

109TH CONGRESS
1ST SESSION

H. R. 4334

To provide emergency tax relief for persons affected by Hurricane Wilma.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2005

Mr. SHAW (for himself, Mr. FOLEY, Ms. ROS-LEHTINEN, Mr. HASTINGS of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. WEXLER, Ms. HARRIS, Ms. GINNY BROWN-WAITE of Florida, Mr. MACK, Mr. BILIRAKIS, Mr. MILLER of Florida, Ms. WASSERMAN SCHULTZ, Ms. CORRINE BROWN of Florida, Mr. CRENSHAW, Mr. PUTNAM, and Mr. DAVIS of Florida) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide emergency tax relief for persons affected by
Hurricane Wilma.

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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Hurricane Wilma Taxpayer Relief Act of 2005”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title, etc.
 Sec. 2. Hurricane Wilma disaster area.

TITLE I—SPECIAL RULES FOR USE OF RETIREMENT FUNDS FOR
 RELIEF RELATING TO HURRICANE WILMA

- Sec. 101. Tax-favored withdrawals from retirement plans for relief relating to Hurricane Wilma.
 Sec. 102. Recontributions of withdrawals for home purchases cancelled due to Hurricane Wilma.
 Sec. 103. Loans from qualified plans for relief relating to Hurricane Wilma.
 Sec. 104. Provisions relating to plan amendments.

TITLE II—CHARITABLE GIVING INCENTIVES

- Sec. 201. Temporary suspension of limitations on charitable contributions.
 Sec. 202. Increase in standard mileage rate for charitable use of vehicles.
 Sec. 203. Mileage reimbursements to charitable volunteers excluded from gross income.

TITLE III—ADDITIONAL TAX RELIEF PROVISIONS

- Sec. 301. Suspension of certain limitations on personal casualty losses.
 Sec. 302. Extension of replacement period for nonrecognition of gain for property located in Hurricane Wilma disaster area.

TITLE IV—EMERGENCY REQUIREMENT

- Sec. 401. Emergency requirement.

1 SEC. 2. HURRICANE WILMA DISASTER AREA.

2 For purposes of this Act—

3 (1) HURRICANE WILMA DISASTER AREA.—The
 4 term “Hurricane Wilma disaster area” means an
 5 area with respect to which a major disaster has been
 6 declared by the President under section 401 of the
 7 Robert T. Stafford Disaster Relief and Emergency
 8 Assistance Act by reason of Hurricane Wilma.

9 (2) CORE DISASTER AREA.—The term “core
 10 disaster area” means that portion of the Hurricane
 11 Wilma disaster area determined by the President to
 12 warrant individual or individual and public assist-
 13 ance from the Federal Government under such Act.

1 **TITLE I—SPECIAL RULES FOR**
2 **USE OF RETIREMENT FUNDS**
3 **FOR RELIEF RELATING TO**
4 **HURRICANE WILMA**

5 **SEC. 101. TAX-FAVORED WITHDRAWALS FROM RETIRE-**
6 **MENT PLANS FOR RELIEF RELATING TO HUR-**
7 **RICANE WILMA.**

8 (a) IN GENERAL.—Section 72(t) of the Internal Rev-
9 enue Code of 1986 shall not apply to any qualified Hurri-
10 cane Wilma distribution.

11 (b) AGGREGATE DOLLAR LIMITATION.—

12 (1) IN GENERAL.—For purposes of this section,
13 the aggregate amount of distributions received by an
14 individual which may be treated as qualified Hurri-
15 cane Wilma distributions for any taxable year shall
16 not exceed the excess (if any) of—

17 (A) \$100,000, over

18 (B) the sum of—

19 (i) the aggregate amounts treated as
20 qualified Hurricane Wilma distributions re-
21 ceived by such individual for all prior tax-
22 able years, and

23 (ii) the aggregate amounts treated as
24 qualified Hurricane Katrina distributions
25 (as defined in section 101 of the Katrina

