not less than annu-
3 ally;

4 (2) permitting employers to establish reasonable
5 procedures to claim matching contributions for such
6 qualified student loan payments under the plan, in-
7 cluding an annual deadline (not earlier than 3
8 months after the close of each plan year) by which
9 a claim must be made; and

10 (3) promulgating model amendments which
11 plans may adopt to implement matching contribu-
12 tions on such qualified student loan payments for
13 purposes of sections 401(m), 408(p), 403(b), and
14 457(b) of the Internal Revenue Code of 1986.

15 (h) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to contributions made for plan
17 years beginning after December 31, 2021.

18 **SEC. 131109. APPLICATION OF CREDIT FOR SMALL EM-**
19 **PLOYER PENSION PLAN STARTUP COSTS TO**
20 **EMPLOYERS WHICH JOIN AN EXISTING PLAN.**

21 (a) IN GENERAL.—Section 45E(d)(3)(A) is amended
22 by striking “effective” and inserting “effective with re-
23 spect to the eligible employer”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to eligible employer plans which

1 become effective with respect to the eligible employer after
2 the date of the enactment of this Act.

3 **SEC. 131110. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**
4 **BILITY CREDIT FOR SMALL EMPLOYERS.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
6 chapter A of chapter 1 is amended by adding at the end
7 the following new section:

8 **“SEC. 45U. MILITARY SPOUSE RETIREMENT PLAN ELIGI-**
9 **BILITY CREDIT FOR SMALL EMPLOYERS.**

10 “(a) IN GENERAL.—For purposes of section 38, in
11 the case of any eligible small employer, the military spouse
12 retirement plan eligibility credit determined under this
13 section for any taxable year is an amount equal to the
14 sum of—

15 “(1) \$250 with respect to each military spouse
16 who is an employee of such employer and who is eli-
17 gible to participate in an eligible defined contribu-
18 tion plan of such employer at any time during such
19 taxable year, plus

20 “(2) so much of the contributions made by such
21 employer to all such plans with respect to such em-
22 ployee during such taxable year as do not exceed
23 \$250.

24 “(b) LIMITATION.—An individual shall only be taken
25 into account as a military spouse under subsection (a) for

1 the taxable year which includes the date on which such
2 individual began participating in the eligible defined con-
3 tribution plan of the employer and the 2 succeeding tax-
4 able years.

5 “(c) ELIGIBLE SMALL EMPLOYER.—For purposes of
6 this section—

7 “(1) IN GENERAL.—The term ‘eligible small
8 employer’ means an eligible employer (as defined in
9 section 408(p)(2)(C)(i)(I)).

10 “(2) APPLICATION OF 2-YEAR GRACE PERIOD.—
11 A rule similar to the rule of section
12 408(p)(2)(C)(i)(II) shall apply for purposes of this
13 section.

14 “(d) MILITARY SPOUSE.—For purposes of this sec-
15 tion—

16 “(1) IN GENERAL.—The term ‘military spouse’
17 means, with respect to any employer, any individual
18 who is married (within the meaning of section 7703
19 as of the first date that the employee is employed by
20 the employer) to an individual who is a member of
21 the uniformed services (as defined section 101(a)(5)
22 of title 10, United States Code). For purposes of
23 this section, an employer may rely on an employee’s
24 certification that such employee’s spouse is a mem-
25 ber of the uniformed services if such certification

1 provides the name, rank, and service branch of such
2 spouse.

3 “(2) EXCLUSION OF HIGHLY COMPENSATED
4 EMPLOYEES.—With respect to any employer, the
5 term ‘military spouse’ shall not include any indi-
6 vidual if such individual is a highly compensated em-
7 ployee of such employer (within the meaning of sec-
8 tion 414(q)).

9 “(e) ELIGIBLE DEFINED CONTRIBUTION PLAN.—
10 For purposes of this section, the term ‘eligible defined con-
11 tribution plan’ means, with respect to any eligible small
12 employer, any defined contribution plan (as defined in sec-
13 tion 414(i)) of such employer if, under the terms of such
14 plan—

15 “(1) military spouses employed by such em-
16 ployer are eligible to participate in such plan not
17 later than the date which is 2 months after the date
18 on which such individual begins employment with
19 such employer, and

20 “(2) military spouses who are eligible to partici-
21 pate in such plan—

22 “(A) are immediately eligible to receive an
23 amount of employer contributions under such
24 plan which is not less the amount of such con-
25 tributions that a similarly situated participant

1 who is not a military spouse would be eligible
2 to receive under such plan after 2 years of serv-
3 ice, and

4 “(B) immediately have a nonforfeitable
5 right to the employee’s accrued benefit derived
6 from employer contributions under such plan.

7 “(f) AGGREGATION RULE.—All persons treated as a
8 single employer under subsection (b), (c), (m), or (o) of
9 section 414 shall be treated as one employer for purposes
10 of this section.”.

11 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
12 NESS CREDIT.—Section 38(b) is amended by striking
13 “plus” at the end of paragraph (32), by striking the period
14 at the end of paragraph (33) and inserting “, plus”, and
15 by adding at the end the following new paragraph:

16 “(34) in the case of an eligible small employer
17 (as defined in section 45U(c)), the military spouse
18 retirement plan eligibility credit determined under
19 section 45U(a).”.

20 (c) SPECIFIED CREDIT FOR PURPOSES OF CER-
21 TIFIED PROFESSIONAL ORGANIZATIONS.—Section
22 3511(d)(2) is amended by redesignating subparagraphs
23 (F), (G), and (H) as subparagraphs (G), (H), and (I),
24 respectively, and by inserting after subparagraph (E) the
25 following new subparagraph:

1 “(F) section 45U (military spouse retire-
2 ment plan eligibility credit),”.

3 (d) CLERICAL AMENDMENT.—The table of sections
4 for subpart D of part IV of subchapter A of chapter 1
5 is amended by adding at the end the following new item:

“Sec. 45U. Military spouse retirement plan eligibility credit for small employ-
ers.”.

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

9 **SEC. 131111. SAFE HARBOR FOR CORRECTIONS OF EM-**
10 **PLOYEE ELECTIVE DEFERRAL FAILURES.**

11 (a) IN GENERAL.—Section 414 is amended by adding
12 at the end the following new subsection:

13 “(aa) CORRECTING AUTOMATIC CONTRIBUTION ER-
14 RORS.—

15 “(1) IN GENERAL.—Any plan or arrangement
16 shall not fail to be treated as a plan described in
17 sections 401(a), 403(b), 408, or 457(b), as applica-
18 ble, solely by reason of a corrected error.

19 “(2) CORRECTED ERROR DEFINED.—For pur-
20 poses of this subsection, the term ‘corrected error’
21 means a reasonable administrative error in imple-
22 menting an automatic enrollment or automatic esca-
23 lation feature in accordance with the terms of an eli-
24 gible automatic contribution arrangement (as de-

1 fined under subsection (w)(3)), provided that such
2 implementation error—

3 “(A) is corrected by the date that is 9½
4 months after the end of the plan year during
5 which the failure occurred,

6 “(B) is corrected in a manner that is fa-
7 vorable to the participant, and

8 “(C) is of a type which is so corrected for
9 all similarly situated participants in a non-
10 discriminatory manner.

11 Such correction may occur before or after the partici-
12 ipant has terminated employment and may occur
13 without regard to whether the error is identified by
14 the Secretary.

15 “(3) REGULATIONS AND GUIDANCE FOR FAVOR-
16 ABLE CORRECTION METHODS.—The Secretary shall,
17 by regulations or other guidance of general applica-
18 bility, specify the correction methods that are in a
19 manner favorable to the participant for purposes of
20 paragraph (2)(B).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply with respect to any errors with
23 respect to which the date referred to in section 414(aa)
24 (as added by this section) is after the date of enactment
25 of this Act.

1 **SEC. 131112. ONE-YEAR REDUCTION IN PERIOD OF SERVICE**
2 **REQUIREMENT FOR LONG-TERM, PART-TIME**
3 **WORKERS.**

4 (a) IN GENERAL.—Section 401(k)(2)(D)(ii) is
5 amended by striking “3” and inserting “2”.

6 (b) CLARIFICATION OF PRIOR SERVICE FOR PUR-
7 POSES OF VESTING RULES.—Section 112(b) of the Set-
8 ting Every Community Up for Retirement Enhancement
9 Act of 2019 is amended by striking “section
10 401(k)(2)(D)(ii)” and inserting “paragraphs (2)(D)(ii)
11 and (15)(B)(iii) of section 401(k)”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as if included in the enact-
14 ment of section 112 of the Setting Every Community Up
15 for Retirement Enhancement Act of 2019.

