

106TH CONGRESS  
1ST SESSION

# H. R. 189

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

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. McCOLLUM (for himself and Ms. DUNN) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to 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 1999”.

6       **SEC. 2. INDIVIDUALS MAY MAKE CONTRIBUTIONS FOR PE-**  
7       **RIODS OF MATERNITY OR PATERNITY LEAVE.**

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

1       “(v) RIGHT TO MAKE CONTRIBUTIONS WITH RE-  
2       SPECT TO PERIODS OF MATERNITY AND PATERNITY  
3       LEAVE.—

4               “(1) IN GENERAL.—For purposes of this title—

5                       “(A) a trust which forms part of a plan  
6                       shall not constitute a qualified trust under sec-  
7                       tion 401(a),

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

10                      “(C) a plan shall not be treated as an eligi-  
11                      ble deferred compensation plan under section  
12                      457, and

13                      “(D) an arrangement shall not be treated  
14                      as meeting the requirements of section 408 (k)  
15                      or (p),

16       unless such plan or arrangement permits partici-  
17       pants who were on eligible maternity or paternity  
18       leave to make additional elective deferrals under the  
19       plan or arrangement with respect to periods of such  
20       leave.

21               “(2) TREATMENT OF CONTRIBUTIONS.—

22                       “(A) IN GENERAL.—In the case of any  
23                       contribution to a plan under paragraph (1)  
24                       (and any employer matching contribution with  
25                       respect thereto)—

1 “(i) such contribution shall not, with  
 2 respect to the year in which the contribu-  
 3 tion is made—

4 “(I) be subject to any otherwise  
 5 applicable limitation contained in sec-  
 6 tion 402(g), 402(h), 403(b), 404(a),  
 7 404(h), 408, 415, or 457, or

8 “(II) be taken into account in ap-  
 9 plying such limitations to other con-  
 10 tributions or benefits under such plan  
 11 or any other such plan,

12 “(ii) such contribution shall be subject  
 13 to the limitations referred to in clause (i)  
 14 with respect to the year to which the con-  
 15 tribution relates (in accordance with rules  
 16 prescribed by the Secretary), and

17 “(iii) except as provided in subpara-  
 18 graph (B)(i), such plan shall not be treated  
 19 as failing to meet the requirements of sec-  
 20 tion 401(a)(4), 401(a)(26), 401(k)(3),  
 21 401(k)(11), 401(k)(12), 401(m),  
 22 403(b)(12), 408(k), 408(p), 410(b), or 416  
 23 by reason of the making of (or the right to  
 24 make) such contribution.

1           “(B) MATCHING CONTRIBUTIONS.—Noth-  
2           ing in subparagraph (A) shall require an em-  
3           ployer to make any matching contribution with  
4           respect to any additional elective deferrals  
5           under paragraph (1), but if the employer elects  
6           to make any such matching contribution—

7                   “(i) the requirements of section  
8                   401(a)(4) shall be applied separately to all  
9                   such matching contributions made during  
10                  a year, and

11                  “(ii) the amount of any such match-  
12                  ing contribution may not exceed the maxi-  
13                  mum amount which could have been made  
14                  under the plan had the elective deferral ac-  
15                  tually been made during the period of eligi-  
16                  ble maternity and paternity leave.

17           “(3) AMOUNT AND TIMING OF ELECTIVE DE-  
18           FERRALS.—A plan shall not be treated as meeting  
19           the requirements of paragraph (1) unless the plan  
20           provides the following:

21                   “(A) AMOUNT.—The amount of any elec-  
22                   tive deferral under paragraph (1) which any  
23                   employee is permitted to make with respect to  
24                   any period of eligible maternity and paternity  
25                   leave shall not exceed the maximum amount of

1 the elective deferrals that the employee would  
2 have been permitted to make during such pe-  
3 riod in accordance with the limitation referred  
4 to in paragraph (2)(A)(i) if the individual—

5 “(i) had not been on eligible maternity  
6 and paternity leave during such period,  
7 and

8 “(ii) had received compensation in an  
9 amount determined under rules similar to  
10 the rules under subsection (u)(7).

11 Proper adjustment shall be made to the amount  
12 determined under the preceding sentence for  
13 any elective deferrals actually made during such  
14 period.

15 “(B) TIMING.—An employee may make an  
16 elective deferral to which paragraph (1) applies  
17 at any time during the 3-year period beginning  
18 on the date on which the eligible maternity or  
19 paternity leave ends. Any matching contribution  
20 with respect to any such elective deferral shall  
21 be made not later than the due date (including  
22 extensions) for the filing of the employer’s re-  
23 turn for the taxable year in which such elective  
24 deferral is made.

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

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

6           “(i) by reason of the pregnancy of the  
7 individual,

8           “(ii) by reason of the birth of a child  
9 of the individual,

10          “(iii) by reason of the placement of a  
11 child with the individual in connection with  
12 the adoption of the child by the individual,  
13 or

14          “(iv) for purposes of caring for such  
15 child for a period beginning immediately  
16 following such birth or placement.

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

19          “(5) OTHER DEFINITIONS AND RULES.—For  
20 purposes of this subsection—

21          “(A) ELECTIVE DEFERRAL.—The term  
22 ‘elective deferral’ has the meaning given such  
23 term by subsection (u)(2)(C). Such term shall  
24 also include any after-tax employee contribu-  
25 tions 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 “(D) LOAN REPAYMENT SUSPENSIONS  
8 PERMITTED.—In the case of any plan or ar-  
9 rangement to which paragraph (1) applies, the  
10 rules of subsection (u)(4) shall apply to any  
11 loan repayment suspension during any period of  
12 eligible maternity and paternity leave.”