1 Emergency Relief Act of 2005) received by
2 such individual for such taxable year and
3 all prior taxable years.

4 (2) TREATMENT OF PLAN DISTRIBUTIONS.—If
5 a distribution to an individual would (without regard
6 to paragraph (1)) be a qualified Hurricane Wilma
7 distribution, a plan shall not be treated as violating
8 any requirement of the Internal Revenue Code of
9 1986 merely because the plan treats such distribu-
10 tion as a qualified Hurricane Wilma distribution,
11 unless the aggregate amount of such distributions
12 and qualified Hurricane Katrina distributions (as
13 defined in section 101 of the Katrina Emergency
14 Tax Relief Act of 2005) from all plans maintained
15 by the employer (and any member of any controlled
16 group which includes the employer) to such indi-
17 vidual exceeds \$100,000.

18 (3) CONTROLLED GROUP.—For purposes of
19 paragraph (2), the term “controlled group” means
20 any group treated as a single employer under sub-
21 section (b), (c), (m), or (o) of section 414 of such
22 Code.

23 (c) AMOUNT DISTRIBUTED MAY BE REPAID.—

24 (1) IN GENERAL.—Any individual who receives
25 a qualified Hurricane Wilma distribution may, at

1 any time during the 3-year period beginning on the
2 day after the date on which such distribution was re-
3 ceived, make one or more contributions in an aggre-
4 gate amount not to exceed the amount of such dis-
5 tribution to an eligible retirement plan of which such
6 individual is a beneficiary and to which a rollover
7 contribution of such distribution could be made
8 under section 402(c), 403(a)(4), 403(b)(8),
9 408(d)(3), or 457(e)(16) of such Code, as the case
10 may be.

11 (2) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER
12 THAN IRAS.—For purposes of such Code, if a con-
13 tribution is made pursuant to paragraph (1) with re-
14 spect to a qualified Hurricane Wilma distribution
15 from an eligible retirement plan other than an indi-
16 vidual retirement plan, then the taxpayer shall, to
17 the extent of the amount of the contribution, be
18 treated as having received the qualified Hurricane
19 Wilma distribution in an eligible rollover distribution
20 (as defined in section 402(c)(4) of such Code) and
21 as having transferred the amount to the eligible re-
22 tirement plan in a direct trustee to trustee transfer
23 within 60 days of the distribution.
24

1 (3) TREATMENT OF REPAYMENTS FOR DIS-
 2 TRIBUTIONS FROM IRAS.—For purposes of such
 3 Code, if a contribution is made pursuant to para-
 4 graph (1) with respect to a qualified Hurricane
 5 Wilma distribution from an individual retirement
 6 plan (as defined by section 7701(a)(37) of such
 7 Code), then, to the extent of the amount of the con-
 8 tribution, the qualified Hurricane Wilma distribution
 9 shall be treated as a distribution described in section
 10 408(d)(3) of such Code and as having been trans-
 11 ferred to the eligible retirement plan in a direct
 12 trustee to trustee transfer within 60 days of the dis-
 13 tribution.

14 (d) DEFINITIONS.—For purposes of this section—

15 (1) QUALIFIED HURRICANE WILMA DISTRIBUTION.—Except as provided in subsection (b), the
 16 term “qualified Hurricane Wilma distribution”
 17 means any distribution from an eligible retirement
 18 plan made on or after October 23, 2005, and before
 19 January 1, 2007, to an individual whose principal
 20 place of abode on October 23, 2005, is located in the
 21 Hurricane Wilma disaster area and who has sus-
 22 tained an economic loss by reason of Hurricane
 23 Wilma.
 24

1 (2) ELIGIBLE RETIREMENT PLAN.—The term
 2 “eligible retirement plan” shall have the meaning
 3 given such term by section 402(c)(8)(B) of such
 4 Code.