16 **SEC. 131113. FINDINGS RELATING TO S CORPORATION**
17 **ESOPs.**

18 Congress finds the following:

19 (1) On January 1, 1998, nearly 25 years after
20 the Employee Retirement Income Security Act of
21 1974 was enacted and the employee stock ownership
22 plan (hereafter in this section referred to as an
23 “ESOP”) was created, employees were first per-
24 mitted to be owners of subchapter S corporations
25 pursuant to the Small Business Job Protection Act
26 of 1996 (Public Law 104–188).

1 (2) With the passage of the Taxpayer Relief
2 Act of 1997 (Public Law 105–34), Congress de-
3 signed incentives to encourage businesses to become
4 ESOP-owned S corporations.

5 (3) Since that time, several thousand companies
6 have become ESOP-owned S corporations, creating
7 an ownership interest for several million Americans
8 in companies in every State in the country, in indus-
9 tries ranging from heavy manufacturing to construc-
10 tion and contracting to services.

11 (4) Every United States worker who is an em-
12 ployee-owner of an S corporation company through
13 an ESOP has a valuable qualified retirement savings
14 account.

15 (5) Recent studies have shown that employees
16 of ESOP-owned S corporations enjoy greater job
17 stability, wages and benefits than employees of com-
18 parable companies; and ESOP companies are better
19 able to weather economic downturns.

20 (6) Studies also show that employee-owners of
21 S corporation ESOP companies have amassed mean-
22 ingful retirement savings through their ESOP ac-
23 counts that will give them the means to retire with
24 dignity.

1 (7) It is the goal of Congress to preserve and
2 foster employee ownership of S corporations through
3 ESOPs.

4 **Subpart B—Preservation of Income**

5 **SEC. 131121. REMOVE REQUIRED MINIMUM DISTRIBUTION**
6 **BARRIERS FOR LIFE ANNUITIES.**

7 (a) IN GENERAL.—Section 401(a)(9) is amended by
8 adding at the end the following new subparagraph:

9 “(J) CERTAIN INCREASES IN PAYMENTS
10 UNDER A COMMERCIAL ANNUITY.—Nothing in
11 this section shall prohibit a commercial annuity
12 (within the meaning of section 3405(e)(6)) that
13 is issued in connection with any eligible retire-
14 ment plan (within the meaning of section
15 402(c)(8)(B), other than a defined benefit plan)
16 from providing one or more of the following
17 types of payments on or after the annuity start-
18 ing date:

19 “(i) annuity payments that increase
20 by a constant percentage, applied not less
21 frequently than annually, at a rate that is
22 less than 5 percent per year,

23 “(ii) a lump sum payment that—

24 “(I) results in a shortening of the
25 payment period with respect to an an-

1 nuity or a full or partial commutation
2 of the future annuity payments, pro-
3 vided that such lump sum is deter-
4 mined using reasonable actuarial
5 methods and assumptions, as deter-
6 mined in good faith by the issuer of
7 the contract, or

8 “(II) accelerates the receipt of
9 annuity payments that are scheduled
10 to be received within the ensuing 12
11 months, regardless of whether such
12 acceleration shortens the payment pe-
13 riod with respect to the annuity, re-
14 duces the dollar amount of benefits to
15 be paid under the contract, or results
16 in a suspension of annuity payments
17 during the period being accelerated,

18 “(iii) an amount which is in the na-
19 ture of a dividend or similar distribution,
20 provided that the issuer of the contract de-
21 termines such amount based on a reason-
22 able comparison of the actuarial factors as-
23 sumed when calculating the initial annuity
24 payments and the issuer’s experience with
25 respect to those factors, or

1 “(iv) a final payment upon death that
2 does not exceed the excess of the total
3 amount of the consideration paid for the
4 annuity payments, less the aggregate
5 amount of prior distributions or payments
6 from or under the contract.”.

7 (b) REGULATIONS AND ENFORCEMENT.—

8 (1) REGULATIONS.—By the date that is one
9 year after the date of enactment of this Act, the
10 Secretary of the Treasury shall amend the regula-
11 tion issued by the Department of the Treasury relat-
12 ing to “Required Distributions from Retirement
13 Plans,” 69 Fed. Reg. 33288 (June 15, 2004), and
14 make any corresponding amendments to other regu-
15 lations, in order to—

16 (A) conform such regulations to subsection
17 (a), including by eliminating the types of pay-
18 ments described in subsection (a) from the
19 scope of the requirement in Q&A–14(c) of
20 Treasury Regulation section 1.401(a)(9)–6 that
21 the total future expected payments must exceed
22 the total value being annuitized;

23 (B) amend Q&A–14(c) of Treasury Regu-
24 lation section 1.401(a)(9)–6 to provide that a
25 commercial annuity that provides an initial pay-

1 ment that is at least equal to the initial pay-
2 ment that would be required from an individual
3 account pursuant to Treasury Regulation sec-
4 tion 1.401(a)(9)–5 will be deemed to satisfy the
5 requirement in Q&A–14(c) of Treasury Regula-
6 tion section 1.401(a)(9)–6 that the total future
7 expected payments must exceed the total value
8 being annuitized; and

9 (C) amend Q&A–14(e)(3) of Treasury Reg-
10 ulation section 1.401(a)(9)–6 to provide that
11 the total future expected payments under a
12 commercial annuity are determined using the
13 tables or other actuarial assumptions that the
14 issuer of the contract actually uses in pricing
15 the premiums and benefits with respect to the
16 contract, provided that such tables or other ac-
17 tuarial assumptions are reasonable.

18 (2) ENFORCEMENT.—As of the date of enact-
19 ment of this Act, the Secretary of the Treasury shall
20 administer and enforce the law in accordance with
21 subsections (a) and (b).

22 (c) EFFECTIVE DATE.—This section shall take effect
23 on the date of the enactment of this Act.

1 **SEC. 131122. QUALIFYING LONGEVITY ANNUITY CON-**
2 **TRACTS.**

3 (a) IN GENERAL.—Not later than the date which is
4 1 year after the date of the enactment of this Act, the
5 Secretary of the Treasury or the Secretary’s delegate
6 (hereafter in this section referred to as the “Secretary”)
7 shall amend the regulation issued by the Department of
8 the Treasury relating to “Longevity Annuity Contracts”
9 (79 Fed. Reg. 37633 (July 2, 2014)), as follows:

10 (1) REPEAL 25-PERCENT PREMIUM LIMIT.—The
11 Secretary shall amend Q&A–17(b)(3) of Treasury
12 Regulation section 1.401(a)(9)–6 and Q&A–12(b)(3)
13 of Treasury Regulation section 1.408–8 to eliminate
14 the requirement that premiums for qualifying lon-
15 gevity annuity contracts be limited to a percentage
16 of an individual’s account balance, and to make such
17 corresponding changes to the regulations and related
18 forms as are necessary to reflect the elimination of
19 this requirement.

20 (2) FACILITATE JOINT AND SURVIVOR BENE-
21 FITS.—The Secretary shall amend Q&A–17(c) of
22 Treasury Regulation section 1.401(a)(9)–6, and
23 make such corresponding changes to the regulations
24 and related forms as are necessary, to provide that,
25 in the case of a qualifying longevity annuity contract
26 which was purchased with joint and survivor annuity

1 benefits for the individual and the individual's
2 spouse which were permissible under the regulations
3 at the time the contract was originally purchased, a
4 divorce occurring after the original purchase and be-
5 fore the annuity payments commence under the con-
6 tract will not affect the permissibility of the joint
7 and survivor annuity benefits or other benefits under
8 the contract, or require any adjustment to the
9 amount or duration of benefits payable under the
10 contract, provided that any qualified domestic rela-
11 tions order (within the meaning of section 414(p) of
12 the Internal Revenue Code of 1986) or any divorce
13 or separation instrument (as defined in subsection
14 (b))—

15 (A) provides that the former spouse is en-
16 titled to the survivor benefits under the con-
17 tract;

18 (B) does not modify the treatment of the
19 former spouse as the beneficiary under the con-
20 tract who is entitled to the survivor benefits; or

21 (C) does not modify the treatment of the
22 former spouse as the measuring life for the sur-
23 vivor benefits under the contract.

24 (3) PERMIT SHORT FREE LOOK PERIOD.—The
25 Secretary shall amend Q&A-17(a)(4) of Treasury

1 Regulation section 1.401(a)(9)–6 to ensure that
2 such Q&A does not preclude a contract from includ-
3 ing a provision under which an employee may re-
4 scind the purchase of the contract within a period
5 not exceeding 90 days from the date of purchase.

6 (b) DIVORCE OR SEPARATION INSTRUMENT.—For
7 purposes of subsection (a)(2), the term “divorce or separa-
8 tion instrument” means—

9 (1) a decree of divorce or separate maintenance
10 or a written instrument incident to such a decree,

11 (2) a written separation agreement, or

12 (3) a decree (not described in paragraph (1))
13 requiring a spouse to make payments for the sup-
14 port or maintenance of the other spouse.

