

105TH CONGRESS
1ST SESSION

S. 620

To amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 17, 1997

Mr. GREGG (for himself, Mr. ROTH, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. SANTORUM, Mr. BOND, Ms. COLLINS, Mr. DEWINE, Mr. ROBERTS, Mr. CRAIG, Mr. NICKLES, Mr. MCCONNELL, Mr. KYL, Ms. SNOWE, Mr. MACK, Mr. HAGEL, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Women’s Investment
5 and Savings Equity Act of 1997”.

1 **SEC. 2. INDIVIDUAL'S ELIGIBILITY FOR DEDUCTIBLE IRA**2 **NOT DETERMINED BY REFERENCE TO**
3 **SPOUSE'S PARTICIPATION IN PENSION PLAN.**4 (a) **IN GENERAL.**—Section 219(g)(1) of the Internal
5 Revenue Code of 1986 (relating to limitation on deduction
6 for active participants in certain pension plans) is amend-
7 ed by striking “or the individual’s spouse”.8 (b) **EFFECTIVE DATE.**—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 1996.11 **SEC. 3. INDIVIDUALS MAY MAKE CONTRIBUTIONS FOR PE-
12 RIODS OF MATERNITY OR PATERNITY LEAVE.**13 (a) **IN GENERAL.**—Section 414 of the Internal Reve-
14 nue Code of 1986 (relating to definitions and special
15 rules) is amended by adding at the end the following:16 “(v) **RIGHT TO MAKE CONTRIBUTIONS WITH RE-
17 SPECT TO PERIODS OF MATERNITY AND PATERNITY
18 LEAVE.**—19 “(1) **IN GENERAL.**—For purposes of this title—
20 “(A) a trust which forms part of a plan
21 shall not constitute a qualified trust under sec-
22 tion 401(a),23 “(B) a plan shall not be treated as de-
24 scribed in section 403(b),

1 “(C) a plan shall not be treated as an eligi-
2 ble deferred compensation plan under section
3 457, and

4 “(D) an arrangement shall not be treated
5 as meeting the requirements of section 408 (k)
6 or (p),

7 unless such plan or arrangement permits partici-
8 pants who were on eligible maternity or paternity
9 leave to make additional elective deferrals under the
10 plan or arrangement with respect to periods of such
11 leave.

12 “(2) TREATMENT OF CONTRIBUTIONS.—

13 “(A) IN GENERAL.—In the case of any
14 contribution to a plan under paragraph (1)
15 (and any employer matching contribution with
16 respect thereto)—

17 “(i) such contribution shall not, with
18 respect to the year in which the contribu-
19 tion is made—

20 “(I) be subject to any otherwise
21 applicable limitation contained in sec-
22 tion 402(g), 402(h), 403(b), 404(a),
23 404(h), 408, 415, or 457, or

24 “(II) be taken into account in ap-
25 plying such limitations to other con-

1 tributions or benefits under such plan
2 or any other such plan,

1 “(ii) the amount of any such match-
2 ing contribution may not exceed the maxi-
3 mum amount which could have been made
4 under the plan had the elective deferral ac-
5 tually been made during the period of eligi-
6 ble maternity and paternity leave.

7 “(3) AMOUNT AND TIMING OF ELECTIVE DE-
8 FERRALS.—A plan shall not be treated as meeting
9 the requirements of paragraph (1) unless the plan
10 provides the following:

11 “(A) AMOUNT.—The amount of any elec-
12 tive deferral under paragraph (1) which any
13 employee is permitted to make with respect to
14 any period of eligible maternity and paternity
15 leave shall not exceed the maximum amount of
16 the elective deferrals that the employee would
17 have been permitted to make during such pe-
18 riod in accordance with the limitation referred
19 to in paragraph (2)(A)(i) if the individual—

20 “(i) had not been on eligible maternity
21 and paternity leave during such period,
22 and

23 “(ii) had received compensation in an
24 amount determined under rules similar to
25 the rules under subsection (u)(7).