5 (e) INCOME INCLUSION SPREAD OVER 3 YEAR PE-
 6 RIOD FOR QUALIFIED HURRICANE WILMA DISTRIBUTU-
 7 TIONS.—

8 (1) IN GENERAL.—In the case of any qualified
 9 Hurricane Wilma distribution, unless the taxpayer
 10 elects not to have this subsection apply for any tax-
 11 able year, any amount required to be included in
 12 gross income for such taxable year shall be so in-
 13 cluded ratably over the 3-taxable year period begin-
 14 ning with such taxable year.

15 (2) SPECIAL RULE.—For purposes of para-
 16 graph (1), rules similar to the rules of subparagraph
 17 (E) of section 408A(d)(3) of such Code shall apply.

18 (f) SPECIAL RULES.—

19 (1) EXEMPTION OF DISTRIBUTIONS FROM
 20 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
 21 HOLDING RULES.—For purposes of sections
 22 401(a)(31), 402(f), and 3405 of such Code, qualified
 23 Hurricane Wilma distributions shall not be treated
 24 as eligible rollover distributions.

1 (2) QUALIFIED HURRICANE WILMA DISTRIBUTU-
 2 TIONS TREATED AS MEETING PLAN DISTRIBUTION
 3 REQUIREMENTS.—For purposes of such Code, a
 4 qualified Hurricane Wilma distribution shall be
 5 treated as meeting the requirements of sections
 6 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and
 7 457(d)(1)(A) of such Code.

8 **SEC. 102. RECONTRIBUTIONS OF WITHDRAWALS FOR HOME**
 9 **PURCHASES CANCELLED DUE TO HURRI-**
 10 **CANE WILMA.**

11 (a) RECONTRIBUTIONS.—

12 (1) IN GENERAL.—Any individual who received
 13 a qualified distribution may, during the period be-
 14 ginning on October 23, 2005, and ending on Feb-
 15 ruary 28, 2006, make one or more contributions in
 16 an aggregate amount not to exceed the amount of
 17 such qualified distribution to an eligible retirement
 18 plan (as defined in section 402(c)(8)(B) of the Inter-
 19 nal Revenue Code of 1986) of which such individual
 20 is a beneficiary and to which a rollover contribution
 21 of such distribution could be made under section
 22 402(c), 403(a)(4), 403(b)(8), or 408(d)(3) of such
 23 Code, as the case may be.

24 (2) TREATMENT OF REPAYMENTS.—Rules simi-
 25 lar to the rules of paragraphs (2) and (3) of section

1 101(c) of this Act shall apply for purposes of this
2 section.

3 (b) QUALIFIED DISTRIBUTION DEFINED.—For pur-
4 poses of this section, the term “qualified distribution”
5 means any distribution—

6 (1) described in section 401(k)(2)(B)(i)(IV),
7 403(b)(7)(A)(ii) (but only to the extent such dis-
8 tribution relates to financial hardship),
9 403(b)(11)(B), or 72(t)(2)(F) of such Code,

10 (2) received after February 28, 2005, and be-
11 fore October 24, 2005, and

12 (3) which was to be used to purchase or con-
13 struct a principal residence in the Hurricane Wilma
14 disaster area, but which was not so purchased or
15 constructed on account of Hurricane Wilma.

16 (c) COORDINATION WITH RECONTRIBUTIONS DUE
17 TO HURRICANE KATRINA.—In the case of any distribution
18 which is a qualified distribution under this section and
19 under section 102 of the Katrina Emergency Tax Relief
20 Act of 2005, the amount of the contributions that may
21 be made under paragraph (1) with respect to such dis-
22 tribution shall be reduced by the amount of any contribu-
23 tions taking into account section 102 of such Act.

1 **SEC. 103. LOANS FROM QUALIFIED PLANS FOR RELIEF RE-**
2 **LATING TO HURRICANE WILMA.**

3 (a) INCREASE IN LIMIT ON LOANS NOT TREATED AS
4 DISTRIBUTIONS.—In the case of any loan from a qualified
5 employer plan (as defined under section 72(p)(4) of the
6 Internal Revenue Code of 1986) to a qualified individual
7 made after the date of enactment of this Act and before
8 January 1, 2007—

9 (1) clause (i) of section 72(p)(2)(A) of such
10 Code shall be applied by substituting “\$100,000”
11 for “\$50,000”, and

12 (2) clause (ii) of such section shall be applied
13 by substituting “the present value of the nonforfeit-
14 able accrued benefit of the employee under the plan”
15 for “one-half of the present value of the nonforfeit-
16 able accrued benefit of the employee under the
17 plan”.