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to periods of eligible maternity and  
15 paternity leave beginning after December 31, 1999.

16 **SEC. 3. CATCHUP CONTRIBUTIONS FOR FAMILIES WITH**  
17 **CHILDREN NOT COVERED BY A PENSION**  
18 **PLAN.**

19 (a) IN GENERAL.—Section 414 of the Internal Reve-  
20 nue Code of 1986 (relating to definitions and special  
21 rules), as amended by section 2, is amended by adding  
22 at the end the following:

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

25 “(1) IN GENERAL.—For purposes of this title—

1           “(A) a trust which forms part of a plan  
2           shall not constitute a qualified trust under sec-  
3           tion 401(a),

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

6           “(C) a plan shall not be treated as an eligi-  
7           ble deferred compensation plan under section  
8           457, and

9           “(D) an arrangement shall not be treated  
10          as meeting requirements of section 408 (k) or  
11          (p),

12          unless such plan or arrangement permits eligible  
13          participants to make additional elective deferrals  
14          under the plan or arrangement in accordance with  
15          paragraph (2).

16          “(2) CATCHUP CONTRIBUTIONS.—

17               “(A) IN GENERAL.—A plan shall permit an  
18               eligible participant to make the additional elec-  
19               tive deferrals under paragraph (1) in any year  
20               which is certified as a catchup year by the par-  
21               ticipant under subparagraph (E).

22               “(B) LIMITATION ON AMOUNT OF ADDI-  
23               TIONAL DEFERRALS.—A plan shall not permit  
24               additional elective deferrals under paragraph



1 (1) for any year in an amount greater than the  
 2 lesser of—

3 “(i) the amount of the elective defer-  
 4 rals the participant may otherwise make  
 5 under the plan for such year (determined  
 6 without regard to this subsection, sub-  
 7 section (u), or any limitation described in  
 8 subparagraph (C)(i)), or

9 “(ii) the excess (if any) of—

10 “(I) 120 percent of the dollar  
 11 limitation in effect under section  
 12 402(g), 408(p), or 457(b)(2)(A),  
 13 whichever is applicable, for taxable  
 14 years beginning in the calendar year  
 15 in which the plan year begins, over

16 “(II) any other elective deferrals  
 17 of the participant for such year which  
 18 are made without regard to this sub-  
 19 section.

20 “(C) TREATMENT OF CONTRIBUTIONS.—In  
 21 the case of any contribution to a plan under  
 22 paragraph (1) (and any employer matching con-  
 23 tribution with respect thereto)—

1 “(i) such contribution shall not, with  
2 respect to the year in which the contribu-  
3 tion is made—

4 “(I) be subject to any otherwise  
5 applicable limitation contained in sec-  
6 tion 402(g), 402(h), 403(b), 404(a),  
7 404(h), 408, 415, or 457, or

8 “(II) be taken into account in ap-  
9 plying such limitations to other con-  
10 tributions or benefits under such plan  
11 or any other such plan, and

12 “(ii) except as provided in subpara-  
13 graph (D)(i), such plan shall not be treat-  
14 ed as failing to meet the requirements of  
15 section 401(a)(4), 401(a)(26), 401(k)(3),  
16 401(k)(11), 401(k)(12), 401(m),  
17 403(b)(12), 408(k), 408(p), 410(b), or 416  
18 by reason of the making of (or the right to  
19 make) such contribution.

20 “(D) MATCHING CONTRIBUTIONS.—Noth-  
21 ing in subparagraph (A) shall require an em-  
22 ployer to make any matching contribution with  
23 respect to any additional elective deferrals  
24 under paragraph (1) for any year, but if the

1 employer elects to make any such matching  
2 contribution—

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

7 “(ii) the amount of any such match-  
8 ing contribution may not exceed the maxi-  
9 mum amount which could have been made  
10 under the terms of the plan in effect for  
11 elective deferrals made for such year with-  
12 out regard to this subsection.

13 “(E) CERTIFICATION OF CATCHUP  
14 YEARS.—

15 “(i) IN GENERAL.—A participant  
16 making additional elective deferrals under  
17 paragraph (1) for any year shall certify to  
18 the plan administrator that—

19 “(I) the participant is an eligible  
20 participant, and

21 “(II) the year is a catchup year.

22 “(ii) CATCHUP YEAR.—An eligible  
23 participant may certify 1 or more years as  
24 catchup years, except that the total num-

ber of years which may be certified shall  
not exceed the excess (if any) of—

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

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

“(iii) PLANS NOT RESPONSIBLE FOR  
CERTIFICATION FAILURES.—A plan shall  
not be treated as failing to meet the re-  
quirements of this subsection by reason of  
reliance on an incorrect certification under  
this subparagraph unless the plan adminis-  
trator knew, or reasonably should have  
known, that the certification was incorrect.

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

“(A) was not an active participant (within  
the meaning of section 219(g)(5)) for any plan  
year beginning in the calendar year, and

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

6           “(4) OTHER DEFINITIONS AND RULES.—For  
 7           purposes of this subsection—

8           “(A) ELECTIVE DEFERRAL.—The term  
 9           ‘elective deferral’ has the meaning given such  
 10          term by subsection (u)(2)(C). Such term shall  
 11          also include after-tax employee contributions  
 12          described in subsection (u)(2)(D).

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

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

19          (b) EFFECTIVE DATE.—The amendment made by  
 20          this section shall apply to contributions in taxable years  
 21          beginning after December 31, 1999.

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