15 (c) EFFECTIVE DATES, ENFORCEMENT, AND INTER-
16 PRETATIONS.—

17 (1) EFFECTIVE DATES.—

18 (A) Paragraph (1) of subsection (a) shall
19 be effective with respect to contracts purchased
20 or received in an exchange on or after the date
21 of the enactment of this Act.

22 (B) Paragraphs (2) and (3) of subsection
23 (a) shall be effective with respect to contracts
24 purchased or received in an exchange on or
25 after July 2, 2014.

1 (2) ENFORCEMENT AND INTERPRETATIONS.—
2 Prior to the date on which the Secretary issues final
3 regulations pursuant to subsection (a)—

4 (A) the Secretary (or delegate) shall ad-
5 minister and enforce the law in accordance with
6 subsection (a) and the effective dates in para-
7 graph (1) of this subsection; and

8 (B) taxpayers may rely upon their reason-
9 able good faith interpretations of subsection (a).

10 **SEC. 131123. INSURANCE-DEDICATED EXCHANGE-TRADED**
11 **FUNDS.**

12 (a) IN GENERAL.—Not later than the date which is
13 7 years after the date of the enactment of this Act, the
14 Secretary of the Treasury (or the Secretary’s delegate)
15 shall amend the regulation issued by the Department of
16 the Treasury relating to “Income Tax; Diversification Re-
17 quirements for Variable Annuity, Endowment, and Life
18 Insurance Contracts”, 54 Fed. Reg. 8728 (March 2,
19 1989), and make any necessary corresponding amend-
20 ments to other regulations, in order to facilitate the use
21 of exchange-traded funds as investment options under
22 variable contracts within the meaning of section 817(d)
23 of the Internal Revenue Code of 1986, in accordance with
24 subsections (b) and (c) of this section.

1 (b) DESIGNATE CERTAIN AUTHORIZED PARTICI-
2 PANTS AND MARKET MAKERS AS ELIGIBLE INVESTORS.—
3 The Secretary of the Treasury (or the Secretary’s dele-
4 gate) shall amend Treas. Reg. section 1.817–5(f)(3) to
5 provide that satisfaction of the requirements in Treas.
6 Reg. section 1.817–5(f)(2)(i) with respect to an exchange-
7 traded fund shall not be prevented by reason of beneficial
8 interests in such a fund being held by 1 or more author-
9 ized participants or market makers.

10 (c) DEFINE RELEVANT TERMS.—In amending Treas.
11 Reg. section 1.817–5(f)(3) in accordance with subsections
12 (b) of this section, the Secretary of the Treasury (or the
13 Secretary’s delegate) shall provide definitions consistent
14 with the following:

15 (1) EXCHANGE-TRADED FUND.—The term “ex-
16 change-traded fund” means a regulated investment
17 company, partnership, or trust—

18 (A) that is registered with the Securities
19 and Exchange Commission as an open-end in-
20 vestment company or a unit investment trust;

21 (B) the shares of which can be purchased
22 or redeemed directly from the fund only by an
23 authorized participant; and

24 (C) the shares of which are traded
25 throughout the day on a national stock ex-

1 change at market prices that may or may not
2 be the same as the net asset value of the
3 shares.

4 (2) AUTHORIZED PARTICIPANT.—The term
5 “authorized participant” means a financial institu-
6 tion that is a member or participant of a clearing
7 agency registered under section 17A(b) of the Secu-
8 rities Exchange Act of 1934 that enters into a con-
9 tractual relationship with an exchange-traded fund
10 pursuant to which the financial institution is per-
11 mitted to purchase and redeem shares directly from
12 the fund and to sell such shares to third parties, but
13 only if the contractual arrangement or applicable law
14 precludes the financial institution from—

15 (A) purchasing the shares for its own in-
16 vestment purposes rather than for the exclusive
17 purpose of creating and redeeming such shares
18 on behalf of third parties; and

19 (B) selling the shares to third parties who
20 are not market makers or otherwise described
21 in Treas. Reg. section 1.817–5(f) (1) and (3).

22 (3) MARKET MAKER.—The term “market
23 maker” means a financial institution that is a reg-
24 istered broker or dealer under section 15(b) of the
25 Securities Exchange Act of 1934 that maintains li-

1 quidity for an exchange-traded fund on a national
2 stock exchange by being always ready to buy and sell
3 shares of such fund on the market, but only if the
4 financial institution is contractually or legally pre-
5 cluded from selling or buying such shares to or from
6 persons who are not authorized participants or oth-
7 erwise described in Treas. Reg. section 1.817-5(f)
8 (2) and (3).

9 (d) EFFECTIVE DATE.—Subsections (b) and (c) shall
10 apply to segregated asset account investments made on
11 or after the date that is 7 years after the date of the enact-
12 ment of this Act.

13 **Subpart C—Simplification and Clarification of Plan**

14 **Rules**

15 **SEC. 131131. REDUCTION IN EXCISE TAX ON CERTAIN ACCU-**
16 **MULATIONS IN QUALIFIED RETIREMENT**
17 **PLANS.**

18 (a) IN GENERAL.—Section 4974(a) is amended by
19 striking “50 percent” and inserting “25 percent”.

20 (b) REDUCTION IN EXCISE TAX ON FAILURES TO
21 TAKE REQUIRED MINIMUM DISTRIBUTIONS.—Section
22 4974 is amended by adding at the end the following new
23 subsection:

24 “(e) REDUCTION OF TAX IN CERTAIN CASES.—

1 “(1) REDUCTION.—In the case of a taxpayer
2 who—

3 “(A) corrects, during the correction win-
4 dow, a shortfall of distributions from an indi-
5 vidual retirement plan which resulted in imposi-
6 tion of a tax under subsection (a), and

7 “(B) submits a return, during the correc-
8 tion window, reflecting such tax (as modified by
9 this subsection),

10 the first sentence of subsection (a) shall be applied
11 by substituting ‘10 percent’ for ‘25 percent’.

12 “(2) CORRECTION WINDOW.—For purposes of
13 this subsection, the term ‘correction window’ means
14 the period of time beginning on the date on which
15 the tax under subsection (a) is imposed with respect
16 to a shortfall of distributions from an individual re-
17 tirement plan, and ending on the earlier of—

18 “(A) the date on which the Secretary initi-
19 ates an audit, or otherwise demands payment,
20 with respect to the shortfall of distributions, or

21 “(B) the last day of the second taxable
22 year that begins after the end of the taxable
23 year in which the tax under subsection (a) is
24 imposed.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2021.

4 **SEC. 131132. REVIEW AND REPORT TO THE CONGRESS RE-**
5 **LATING TO REPORTING AND DISCLOSURE**
6 **REQUIREMENTS.**

7 (a) STUDY.—As soon as practicable after the date of
8 the enactment of this Act, the Secretary of Labor, the Sec-
9 retary of the Treasury, and the Pension Benefit Guaranty
10 Corporation shall review the reporting and disclosure re-
11 quirements of—

12 (1) title I of the Employee Retirement Income
13 Security Act of 1974 applicable to pension plans (as
14 defined in section 3(2) of such Act); and

15 (2) the Internal Revenue Code of 1986 applica-
16 ble to qualified retirement plans (as defined in sec-
17 tion 4974(c) of such Code without regard to para-
18 graphs (4) and (5) thereof).

19 (b) REPORT.—Not later than 18 months after the
20 date of the enactment of this Act, the Secretary of Labor,
21 the Secretary of the Treasury, and the Pension Benefit
22 Guaranty Corporation, jointly, and after consultation with
23 a balanced group of participant and employer representa-
24 tives, shall with respect to plans referenced in subsection
25 (a) report on the effectiveness of the applicable reporting

1 and disclosure requirements and make such recommenda-
2 tions as may be appropriate to the appropriate committees
3 of the Congress to consolidate, simplify, standardize, and
4 improve such requirements so as to simplify reporting for
5 such plans and ensure that plans can simply furnish and
6 participants and beneficiaries timely receive and better un-
7 derstand the information they need to monitor their plans,
8 plan for retirement, and obtain the benefits they have
9 earned. Such report shall assess the extent to which retire-
10 ment plans are retaining disclosures, work records, and
11 plan documents that are needed to ensure accurate cal-
12 culation of future benefits. To assess the effectiveness of
13 the applicable reporting and disclosure requirements, the
14 report shall include an analysis, based on plan data, of
15 how participants and beneficiaries are providing preferred
16 contact information, the methods by which plan sponsors
17 and plans are furnishing disclosures, and the rate at which
18 participants and beneficiaries (grouped by key demo-
19 graphics) are receiving, accessing, and retaining disclo-
20 sures. The agencies shall conduct appropriate surveys and
21 data collection to obtain any needed information.