18 (b) DELAY OF REPAYMENT.—In the case of a quali-
19 fied individual with an outstanding loan on or after Octo-
20 ber 23, 2005, from a qualified employer plan (as defined
21 in section 72(p)(4) of such Code)—

22 (1) if the due date pursuant to subparagraph
23 (B) or (C) of section 72(p)(2) of such Code for any
24 repayment with respect to such loan occurs during
25 the period beginning on October 23, 2005, and end-

1 ing on December 31, 2006, such due date shall be
2 delayed for 1 year,

3 (2) any subsequent repayments with respect to
4 any such loan shall be appropriately adjusted to re-
5 flect the delay in the due date under paragraph (1)
6 and any interest accruing during such delay, and

7 (3) in determining the 5-year period and the
8 term of a loan under subparagraph (B) or (C) of
9 section 72(p)(2) of such Code, the period described
10 in paragraph (1) shall be disregarded.

11 (c) QUALIFIED INDIVIDUAL.—For purposes of this
12 section, the term “qualified individual” means an indi-
13 vidual whose principal place of abode on October 23, 2005,
14 is located in the Hurricane Wilma disaster area and who
15 has sustained an economic loss by reason of Hurricane
16 Wilma.

17 **SEC. 104. PROVISIONS RELATING TO PLAN AMENDMENTS.**

18 (a) IN GENERAL.—If this section applies to any
19 amendment to any plan or annuity contract, such plan or
20 contract shall be treated as being operated in accordance
21 with the terms of the plan during the period described in
22 subsection (b)(2)(A).

23 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

1 (1) IN GENERAL.—This section shall apply to
2 any amendment to any plan or annuity contract
3 which is made—

4 (A) pursuant to any amendment made by
5 this title, or pursuant to any regulation issued
6 by the Secretary of the Treasury or the Sec-
7 retary of Labor under this title, and

8 (B) on or before the last day of the first
9 plan year beginning on or after January 1,
10 2007, or such later date as the Secretary of the
11 Treasury may prescribe.

12 In the case of a governmental plan (as defined in
13 section 414(d) of the Internal Revenue Code of
14 1986), subparagraph (B) shall be applied by sub-
15 stituting the date which is 2 years after the date
16 otherwise applied under subparagraph (B).

17 (2) CONDITIONS.—This section shall not apply
18 to any amendment unless—

19 (A) during the period—

20 (i) beginning on the date the legisla-
21 tive or regulatory amendment described in
22 paragraph (1)(A) takes effect (or in the
23 case of a plan or contract amendment not
24 required by such legislative or regulatory

1 amendment, the effective date specified by
2 the plan), and

3 (ii) ending on the date described in
4 paragraph (1)(B) (or, if earlier, the date
5 the plan or contract amendment is adopt-
6 ed),

7 the plan or contract is operated as if such plan
8 or contract amendment were in effect; and

9 (B) such plan or contract amendment ap-
10 plies retroactively for such period.

11 **TITLE II—CHARITABLE GIVING** 12 **INCENTIVES**

13 **SEC. 201. TEMPORARY SUSPENSION OF LIMITATIONS ON** 14 **CHARITABLE CONTRIBUTIONS.**

15 For purposes of section 301 of the Katrina Emer-
16 gency Tax Relief Act of 2005, a charitable contribution
17 (as defined in section 170(c) of the Internal Revenue Code
18 of 1986) paid by a corporation for relief efforts related
19 to Hurricane Wilma shall be treated as though such con-
20 tribution were paid for relief efforts related to Hurricane
21 Katrina.

