

114TH CONGRESS
2D SESSION

H. R. 5186

To amend the Internal Revenue Code of 1986 to exclude employer contributions to 529 plans from gross income and employment taxes and to allow a deduction for individual contributions to such plans.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2016

Mr. POLIQUIN introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exclude employer contributions to 529 plans from gross income and employment taxes and to allow a deduction for individual contributions to such plans.

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 “Help All Americans
5 Save for College Act of 2016”.

1 **SEC. 2. TAX TREATMENT OF CONTRIBUTIONS TO 529**
2 **PLANS.**

3 (a) EXCLUSION FROM GROSS INCOME FOR EM-
4 PLOYER CONTRIBUTIONS.—

5 (1) IN GENERAL.—Part III of subchapter B of
6 chapter 1 of the Internal Revenue Code of 1986 is
7 amended by inserting after section 139E the fol-
8 lowing new section:

9 **“SEC. 139F. EMPLOYER CONTRIBUTIONS TO 529 PLAN OR**
10 **ABLE ACCOUNT.**

11 “(a) IN GENERAL.—In the case of an individual who
12 is a qualified account owner, gross income shall not in-
13 clude the amount of any contribution to such account dur-
14 ing the taxable year by the employer of the account owner.

15 “(b) LIMITATION.—The amount exempt from gross
16 income by subsection (a) for a taxable year shall not ex-
17 ceed the lesser of—

18 “(1) an amount equal to the compensation in-
19 cludible in the individual’s gross income for such
20 taxable year, or

21 “(2) \$5,000 (\$10,000 in the case of a joint re-
22 turn) for each dependent who of the taxpayer is the
23 designated beneficiary of an account under section
24 529.

25 “(c) QUALIFIED ACCOUNT OWNER.—For purposes of
26 this section, the term ‘qualified account owner’ means—

1 “(1) in the case of an account in connection
 2 with a qualified tuition program, the account owner
 3 of an account of a designated beneficiary under sec-
 4 tion 529, and

5 “(2) in the case of an ABLE account, the des-
 6 ignated beneficiary in connection with the ABLE ac-
 7 count under section 529A(e)(3).”.

8 (2) CAFETERIA PLAN DOES NOT INCLUDE EM-
 9 PLOYER CONTRIBUTIONS TO 529 PLANS OR ABLE AC-
 10 COUNTS.—Section 125(d)(2) of such Code is amend-
 11 ed by adding at the end the following:

12 “(E) EXCEPTION FOR CONTRIBUTIONS TO
 13 529 PLAN AND ABLE ACCOUNTS.—Subpara-
 14 graph (A) shall not apply to a plan to the ex-
 15 tent of amounts which a covered employee may
 16 elect to have the employer pay as contributions
 17 to an account under section 529 or 529A.”.

18 (3) CLERICAL AMENDMENT.—The table of sec-
 19 tions for part III of subchapter B of chapter 1 of
 20 such Code is amended by inserting after the item re-
 21 lating to section 139E the following new item:

“Sec. 139F. Employer contributions to 529 plan or ABLE account.”.

22 (b) FEDERAL INSURANCE CONTRIBUTIONS.—

23 (1) WAGES.—Section 3121(a) of such Code is
 24 amended by striking “or” at the end of paragraph
 25 (22), by striking the period at the end of paragraph

1 (23) and inserting “; or”, and by inserting after
2 paragraph (23) the following:

3 “(24) the amount of any contribution made to
4 or on behalf of an employee if at the time of such
5 contribution it is reasonable to believe that the em-
6 ployee will be able to exclude such contribution from
7 income under section 139F.”.

8 (2) NET EARNINGS FROM SELF-EMPLOY-
9 MENT.—Section 1402(a) of such Code is amended
10 by striking “and” at the end of paragraph (16), by
11 striking the period at the end of paragraph (17) and
12 inserting “; and”, and inserting after paragraph
13 (17) the following:

14 “(18) there shall be excluded any contribution
15 made to or on behalf of an employee that is not in-
16 cludible in gross income of the employee under sec-
17 tion 139F.”.

18 (3) CONFORMING AMENDMENTS TO SOCIAL SE-
19 CURITY ACT.—

20 (A) WAGES.—Section 209(a) of the Social
21 Security Act (42 U.S.C. 409(a)) is amended by
22 striking “or” at the end of paragraph (19) and
23 inserting a semicolon, by striking the period at
24 the end of paragraph (20) and inserting “; or”,

1 and by inserting after paragraph (20) the fol-
2 lowing:

3 “(21) The amount of any contribution made to
4 or on behalf of an employee that is not includible in
5 gross income of the employee under section 139F of
6 the Internal Revenue Code of 1986.”.