1 Proper adjustment shall be made to the amount
2 determined under the preceding sentence for
3 any elective deferrals actually made during such
4 period.

5 “(B) TIMING.—An employee may make an
6 elective deferral to which paragraph (1) applies
7 at any time during the 3-year period beginning
8 on the date on which the eligible maternity or
9 paternity leave ends. Any matching contribution
10 with respect to any such elective deferral shall
11 be made not later than the due date (including
12 extensions) for the filing of the employer’s re-
13 turn for the taxable year in which such elective
14 deferral is made.

15 “(4) ELIGIBLE MATERNITY AND PATERNITY
16 LEAVE.—For purposes of this subsection—

17 “(A) IN GENERAL.—The term ‘eligible ma-
18 ternity or paternity leave’ means any absence of
19 an individual from work for any period—

20 “(i) by reason of the pregnancy of the
21 individual,

22 “(ii) by reason of the birth of a child
23 of the individual,

24 “(iii) by reason of the placement of a
25 child with the individual in connection with

6 “(B) LIMITATION.—Such period may not
7 exceed 12 months with respect to any child.

8 “(5) OTHER DEFINITIONS AND RULES.—For
9 purposes of this subsection—

15 “(B) PLAN.—The term ‘plan’ includes any
16 arrangement under section 408 (k) or (p).

17 “(C) CERTAIN RETROACTIVE ADJUST-
18 MENTS NOT REQUIRED.—For purposes of this
19 subchapter and subchapter E, the rules of sub-
20 section (u)(3) shall apply.

21 “(D) LOAN REPAYMENT SUSPENSIONS
22 PERMITTED.—In the case of any plan or ar-
23 rangement to which paragraph (1) applies, the
24 rules of subsection (u)(4) shall apply to any

1 loan repayment suspension during any period of
2 eligible maternity and paternity leave.”

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to periods of eligible maternity and
5 paternity leave beginning after December 31, 1997.

6 **SEC. 4. CATCHUP CONTRIBUTIONS FOR FAMILIES WITH**
7 **CHILDREN NOT COVERED BY A PENSION**
8 **PLAN.**

9 (a) IN GENERAL.—Section 414 of the Internal Reve-
10 nue Code of 1986 (relating to definitions and special
11 rules), as amended by section 3, is amended by adding
12 at the end the following:

13 “(w) CATCHUP CONTRIBUTIONS FOR FAMILIES
14 WITH CHILDREN NOT COVERED BY A PENSION PLAN.—

15 “(1) IN GENERAL.—For purposes of this title—
16 “(A) a trust which forms part of a plan
17 shall not constitute a qualified trust under sec-
18 tion 401(a),

19 “(B) a plan shall not be treated as de-
20 scribed in section 403(b),

21 “(C) a plan shall not be treated as an eligi-
22 ble deferred compensation plan under section
23 457, and

1 “(D) an arrangement shall not be treated
2 as meeting requirements of section 408 (k) or
3 (p),
4 unless such plan or arrangement permits eligible
5 participants to make additional elective deferrals
6 under the plan or arrangement in accordance with
7 paragraph (2).

8 “(2) CATCHUP CONTRIBUTIONS.—

9 “(A) IN GENERAL.—A plan shall permit an
10 eligible participant to make the additional elec-
11 tive deferrals under paragraph (1) in any year
12 which is certified as a catchup year by the par-
13 ticipant under subparagraph (E).

14 “(B) LIMITATION ON AMOUNT OF ADDI-
15 TIONAL DEFERRALS.—A plan shall not permit
16 additional elective deferrals under paragraph
17 (1) for any year in an amount greater than the
18 lesser of—

19 “(i) the amount of the elective defer-
20 rals the participant may otherwise make
21 under the plan for such year (determined
22 without regard to this subsection, sub-
23 section (u), or any limitation described in
24 subparagraph (C)(i)), or

25 “(ii) the excess (if any) of—

1 “(I) 120 percent of the dollar
2 limitation in effect under section
3 402(g), 408(p), or 457(b)(2)(A),
4 whichever is applicable, for taxable
5 years beginning in the calendar year
6 in which the plan year begins, over

7 “(II) any other elective deferrals
8 of the participant for such year which
9 are made without regard to this sub-
10 section.