22 **SEC. 202. INCREASE IN STANDARD MILEAGE RATE FOR** 23 **CHARITABLE USE OF VEHICLES.**

24 Notwithstanding section 170(i) of the Internal Rev-
25 enue Code of 1986, for purposes of computing the deduc-

1 tion under section 170 of such Code for use of a vehicle
2 described in subsection (f)(12)(E)(i) of such section for
3 provision of relief related to Hurricane Wilma during the
4 period beginning on October 23, 2005, and ending on De-
5 cember 31, 2006, the standard mileage rate shall be 70
6 percent of the standard mileage rate in effect under sec-
7 tion 162(a) of such Code at the time of such use. Any
8 increase under this section shall be rounded to the next
9 highest cent.

10 **SEC. 203. MILEAGE REIMBURSEMENTS TO CHARITABLE**
11 **VOLUNTEERS EXCLUDED FROM GROSS IN-**
12 **COME.**

13 (a) IN GENERAL.—For purposes of the Internal Rev-
14 enue Code of 1986, gross income of an individual for tax-
15 able years ending on or after October 23, 2005, does not
16 include amounts received, from an organization described
17 in section 170(c) of such Code, as reimbursement of oper-
18 ating expenses with respect to use of a passenger auto-
19 mobile for the benefit of such organization in connection
20 with providing relief relating to Hurricane Wilma during
21 the period beginning on October 23, 2005, and ending on
22 December 31, 2006. The preceding sentence shall apply
23 only to the extent that the expenses which are reimbursed
24 would be deductible under chapter 1 of such Code if sec-
25 tion 274(d) of such Code were applied—

1 (1) by using the standard business mileage rate
2 in effect under section 162(a) of such Code at the
3 time of such use, and

4 (2) as if the individual were an employee of an
5 organization not described in section 170(c) of such
6 Code.

7 (b) APPLICATION TO VOLUNTEER SERVICES ONLY.—
8 Subsection (a) shall not apply with respect to any expenses
9 relating to the performance of services for compensation.
10 (c) NO DOUBLE BENEFIT.—No deduction or credit
11 shall be allowed under any other provision of such Code
12 with respect to the expenses excludable from gross income
13 under subsection (a).

14 **TITLE III—ADDITIONAL TAX**
15 **RELIEF PROVISIONS**

16 **SEC. 301. SUSPENSION OF CERTAIN LIMITATIONS ON PER-**
17 **SONAL CASUALTY LOSSES.**

18 Paragraphs (1) and (2)(A) of section 165(h) of the
19 Internal Revenue Code of 1986 shall not apply to losses
20 described in section 165(c)(3) of such Code which arise
21 in the Hurricane Wilma disaster area on or after October
22 23, 2005, and which are attributable to Hurricane Wilma.
23 In the case of any other losses, section 165(h)(2)(A) of
24 such Code shall be applied without regard to the losses
25 referred to in the preceding sentence.

1 **SEC. 302. EXTENSION OF REPLACEMENT PERIOD FOR NON-**
 2 **RECOGNITION OF GAIN FOR PROPERTY LO-**
 3 **CATED IN HURRICANE WILMA DISASTER**
 4 **AREA.**

5 Clause (i) of section 1033(a)(2)(B) of the Internal
 6 Revenue Code of 1986 shall be applied by substituting “5
 7 years” for “2 years” with respect to property in the Hurri-
 8 cane Wilma disaster area which is compulsorily or involun-
 9 tarily converted on or after October 23, 2005, by reason
 10 of Hurricane Wilma, but only if substantially all of the
 11 use of the replacement property is in such area.

12 **TITLE IV—EMERGENCY**
 13 **REQUIREMENT**

14 **SEC. 401. EMERGENCY REQUIREMENT.**

15 Any provision of this Act causing an effect on re-
 16 ceipts, budget authority, or outlays is designated as an
 17 emergency requirement pursuant to section 402 of H.
 18 Con. Res. 95 (109th Congress).

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