7 (B) NET EARNINGS FROM SELF-EMPLOY-
8 MENT.—Section 211(a) of the Social Security
9 Act (42 U.S.C. 411(a)) is amended by striking
10 “and” at the end of paragraph (15), by striking
11 the period at the end of paragraph (16) and in-
12 serting “; and”, and inserting after paragraph
13 (16) the following:

14 “(17) There shall be excluded any contribution
15 made to or on behalf of an employee that is not in-
16 cludible in gross income of the employee under sec-
17 tion 139F of the Internal Revenue Code of 1986.”.

18 (c) RAILROAD RETIREMENT.—Section 3231(e) of
19 such Code is amended by adding at the end the following:

20 “(13) EMPLOYER CONTRIBUTIONS TO 529 PLAN
21 OR ABLE ACCOUNT.—The term compensation shall
22 not include any contribution made to or on behalf of
23 an employee that is not includible in gross income of
24 the employee under section 139F.”.

25 (d) DEDUCTION FOR INDIVIDUAL CONTRIBUTIONS.—

1 (1) IN GENERAL.—Part VII of subchapter B of
 2 chapter 1 of the Internal Revenue Code of 1986 is
 3 amended by redesignating section 224 as section
 4 225 and by inserting after section 223 the following
 5 new section:

6 **“SEC. 224. CONTRIBUTIONS TO 529 PLANS AND ABLE AC-**
 7 **COUNTS.**

8 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
 9 individual, there shall be allowed as a deduction for the
 10 taxable year an amount equal to the sum of—

11 “(1) the aggregate contributions made by such
 12 individual to qualified tuition programs (as defined
 13 in section 529) during such taxable year, and

14 “(2) the aggregate contributions made by such
 15 individual to ABLE accounts (as defined in section
 16 529A) during such taxable year.

17 “(b) LIMITATION.—The amount allowed as a deduc-
 18 tion by subsection (a) for a taxable year shall not exceed
 19 \$5,000.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
 21 tions for part VII of subchapter B of chapter 1 of
 22 such Code is amended by redesignating the item re-
 23 lating to section 224 as an item relating to section
 24 225 and by inserting after the item relating to sec-
 25 tion 223 the following new item:

“Sec. 224. Contributions to 529 plans and ABLE accounts.”.

1 (e) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to contributions made during tax-
 3 able years beginning after the date of the enactment of
 4 this Act.

5 **SEC. 3. ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED**
 6 **FOR QUALIFIED PURPOSES.**

7 (a) QUALIFIED TUITION PROGRAMS.—

8 (1) IN GENERAL.—The first sentence of section
 9 529(c)(6) of the Internal Revenue Code of 1986 is
 10 amended by striking the period at the end and in-
 11 serting “, except that the rate of such tax shall be
 12 determined under subparagraph (B) of this para-
 13 graph.”.

14 (2) RATE.—Paragraph (6) of section 529(c) of
 15 such Code, as amended by subsection (a), is amend-
 16 ed—

17 (A) by striking “The tax” and inserting

18 “(A) IN GENERAL.—The tax”, and

19 (B) by adding at the end the following:

20 “(B) RATE.—For purposes of subpara-
 21 graph (A), the tax rate determined under this
 22 subparagraph is the greater of—

23 “(i) 10 percent, and

24 “(ii) the highest rate of income tax
 25 applicable to such person under this title.”.

1 (b) QUALIFIED ABLE PROGRAMS.—

2 (1) IN GENERAL.—Subparagraph (A) of section
3 529A(c)(3) of the Internal Revenue Code of 1986 is
4 amended by striking “10 percent” and inserting
5 “the applicable percentage”.

6 (2) APPLICABLE PERCENTAGE.—Paragraph (3)
7 of section 529A(c) of such Code is amended by add-
8 ing at the end the following:

9 “(D) APPLICABLE PERCENTAGE.—For
10 purposes of this paragraph, the term ‘applicable
11 percentage’ means the greater of—

12 “(i) 10 percent, and

13 “(ii) the highest rate of income tax
14 applicable to such person under this title.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to distributions made during tax-
17 able years beginning after the date of the enactment of
18 this Act.

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