22 **SEC. 131133. EXPANSION OF EMPLOYEE PLANS COMPLI-**
23 **ANCE RESOLUTION SYSTEM.**

24 (a) IN GENERAL.—Except as otherwise provided in
25 the Internal Revenue Code of 1986 or regulations pre-

1 scribed by the Secretary of the Treasury or the Secretary’s
2 delegate (referred to in this section as the “Secretary”),
3 any eligible inadvertent failure to comply with the rules
4 applicable under section 401(a), 403(a), 403(b), 408(p),
5 or 408(k) of such Code may be self-corrected under the
6 Employee Plans Compliance Resolution System (as de-
7 scribed in Revenue Procedure 2019–19 or any successor
8 guidance and hereafter in this section referred to as the
9 “EPCRS”), except to the extent that such failure was
10 identified by the Secretary prior to any actions which dem-
11 onstrate a commitment to implement a self-correction.
12 Revenue Procedure 2019–19 is deemed amended as of the
13 date of the enactment of this Act to provide that the cor-
14 rection period under section 9.02 of such Revenue Proce-
15 dure (or any successor guidance) for an eligible inad-
16 vertent failure, except as otherwise provided under such
17 Code or in regulations prescribed by the Secretary, is in-
18 definite and has no last day, other than with respect to
19 failures identified by the Secretary prior to any self-correc-
20 tion as described in the preceding sentence.

21 (b) LOAN ERRORS.—In the case of an eligible inad-
22 vertent failure relating to a loan from a plan to a partici-
23 pant—

24 (1) such failure may be self-corrected under
25 subsection (a) according to the rules of section 6.07

1 of Revenue Procedure 2019–19 (or any successor
2 guidance), including the provisions related to wheth-
3 er a deemed distribution must be reported on Form
4 1099–R, and

5 (2) the Secretary of Labor shall treat any such
6 failure which is so self-corrected under subsection
7 (a) as meeting the requirements of the Voluntary Fi-
8 duciary Correction Program of the Department of
9 Labor if, with respect to the violation of the fidu-
10 ciary standards of the Employee Retirement Income
11 Security Act of 1974, there is a similar loan error
12 eligible for correction under EPCRS and the loan
13 error is corrected in such manner.

14 (c) EPCRS FOR IRAS.—The Secretary shall expand
15 the EPCRS to allow custodians of individual retirement
16 plans (as defined in section 7701(a)(37) of the Internal
17 Revenue Code of 1986) to address eligible inadvertent fail-
18 ures with respect to an individual retirement plan (as so
19 defined), including (but not limited to)—

20 (1) waivers of the excise tax which would other-
21 wise apply under section 4974 of the Internal Rev-
22 enue Code of 1986,

23 (2) under the self-correction component of the
24 EPCRS, waivers of the 60-day deadline for a roll-

1 over where the deadline is missed for reasons beyond
2 the reasonable control of the account owner, and

3 (3) rules permitting a nonspouse beneficiary to
4 return distributions to an inherited individual retire-
5 ment plan described in section 408(d)(3)(C) of the
6 Internal Revenue Code of 1986 in a case where, due
7 to an inadvertent error by a service provider, the
8 beneficiary had reason to believe that the distribu-
9 tion could be rolled over without inclusion in income
10 of any part of the distributed amount.

11 (d) ADDITIONAL SAFE HARBORS.—The Secretary
12 shall expand the EPCRS to provide additional safe harbor
13 means of correcting eligible inadvertent failures described
14 in subsection (a), including safe harbor means of calcu-
15 lating the earnings which must be restored to a plan in
16 cases where plan assets have been depleted by reason of
17 an eligible inadvertent failure.

18 (e) ELIGIBLE INADVERTENT FAILURE.—For pur-
19 poses of this section—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the term “eligible inadvertent failure”
22 means a failure that occurs despite the existence of
23 practices and procedures which—

1 (A) satisfy the standards set forth in sec-
2 tion 4.04 of Revenue Procedure 2019–19 (or
3 any successor guidance), or

4 (B) satisfy similar standards in the case of
5 an individual retirement plan.

6 (2) EXCEPTION.—The term “eligible inad-
7 vertent failure” shall not include any failure which
8 is egregious, relates to the diversion or misuse of
9 plan assets, or is directly or indirectly related to an
10 abusive tax avoidance transaction.

11 (f) APPLICATION OF CERTAIN REQUIREMENTS FOR
12 CORRECTING ERRORS.—This section shall not apply to
13 any failure unless the correction of such failure under this
14 section is made in conformity with the general principles
15 that apply to corrections of such failures under the Inter-
16 nal Revenue Code of 1986, including regulations or other
17 guidance issued thereunder and including those principles
18 and corrections set forth in Revenue Procedure 2019–19
19 (or any successor guidance).”

20 **SEC. 131134. ELIMINATE THE “FIRST DAY OF THE MONTH”**
21 **REQUIREMENT FOR GOVERNMENTAL SEC-**
22 **TION 457(B) PLANS.**

23 (a) IN GENERAL.—Paragraph (4) of section 457(b)
24 is amended to read as follows:

25 “(4) which provides that compensation—

1 “(A) in the case of an eligible employer de-
2 scribed in subsection (e)(1)(A), will be deferred
3 only if an agreement providing for such deferral
4 has been entered into before the compensation
5 is currently available to the individual, and

6 “(B) in any other case, will be deferred for
7 any calendar month only if an agreement pro-
8 viding for such deferral has been entered into
9 before the beginning of such month.”.

10 (b) **EFFECTIVE DATE.**—The amendment made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **SEC. 131135. ONE-TIME ELECTION FOR QUALIFIED CHARI-**
14 **TABLE DISTRIBUTION TO SPLIT-INTEREST**
15 **ENTITY; INCREASE IN QUALIFIED CHARI-**
16 **TABLE DISTRIBUTION LIMITATION.**

17 (a) **ONE-TIME ELECTION FOR QUALIFIED CHARI-**
18 **TABLE DISTRIBUTION TO SPLIT-INTEREST ENTITY.**—
19 Section 408(d)(8) is amended by adding at the end the
20 following new subparagraph:

21 “(F) **ONE-TIME ELECTION FOR QUALIFIED**
22 **CHARITABLE DISTRIBUTION TO SPLIT-INTEREST**
23 **ENTITY.**—

24 “(i) **IN GENERAL.**—A taxpayer may
25 for a taxable year elect under this subpara-

1 graph to treat as meeting the requirement
2 of subparagraph (B)(i) any distribution
3 from an individual retirement account
4 which is made directly by the trustee to a
5 split-interest entity, but only if—

6 “(I) an election is not in effect
7 under this subparagraph for a pre-
8 ceding taxable year,

9 “(II) the aggregate amount of
10 distributions of the taxpayer with re-
11 spect to which an election under this
12 subparagraph is made does not exceed
13 \$50,000, and

14 “(III) such distribution meets the
15 requirements of clauses (iii) and (iv).

16 “(ii) SPLIT-INTEREST ENTITY.—For
17 purposes of this subparagraph, the term
18 ‘split-interest entity’ means—

19 “(I) a charitable remainder annu-
20 ity trust (as defined in section
21 664(d)(1)), but only if such trust is
22 funded exclusively by qualified chari-
23 table distributions,

24 “(II) a charitable remainder
25 unitrust (as defined in section

1 664(d)(2)), but only if such unitrust
2 is funded exclusively by qualified char-
3 itable distributions, or

4 “(III) a charitable gift annuity
5 (as defined in section 501(m)(5)), but
6 only if such annuity is funded exclu-
7 sively by qualified charitable distribu-
8 tions and commences fixed payments
9 of 5 percent or greater not later than
10 1 year from the date of funding.

11 “(iii) CONTRIBUTIONS MUST BE OTH-
12 ERWISE DEDUCTIBLE.—A distribution
13 meets the requirement of this clause only
14 if—

15 “(I) in the case of a distribution
16 to a charitable remainder annuity
17 trust or a charitable remainder uni-
18 trust, a deduction for the entire value
19 of the remainder interest in the dis-
20 tribution for the benefit of a specified
21 charitable organization would be al-
22 lowable under section 170 (determined
23 without regard to subsection (b)
24 thereof and this paragraph), and

1 “(II) in the case of a charitable
2 gift annuity, a deduction in an
3 amount equal to the amount of the
4 distribution reduced by the value of
5 the annuity described in section
6 501(m)(5)(B) would be allowable
7 under section 170 (determined with-
8 out regard to subsection (b) thereof
9 and this paragraph).