11 “(C) TREATMENT OF CONTRIBUTIONS.—In
12 the case of any contribution to a plan under
13 paragraph (1) (and any employer matching con-
14 tribution with respect thereto)—

15 “(i) such contribution shall not, with
16 respect to the year in which the contribu-
17 tion is made—

18 “(I) be subject to any otherwise
19 applicable limitation contained in sec-
20 tion 402(g), 402(h), 403(b), 404(a),
21 404(h), 408, 415, or 457, or

22 “(II) be taken into account in ap-
23 plying such limitations to other con-
24 tributions or benefits under such plan
25 or any other such plan, and

1 “(ii) except as provided in subparagraph (D)(i), such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k), 408(p), 410(b), or 416 by reason of the making of (or the right to make) such contribution.

9 “(D) MATCHING CONTRIBUTIONS.—Nothing in subparagraph (A) shall require an employer to make any matching contribution with respect to any additional elective deferrals under paragraph (1) for any year, but if the employer elects to make any such matching contribution—

16 “(i) the requirements of section 401(a)(4) shall be applied separately to all such matching contributions made during a year, and

20 “(ii) the amount of any such matching contribution may not exceed the maximum amount which could have been made under the terms of the plan in effect for elective deferrals made for such year without regard to this subsection.

1 “(E) CERTIFICATION OF CATCHUP
2 YEARS.—

3 “(i) IN GENERAL.—A participant
4 making additional elective deferrals under
5 paragraph (1) for any year shall certify to
6 the plan administrator that—

7 “(I) the participant is an eligible
8 participant, and

9 “(II) the year is a catchup year.

10 “(ii) CATCHUP YEAR.—An eligible
11 participant may certify 1 or more years as
12 catchup years, except that the total num-
13 ber of years which may be certified shall
14 not exceed the excess (if any) of—

15 “(I) the number of years (not in
16 excess of 18) described in paragraph
17 (3) occurring before the year in ques-
18 tion, over

19 “(II) the number of years pre-
20 viously certified by the participant
21 under this subsection.

22 “(iii) PLANS NOT RESPONSIBLE FOR
23 CERTIFICATION FAILURES.—A plan shall
24 not be treated as failing to meet the re-
25 quirements of this subsection by reason of

1 reliance on an incorrect certification under
2 this subparagraph unless the plan adminis-
3 trator knew, or reasonably should have
4 known, that the certification was incorrect.

5 “(3) ELIGIBLE PARTICIPANT.—For purposes of
6 this subsection, the term ‘eligible participant’ means,
7 with respect to any year, a participant in a plan
8 who, for any calendar year before the calendar year
9 in which the year begins—

13 “(B) had a child or stepchild who had not
14 attained age 18 with respect to whom a deduc-
15 tion was allowed under section 151 to the par-
16 ticipant (or the participant’s spouse) for a tax-
17 able year beginning in the calendar year.

18 “(4) OTHER DEFINITIONS AND RULES.—For
19 purposes of this subsection—

20 “(A) ELECTIVE DEFERRAL.—The term
21 ‘elective deferral’ has the meaning given such
22 term by subsection (u)(2)(C). Such term shall
23 also include after-tax employee contributions
24 described in subsection (u)(2)(D).

1 “(B) PLAN.—The term ‘plan’ includes any
2 arrangement under section 408 (k) or (p).

3 “(C) CERTAIN RETROACTIVE ADJUST-
4 MENTS NOT REQUIRED.—For purposes of this
5 subchapter and subchapter E, the rules of sub-
6 section (u)(3) shall apply.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to contributions in taxable years
9 beginning after December 31, 1997.

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