10 “(iv) LIMITATION ON INCOME INTER-
11 ESTS.—A distribution meets the require-
12 ments of this clause only if—

13 “(I) no person holds an income
14 interest in the split-interest entity
15 other than the individual for whose
16 benefit such account is maintained,
17 the spouse of such individual, or both,
18 and

19 “(II) the income interest in the
20 split-interest entity is nonassignable.

21 “(v) SPECIAL RULES.—

22 “(I) CHARITABLE REMAINDER
23 TRUSTS.—Notwithstanding section
24 664(b), distributions made from a
25 trust described in subclause (I) or (II)

1 of clause (ii) shall be treated as ordi-
2 nary income in the hands of the bene-
3 ficiary to whom the annuity described
4 in section 664(d)(1)(A) or the pay-
5 ment described in section
6 664(d)(2)(A) is paid.

7 “(II) CHARITABLE GIFT ANNU-
8 ITIES.—Qualified charitable distribu-
9 tions made to fund a charitable gift
10 annuity shall not be treated as an in-
11 vestment in the contract for purposes
12 of section 72(c).”.

13 (b) INFLATION ADJUSTMENT.—Section 408(d)(8), as
14 amended by subsection (a), is amended by adding at the
15 end the following new subparagraph:

16 “(G) INFLATION ADJUSTMENT.—

17 “(i) IN GENERAL.—In the case of any
18 taxable year beginning after 2021, each of
19 the dollar amounts in subparagraphs (A)
20 and (F) shall be increased by an amount
21 equal to—

22 “(I) such dollar amount, multi-
23 plied by

24 “(II) the cost-of-living adjust-
25 ment determined under section 1(f)(3)

1 for the calendar year in which the tax-
2 able year begins, determined by sub-
3 stituting ‘calendar year 2020’ for ‘cal-
4 endar year 2016’ in subparagraph
5 (A)(ii) thereof.

6 “(ii) ROUNDING.—If any dollar
7 amount increased under clause (i) is not a
8 multiple of \$1,000, such dollar amount
9 shall be rounded to the nearest multiple of
10 \$1,000.”.

11 (c) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to distributions made in taxable
13 years ending after the date of the enactment of this Act.

14 **SEC. 131136. DISTRIBUTIONS TO FIREFIGHTERS.**

15 (a) IN GENERAL.—Subparagraph (A) of section
16 72(t)(10) is amended by striking “414(d)” and inserting
17 “414(d) or a distribution from a plan described in clause
18 (iii), (iv), or (vi) of section 402(c)(8)(B) to an employee
19 who provides firefighting services”.

20 (b) CONFORMING AMENDMENT.—The heading of
21 paragraph (10) of section 72(t) is amended—

22 (1) by striking “QUALIFIED”, and

23 (2) by striking “IN GOVERNMENTAL PLANS”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to distributions made after Decem-
3 ber 31, 2021.

4 **SEC. 131137. EXCLUSION OF CERTAIN DISABILITY-RELATED**
5 **FIRST RESPONDER RETIREMENT PAYMENTS.**

6 (a) IN GENERAL.—Part III of subchapter B of chap-
7 ter 1 is amended by inserting after section 139B the fol-
8 lowing new section:

9 **“SEC. 139C. CERTAIN DISABILITY-RELATED FIRST RE-**
10 **SPONDER RETIREMENT PAYMENTS.**

11 “(a) IN GENERAL.—In the case of an individual who
12 receives qualified first responder retirement payments for
13 any taxable year, gross income shall not include so much
14 of such payments as do not exceed the annualized exclud-
15 able disability amount with respect to such individual.

16 “(b) QUALIFIED FIRST RESPONDER RETIREMENT
17 PAYMENTS.—For purposes of this section, the term ‘quali-
18 fied first responder retirement payments’ means, with re-
19 spect to any taxable year, any pension or annuity which
20 but for this section would be includible in gross income
21 for such taxable year and which is received—

22 “(1) from a plan described in clause (iii), (iv),
23 (v), or (vi) of section 402(c)(8)(B), and

24 “(2) in connection with such individual’s quali-
25 fied first responder service.

1 “(c) ANNUALIZED EXCLUDABLE DISABILITY
2 AMOUNT.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘annualized ex-
4 cludable disability amount’ means, with respect to
5 any individual, the service-connected excludable dis-
6 ability amounts which are properly attributable to
7 the 12-month period immediately preceding the date
8 on which such individual attains retirement age.

9 “(2) SERVICE-CONNECTED EXCLUDABLE DIS-
10 ABILITY AMOUNT.—The term ‘service-connected ex-
11 cludable disability amount’ means periodic payments
12 received by an individual which—

13 “(A) are not includible in such individual’s
14 gross income under section 104(a)(1),

15 “(B) are received in connection with such
16 individual’s qualified first responder service,
17 and

18 “(C) terminate when such individual at-
19 tains retirement age.

20 “(3) SPECIAL RULE FOR PARTIAL-YEAR PAY-
21 MENTS.—In the case of an individual who only re-
22 ceives service-connected excludable disability
23 amounts properly attributable to a portion of the 12-
24 month period described in paragraph (1), such para-
25 graph shall be applied by multiplying such amounts

1 by the ratio of 365 to the number of days in such
2 period to which such amounts were properly attrib-
3 utable.

4 “(d) QUALIFIED FIRST RESPONDER SERVICE.—For
5 purposes of this section, the term ‘qualified first responder
6 service’ means service as a law enforcement officer, fire-
7 fighter, paramedic, or emergency medical technician.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for part III of subchapter B of chapter 1 is amended by
10 inserting after the item relating to section 139B the fol-
11 lowing new item:

“Sec. 139C. Certain disability-related first responder retirement payments.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to amounts received with respect
14 to taxable years beginning after December 31, 2026.

15 **SEC. 131138. INDIVIDUAL RETIREMENT PLAN STATUTE OF**
16 **LIMITATIONS FOR EXCISE TAX ON EXCESS**
17 **CONTRIBUTIONS AND CERTAIN ACCUMULA-**
18 **TIONS.**

19 Section 6501(l) is amended by adding at the end the
20 following new paragraph:

21 “(4) INDIVIDUAL RETIREMENT PLANS.—

22 “(A) IN GENERAL.—For purposes of any
23 tax imposed by section 4973 or 4974 in connec-
24 tion with an individual retirement plan, the re-
25 turn referred to in this section shall be the in-

1 come tax return filed by the person on whom
2 the tax under such section is imposed for the
3 year in which the act (or failure to act) giving
4 rise to the liability for such tax occurred.

5 “(B) RULE IN CASE OF INDIVIDUALS NOT
6 REQUIRED TO FILE RETURN.—In the case of a
7 person who is not required to file an income tax
8 return for such year—

9 “(i) the return referred to in this sec-
10 tion shall be the income tax return that
11 such person would have been required to
12 file but for the fact that such person was
13 not required to file such return, and

14 “(ii) the 3-year period referred to in
15 subsection (a) with respect to the return
16 shall be deemed to begin on the date by
17 which the return would have been required
18 to be filed (excluding any extension there-
19 of).”.

20 **SEC. 131139. SEPARATE APPLICATION OF TOP HEAVY**
21 **RULES TO DEFINED CONTRIBUTION PLANS**
22 **COVERING EXCLUDIBLE EMPLOYEES.**

23 (a) IN GENERAL.—Section 416(c)(2) is amended by
24 adding at the end the following:

1 ment of section 113 of the Setting Every Community Up
2 for Retirement Enhancement Act of 2019.

3 **SEC. 131141. EMPLOYER MAY RELY ON EMPLOYEE CERTI-**
4 **FYING THAT DEEMED HARDSHIP DISTRIBUTI-**
5 **ON CONDITIONS ARE MET.**

6 (a) CASH OR DEFERRED ARRANGEMENTS.—Section
7 401(k)(14) is amended by adding at the end the following
8 new subparagraph:

9 “(C) EMPLOYEE CERTIFICATION.—In de-
10 termining whether a distribution is upon the
11 hardship of an employee, the administrator of
12 the plan may rely on a certification by the em-
13 ployee that the distribution is on account of a
14 financial need of a type that is deemed in regu-
15 lations prescribed by the Secretary to be an im-
16 mediate and heavy financial need and that such
17 distribution is not in excess of the amount re-
18 quired to satisfy such financial need.”.

19 (b) 403(b) PLANS.—

20 (1) CUSTODIAL ACCOUNTS.—Section 403(b)(7)
21 is amended by adding at the end the following new
22 subparagraph:

23 “(D) EMPLOYEE CERTIFICATION.—In de-
24 termining whether a distribution is upon the fi-
25 nancial hardship of an employee, the adminis-

1 trator of the plan may rely on a certification by
2 the employee that the distribution is on account
3 of a financial need of a type that is deemed in
4 regulations prescribed by the Secretary to be an
5 immediate and heavy financial need and that
6 such distribution is not in excess of the amount
7 required to satisfy such financial need.”.

8 (2) ANNUITY CONTRACTS.—Section 403(b)(11)
9 is amended by adding at the end the following: “In
10 determining whether a distribution is upon hardship
11 of an employee, the administrator of the plan may
12 rely on a certification by the employee that the dis-
13 tribution is on account of a financial need of a type
14 that is deemed in regulations prescribed by the Sec-
15 retary to be an immediate and heavy financial need
16 and that such distribution is not in excess of the
17 amount required to satisfy such financial need.”.

18 (c) 457(b) PLAN.—Section 457(d) is amended by
19 adding at the end the following new paragraph:

20 “(4) PARTICIPANT CERTIFICATION.—In deter-
21 mining whether a distribution of a participant is
22 made when the participant is faced with an unfore-
23 seeable emergency, the administrator of a plan
24 maintained by an eligible employer described in sub-
25 section (e)(1)(A) may rely on a certification by the

1 participant that the distribution is made when the
2 participant is faced with unforeseeable emergency of
3 a type that is specifically described in regulations
4 prescribed by the Secretary as an unforeseeable
5 emergency and that the distribution is not in excess
6 of the amount reasonably necessary to satisfy the
7 emergency need.”.

8 (d) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to plan years beginning after De-
10 cember 31, 2021.

11 **SEC. 131142. PENALTY-FREE WITHDRAWALS FROM RETIRE-**
12 **MENT PLANS FOR INDIVIDUALS IN CASE OF**
13 **DOMESTIC ABUSE.**

14 (a) **IN GENERAL.**—Section 72(t)(2) is amended by
15 adding at the end the following new subparagraph:

16 “(I) **DISTRIBUTIONS FROM RETIREMENT**
17 **PLAN IN CASE OF DOMESTIC ABUSE.**—

18 “(i) **IN GENERAL.**—Any eligible dis-
19 tribution to a domestic abuse victim.

20 “(ii) **LIMITATION.**—The aggregate
21 amount which may be treated as an eligi-
22 ble distribution to a domestic abuse victim
23 by any individual shall not exceed an
24 amount equal to the lesser of—

25 “(I) \$10,000, or

1 “(II) 50 percent of the present
2 value of the nonforfeitable accrued
3 benefit of the employee under the
4 plan.

5 “(iii) ELIGIBLE DISTRIBUTION TO A
6 DOMESTIC ABUSE VICTIM.—For purposes
7 of this subparagraph—

8 “(I) IN GENERAL.—A distribu-
9 tion shall be treated as an eligible dis-
10 tribution to a domestic abuse victim if
11 such distribution is from an applicable
12 eligible retirement plan to an indi-
13 vidual and made during the 1-year pe-
14 riod beginning on any date on which
15 the individual is a victim of domestic
16 abuse by a spouse or domestic part-
17 ner.

18 “(II) DOMESTIC ABUSE.—The
19 term ‘domestic abuse’ means physical,
20 psychological, sexual, emotional, or
21 economic abuse, including efforts to
22 control, isolate, humiliate, or intimi-
23 date the victim, or to undermine the
24 victim’s ability to reason independ-
25 ently, including by means of abuse of

1 the victim's child or another family
2 member living in the household.

3 “(iv) TREATMENT OF PLAN DISTRIBUTIONS.—
4

5 “(I) IN GENERAL.—If a distribu-
6 tion to an individual would (without
7 regard to clause (ii)) be an eligible
8 distribution to a domestic abuse vic-
9 tim, a plan shall not be treated as
10 failing to meet any requirement of
11 this title merely because the plan
12 treats the distribution as an eligible
13 distribution to a domestic abuse vic-
14 tim, unless the aggregate amount of
15 such distributions from all plans
16 maintained by the employer (and any
17 member of any controlled group which
18 includes the employer) to such indi-
19 vidual exceeds the limitation under
20 clause (ii).

21 “(II) CONTROLLED GROUP.—For
22 purposes of subclause (I), the term
23 ‘controlled group’ means any group
24 treated as a single employer under

1 subsection (b), (c), (m), or (o) of sec-
2 tion 414.

3 “(v) AMOUNT DISTRIBUTED MAY BE
4 REPAID.—

5 “(I) IN GENERAL.—Any indi-
6 vidual who receives a distribution de-
7 scribed in clause (i) may, at any time
8 during the 3-year period beginning on
9 the day after the date on which such
10 distribution was received, make one or
11 more contributions in an aggregate
12 amount not to exceed the amount of
13 such distribution to an applicable eli-
14 gible retirement plan of which such
15 individual is a beneficiary and to
16 which a rollover contribution of such
17 distribution could be made under sec-
18 tion 402(c), 403(a)(4), 403(b)(8),
19 408(d)(3), or 457(e)(16), as the case
20 may be.

21 “(II) LIMITATION ON CONTRIBU-
22 TIONS TO APPLICABLE ELIGIBLE RE-
23 TIREMENT PLANS OTHER THAN
24 IRAs.—The aggregate amount of con-
25 tributions made by an individual

1 under subclause (I) to any applicable
2 eligible retirement plan which is not
3 an individual retirement plan shall not
4 exceed the aggregate amount of eligi-
5 ble distributions to a domestic abuse
6 victim which are made from such plan
7 to such individual. Subclause (I) shall
8 not apply to contributions to any ap-
9 plicable eligible retirement plan which
10 is not an individual retirement plan
11 unless the individual is eligible to
12 make contributions (other than those
13 described in subclause (I)) to such ap-
14 plicable eligible retirement plan.

15 “(III) TREATMENT OF REPAY-
16 MENTS OF DISTRIBUTIONS FROM AP-
17 PPLICABLE ELIGIBLE RETIREMENT
18 PLANS OTHER THAN IRAS.—If a con-
19 tribution is made under subclause (I)
20 with respect to an eligible distribution
21 to a domestic abuse victim from an
22 applicable eligible retirement plan
23 other than an individual retirement
24 plan, then the taxpayer shall, to the
25 extent of the amount of the contribu-

1 tion, be treated as having received
2 such distribution in an eligible rollover
3 distribution (as defined in section
4 402(c)(4)) and as having transferred
5 the amount to the applicable eligible
6 retirement plan in a direct trustee to
7 trustee transfer within 60 days of the
8 distribution.

9 “(IV) TREATMENT OF REPAY-
10 MENTS FOR DISTRIBUTIONS FROM
11 IRAS.—If a contribution is made
12 under subclause (I) with respect to an
13 eligible distribution to a domestic
14 abuse victim from an individual retire-
15 ment plan, then, to the extent of the
16 amount of the contribution, such dis-
17 tribution shall be treated as a dis-
18 tribution described in section
19 408(d)(3) and as having been trans-
20 ferred to the applicable eligible retire-
21 ment plan in a direct trustee to trust-
22 ee transfer within 60 days of the dis-
23 tribution.

1 “(vi) DEFINITION AND SPECIAL
2 RULES.—For purposes of this subpara-
3 graph:

4 “(I) APPLICABLE ELIGIBLE RE-
5 TIREMENT PLAN.—The term ‘applica-
6 ble eligible retirement plan’ means an
7 eligible retirement plan (as defined in
8 section 402(c)(8)(B)) other than a de-
9 fined benefit plan.

10 “(II) EXEMPTION OF DISTRIBU-
11 TIONS FROM TRUSTEE TO TRUSTEE
12 TRANSFER AND WITHHOLDING
13 RULES.—For purposes of sections
14 401(a)(31), 402(f), and 3405, an eli-
15 gible distribution to a domestic abuse
16 victim shall not be treated as an eligi-
17 ble rollover distribution.

18 “(III) DISTRIBUTIONS TREATED
19 AS MEETING PLAN DISTRIBUTION RE-
20 QUIREMENTS; SELF-CERTIFICATION.—
21 Any distribution which the employee
22 or participant certifies as being an eli-
23 gible distribution to a domestic abuse
24 victim shall be treated as meeting the
25 requirements of sections

1 401(k)(2)(B)(i), 403(b)(7)(A)(i),
2 403(b)(11), and 457(d)(1)(A).”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to distributions made after the
5 date of the enactment of this Act.

6 **SEC. 131143. REFORM OF FAMILY ATTRIBUTION RULE.**

7 (a) **IN GENERAL.**—Section 414 is amended—

8 (1) in subsection (b)—

9 (A) by striking “For purposes of” and in-
10 serting the following:

11 “(1) **IN GENERAL.**—For purposes of”, and

12 (B) by adding at the end the following new
13 paragraphs:

14 “(2) **SPECIAL RULES FOR APPLYING FAMILY**
15 **ATTRIBUTION.**—For purposes of applying the attri-
16 bution rules under section 1563 with respect to
17 paragraph (1), the following rules apply:

18 “(A) Community property laws shall be
19 disregarded for purposes of determining owner-
20 ship.

21 “(B) Except as provided by the Secretary,
22 stock of an individual not attributed under sec-
23 tion 1563(e)(5) to such individual’s spouse shall
24 not be attributed to such spouse by reason of
25 1563(e)(6)(A).

1 “(C) Except as provided by the Secretary,
2 in the case of stock in different corporations
3 that is attributed to a child under section
4 1563(e)(6)(A) from each parent, and is not at-
5 tributed to such parents as spouses under sec-
6 tion 1563(e)(5), such attribution to the child
7 shall not by itself result in such corporations
8 being members of the same controlled group.

9 “(3) PLAN SHALL NOT FAIL TO BE TREATED AS
10 SATISFYING THIS SECTION.—If application of para-
11 graph (2) causes two or more entities to be a con-
12 trolled group, or an affiliated service group, or to no
13 longer be in a controlled group or an affiliated serv-
14 ice group, such change shall be treated as a trans-
15 action to which section 410(b)(6)(C) applies.”, and
16 (2) in subsection (m)(6)(B), by striking “apply”
17 and inserting “apply, except that community prop-
18 erty laws shall be disregarded for purposes of deter-
19 mining ownership”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to plan years beginning on or after
22 the date of the enactment of this section.

1 **SEC. 131144. AMENDMENTS TO INCREASE BENEFIT ACCRU-**
2 **ALS UNDER PLAN FOR PREVIOUS PLAN YEAR**
3 **ALLOWED UNTIL EMPLOYER TAX RETURN**
4 **DUE DATE.**

5 (a) IN GENERAL.—Section 401(b) is amended by
6 adding at the end the following new paragraph:

7 “(3) RETROACTIVE PLAN AMENDMENTS THAT
8 INCREASE BENEFIT ACCRUALS.—If—

9 “(A) an employer amends a stock bonus,
10 pension, profit-sharing, or annuity plan to in-
11 crease benefits accrued under the plan effective
12 for the preceding plan year (other than increas-
13 ing the amount of matching contributions (as
14 defined in subsection (m)(4)(A))),

15 “(B) such amendment would not otherwise
16 cause the plan to fail to meet any of the re-
17 quirements of this subchapter, and

18 “(C) such amendment is adopted before
19 the time prescribed by law for filing the return
20 of the employer for a taxable year (including
21 extensions thereof) during which such amend-
22 ment is effective,

23 the employer may elect to treat such amendment as
24 having been adopted as of the last day of the plan
25 year in which the amendment is effective.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2022.

4 **SEC. 131145. RETROACTIVE FIRST YEAR ELECTIVE DEFER-**
5 **ALS FOR SOLE PROPRIETORS.**

6 (a) IN GENERAL.—Section 401(b) is amended by
7 adding at the end the following: “In the case of an indi-
8 vidual who owns the entire interest in an unincorporated
9 trade or business, and who is the only employee of such
10 trade or business, any elective deferral (as defined in sec-
11 tion 402(g)(3)) under a qualified cash or deferred ar-
12 rangement to which the preceding sentence applies which
13 is made by such individual before the time for filing the
14 return of such individual for the taxable year (determined
15 without regard to any extensions) shall be treated as hav-
16 ing been made before the end of the plan’s first plan
17 year.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to plan years beginning after the
20 date of the enactment of this Act.

21 **SEC. 131146. LIMITING CESSATION OF IRA TREATMENT TO**
22 **PORTION OF ACCOUNT INVOLVED IN A PRO-**
23 **HIBITED TRANSACTION.**

24 (a) IN GENERAL.—Section 408(e)(2)(A) is amended
25 by striking “such account ceases to be an individual retire-

1 ment account” and inserting the following: “the portion
2 of such account which is used in such transaction shall
3 be treated as distributed to the individual”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 408(e)(2)(B) is amended—

6 (A) by striking “ALL ITS ASSETS.—In any
7 case” and all that follows through “by reason
8 of subparagraph (A)” and inserting the fol-
9 lowing: “PORTION OF ASSETS USED IN PROHIB-
10 ITED TRANSACTION.—In any case in which a
11 portion of an individual retirement account is
12 treated as distributed under subparagraph
13 (A)”, and

14 (B) by striking “all the assets in the ac-
15 count” and inserting “such portion”.

16 (2) Section 4975(c)(3) is amended by striking
17 “the account ceases” and all that follows and insert-
18 ing the following: “the portion of the account used
19 in the transaction is treated as distributed under
20 paragraph (2)(A) or (4) of section 408(e).”.

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

1 **Subpart D—Administrative Provisions**

2 **SEC. 131161. PROVISIONS RELATING TO PLAN AMEND-**
3 **MENTS.**

4 (a) **IN GENERAL.**—If this section applies to any re-
5 tirement plan or contract amendment—

6 (1) such retirement plan or contract shall be
7 treated as being operated in accordance with the
8 terms of the plan during the period described in sub-
9 section (b)(2)(A); and

10 (2) except as provided by the Secretary of the
11 Treasury (or the Secretary’s delegate), such retire-
12 ment plan shall not fail to meet the requirements of
13 section 411(d)(6) of the Internal Revenue Code of
14 1986 and section 204(g) of the Employee Retire-
15 ment Income Security Act of 1974 by reason of such
16 amendment.

17 (b) **AMENDMENTS TO WHICH SECTION APPLIES.**—

18 (1) **IN GENERAL.**—This section shall apply to
19 any amendment to any retirement plan or annuity
20 contract which is made—

21 (A) pursuant to any amendment made by
22 this Act or pursuant to any regulation issued by
23 the Secretary of the Treasury or the Secretary
24 of Labor (or a delegate of either such Sec-
25 retary) under this Act; and

1 (B) on or before the last day of the first
2 plan year beginning on or after January 1,
3 2023, or such later date as the Secretary of the
4 Treasury may prescribe.

5 In the case of a governmental plan (as defined in
6 section 414(d) of the Internal Revenue Code of
7 1986), this paragraph shall be applied by sub-
8 stituting “2025” for “2023”.

9 (2) CONDITIONS.—This section shall not apply
10 to any amendment unless—

11 (A) during the period—

12 (i) beginning on the date the legisla-
13 tive or regulatory amendment described in
14 paragraph (1)(A) takes effect (or in the
15 case of a plan or contract amendment not
16 required by such legislative or regulatory
17 amendment, the effective date specified by
18 the plan); and

19 (ii) ending on the date described in
20 paragraph (1)(B) (as modified by the sec-
21 ond sentence of paragraph (1)) (or, if ear-
22 lier, the date the plan or contract amend-
23 ment is adopted),

24 the plan or contract is operated as if such plan
25 or contract amendment were in effect; and

1 (B) such plan or contract amendment ap-
2 plies retroactively for such period.

3 (c) COORDINATION WITH OTHER PROVISIONS RE-
4 LATING TO PLAN AMENDMENTS.—

5 (1) SECURE ACT.—Section 601(b)(1) of the
6 Setting Every Community Up for Retirement En-
7 hancement Act of 2019 is amended—

8 (A) by striking “January 1, 2022” in sub-
9 paragraph (B) and inserting “January 1,
10 2023”, and

11 (B) by striking “substituting ‘2024’ for
12 ‘2022’.” in the flush matter at the end and in-
13 serting “substituting ‘2025’ for ‘2023’.”.

14 (2) CARES ACT.—

15 (A) SPECIAL RULES FOR USE OF RETIRE-
16 MENT FUNDS.—Section 2202(c)(2)(A) of the
17 CARES Act is amended by striking “January
18 1, 2022” in clause (ii) and inserting “January
19 1, 2023”.

20 (B) TEMPORARY WAIVER OF REQUIRED
21 MINIMUM DISTRIBUTIONS RULES FOR CERTAIN
22 RETIREMENT PLANS AND ACCOUNTS.—Section
23 2203(c)(2)(B)(i) of the CARES Act is amend-
24 ed—

1 (i) by striking “January 1, 2022” in
2 subclause (II) and inserting “January 1,
3 2023”, and

4 (ii) by striking “substituting ‘2024’
5 for ‘2022’.” in the flush matter at the end
6 and inserting “substituting ‘2025’ for
7 ‘2023’.”.

8 (C) TAXPAYER CERTAINTY AND DISASTER
9 TAX RELIEF ACT OF 2020.—Section
10 302(d)(2)(A) of the Taxpayer Certainty and
11 Disaster Tax Relief Act of 2020 is amended by
12 striking “January 1, 2022” in clause (ii) and
13 inserting “January 1, 2023”.

14 **Subpart E—Revenue Provisions**

15 **SEC. 131171. SIMPLE AND SEP ROTH IRAS.**

16 (a) IN GENERAL.—Section 408A is amended by
17 striking subsection (f).

18 (b) RULES RELATING TO SIMPLIFIED EMPLOYEE
19 PENSIONS.—

20 (1) CONTRIBUTIONS.—Section 402(h)(1) is
21 amended by striking “and” at the end of subpara-
22 graph (A), by striking the period at the end of sub-
23 paragraph (B) and inserting “, and”, and by adding
24 at the end the following new subparagraph:

1 “(C) in the case of any contributions pur-
2 suant to a simplified employer pension which
3 are made to an individual retirement plan des-
4 ignated as a Roth IRA, such contribution shall
5 not be excludable from gross income.”.

6 (2) DISTRIBUTIONS.—Section 402(h)(3) is
7 amended by inserting “, or section 408A(d) in the
8 case of an individual retirement plan designated as
9 a Roth IRA” before the period at the end.

10 (3) ELECTION REQUIRED.—Section 408(k) is
11 amended by redesignating paragraphs (7), (8), and
12 (9) as paragraphs (8), (9), and (10), respectively,
13 and by inserting the after paragraph (6) the fol-
14 lowing new paragraph:

15 “(7) ROTH CONTRIBUTION ELECTION.—An in-
16 dividual retirement plan which is designated as a
17 Roth IRA shall not be treated as a simplified em-
18 ployee pension under this subsection unless the em-
19 ployee elects for such plan to be so treated (at such
20 time and in such manner as the Secretary may pro-
21 vide).”.

22 (c) RULES RELATING TO SIMPLE RETIREMENT AC-
23 COUNTS.—

1 (1) ELECTION REQUIRED.—Section 408(p) is
2 amended by adding at the end the following new
3 paragraph:

4 “(11) ROTH CONTRIBUTION ELECTION.—An in-
5 dividual retirement plan which is designated as a
6 Roth IRA shall not be treated as a simple retirement
7 account under this subsection unless the employee
8 elects for such plan to be so treated (at such time
9 and in such manner as the Secretary may pro-
10 vide).”.

11 (2) ROLLOVERS.—Section 408A(e) is amended
12 by adding at the end the following new paragraph:

13 “(3) SIMPLE RETIREMENT ACCOUNTS.—In the
14 case of any payment or distribution out of a simple
15 retirement account (as defined in section 408(p))
16 with respect to which an election has been made
17 under section 408(p)(11) and to which 72(t)(6) ap-
18 plies, the term ‘qualified rollover contribution’ shall
19 not include any payment or distribution paid into an
20 account other than another simple retirement ac-
21 count (as so defined).”.

22 (d) COORDINATION WITH ROTH CONTRIBUTION LIM-
23 ITATION.—Section 408A(c) is amended by adding at the
24 end the following new paragraph:

1 “(7) COORDINATION WITH LIMITATION FOR
2 SIMPLE RETIREMENT PLANS AND SEPs.—In the
3 case of an individual on whose behalf contributions
4 are made to a simple retirement account or a sim-
5 plified employee pension, the amount described in
6 paragraph (2)(A) shall be increased by an amount
7 equal to the contributions made on the individual’s
8 behalf to such account or pension for the taxable
9 year, but only to the extent such contributions—

10 “(A) in the case of a simplified retirement
11 account—

12 “(i) do not exceed the sum of the dol-
13 lar amount in effect for the taxable year
14 under section 408(p)(2)(A)(ii) and the em-
15 ployer contribution required under sub-
16 paragraph (A)(iii) or (B)(i), as the case
17 may be, of section 408(p)(2), and

18 “(ii) do not cause the elective defer-
19 rals (as defined in section 402(g)(3)) on
20 behalf of such individual to exceed the lim-
21 itation under section 402(g)(1) (taking
22 into account any additional elective defer-
23 rals permitted under section 414(v)), or

1 “(B) in the case of a simplified employee
2 pension, do not exceed the limitation in effect
3 under section 408(j).”.

4 (e) CONFORMING AMENDMENT.—Section
5 408A(d)(2)(B) is amended by inserting “, or employer in
6 the case of a simple retirement account (as defined in sec-
7 tion 408(p)) or simplified employee pension (as defined in
8 section 408(k)),” after “individual’s spouse”.

9 (f) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2021.

12 **SEC. 131172. HARDSHIP WITHDRAWAL RULES FOR 403(b)**
13 **PLANS.**

14 (a) IN GENERAL.—Section 403(b) is amended by
15 adding at the end the following new paragraph:

16 “(15) SPECIAL RULES RELATING TO HARDSHIP
17 WITHDRAWALS.—For purposes of paragraphs (7)
18 and (11)—

19 “(A) AMOUNTS WHICH MAY BE WITH-
20 DRAWN.—The following amounts may be dis-
21 tributed upon hardship of the employee:

22 “(i) Contributions made pursuant to a
23 salary reduction agreement (within the
24 meaning of section 3121(a)(5)(D)).

1 “(ii) Qualified nonelective contribu-
2 tions (as defined in section 401(m)(4)(C)).

3 “(iii) Qualified matching contributions
4 described in section 401(k)(3)(D)(ii)(I).

5 “(iv) Earnings on any contributions
6 described in clause (i), (ii), or (iii).

7 “(B) NO REQUIREMENT TO TAKE AVAIL-
8 ABLE LOAN.—A distribution shall not be treat-
9 ed as failing to be made upon the hardship of
10 an employee solely because the employee does
11 not take any available loan under the plan.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 403(b)(7)(A)(ii) is amended by
14 striking “in the case of contributions made pursuant
15 to a salary reduction agreement (within the meaning
16 of section 3121(a)(5)(D))” and inserting “subject to
17 the provisions of paragraph (15)”.

18 (2) Paragraph (11) of section 403(b) is amend-
19 ed—

20 (A) by striking “in” in subparagraph (B)
21 and inserting “subject to the provisions of para-
22 graph (15), in”, and

23 (B) by striking the last sentence.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2021.

4 **SEC. 131173. ELECTIVE DEFERRALS GENERALLY LIMITED**
5 **TO REGULAR CONTRIBUTION LIMIT.**

6 (a) APPLICABLE EMPLOYER PLANS.—Section
7 414(v)(1) is amended by adding at the end the following:
8 “Except in the case of an applicable employer plan de-
9 scribed in paragraph (6)(iv), the preceding sentence shall
10 only apply if contributions are designated Roth contribu-
11 tions (as defined in section 402A(c)(1)).”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 402(g)(1) is amended by striking
14 subparagraph (C).

15 (2) Section 457(e)(18)(A)(ii) is amended by in-
16 sserting “the lesser of any designated Roth contribu-
17 tions made by the participant to the plan or” before
18 “the applicable dollar amount”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2021.

1 **SEC. 131174. OPTIONAL TREATMENT OF EMPLOYER MATCH-**
2 **ING CONTRIBUTIONS AS ROTH CONTRIBU-**
3 **TIONS.**

4 (a) **IN GENERAL.**—Section 402A(a) is amended by
5 redesignating paragraph (2) as paragraph (3), by striking
6 “and” at the end of paragraph (1), and by inserting after
7 paragraph (1) the following new paragraph:

8 “(2) any designated Roth contribution which is
9 made by the employer to the program on the em-
10 ployee’s behalf, and on account of the employee’s
11 contribution or elective deferral, shall be treated as
12 a matching contribution for purposes of this chapter,
13 except that such contribution shall not be excludable
14 from gross income, and”.

15 (b) **MATCHING INCLUDED IN QUALIFIED ROTH CON-**
16 **TRIBUTION PROGRAM.**—Section 402A(b)(1) is amended—

17 (1) by inserting “, or to have made on the em-
18 ployee’s behalf,” after “elect to make”, and

19 (2) by inserting “, or of matching contributions
20 which may otherwise be made on the employee’s be-
21 half,” after “otherwise eligible to make”.

22 (c) **DESIGNATED ROTH MATCHING CONTRIBU-**
23 **TIONS.**—Section 402A(c)(1) is amended by inserting “or
24 matching contribution” after “elective deferral”.

25 (d) **MATCHING CONTRIBUTION DEFINED.**—Section
26 402A(e) is amended by adding at the end the following:

1 “(3) MATCHING CONTRIBUTION.—The term
2 ‘matching contribution’ means—

3 “(A) any matching contribution described
4 in section 401(m)(4)(A), and

5 “(B) any contribution to an eligible de-
6 ferred compensation plan (as defined in section
7 457(b)) by an eligible employer described in
8 section 457(e)(1)(A) on behalf of an employee
9 and on account of such employee’s elective de-
10 ferral under such plan.”.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this subsection shall apply to contributions made after the
13 date of the enactment of this Act.

