

115TH CONGRESS
1ST SESSION

H. R. 2818

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for amounts contributed to disaster savings accounts to help defray the cost of preparing their homes to withstand a disaster and to repair or replace property damaged or destroyed in a disaster.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2017

Mr. ROSS 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 allow individuals a deduction for amounts contributed to disaster savings accounts to help defray the cost of preparing their homes to withstand a disaster and to repair or replace property damaged or destroyed in a disaster.

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 “Disaster Savings Ac-
5 counts Act of 2017”.

1 **SEC. 2. DEDUCTION FOR CONTRIBUTIONS TO DISASTER**
2 **SAVINGS ACCOUNTS.**

3 (a) IN GENERAL.—Part VII of subchapter B of chap-
4 ter 1 of the Internal Revenue Code of 1986 (relating to
5 additional itemized deductions for individuals) is amended
6 by redesignating section 224 as section 225 and by insert-
7 ing after section 223 the following new section:

8 **“SEC. 224. DISASTER SAVINGS ACCOUNTS.**

9 “(a) DEDUCTION ALLOWED.—In the case of a eligi-
10 ble individual, there shall be allowed as a deduction for
11 the taxable year an amount equal to the aggregate amount
12 paid during such taxable year by or on behalf of such indi-
13 vidual to a disaster savings account of such individual.

14 “(b) LIMITATION.—

15 “(1) IN GENERAL.—The amount allowed as a
16 deduction under subsection (a) to an individual for
17 the taxable year shall not exceed \$5,000.

18 “(2) PARTIAL YEAR OF ELIGIBILITY.—In the
19 case of an individual who is an eligible individual for
20 only a portion of the taxable year, the limitation
21 under paragraph (1) shall be same proportion of
22 \$5,000 as such portion bears to the entire taxable
23 year.

24 “(c) ELIGIBLE INDIVIDUAL.—For purposes of this
25 section, the term ‘eligible individual’ means any individual

1 if such individual occupied any residence in the United
2 States at any time during the taxable year.

3 “(d) DISASTER SAVINGS ACCOUNT.—For purposes of
4 this section—

5 “(1) IN GENERAL.—The term ‘disaster savings
6 account’ means a trust created or organized in the
7 United States as a disaster savings account exclu-
8 sively for the purpose of paying the qualified dis-
9 aster expenses of the account beneficiary, but only
10 if the written governing instrument creating the
11 trust meets the following requirements:

12 “(A) Except in the case of a rollover con-
13 tribution described in subsection (f)(5), no con-
14 tribution will be accepted—

15 “(i) unless it is in cash, or

16 “(ii) to the extent such contribution,
17 when added to previous contributions to
18 the trust for the calendar year, exceeds the
19 dollar limitation in effect under subsection
20 (b).

21 “(B) The trustee is a bank (as defined in
22 section 408(n)), an insurance company (as de-
23 fined in section 816), or another person who
24 demonstrates to the satisfaction of the Sec-
25 retary that the manner in which such person

1 will administer the trust will be consistent with
2 the requirements of this section.

3 “(C) No part of the trust assets will be in-
4 vested in life insurance contracts.

5 “(D) The assets of the trust will not be
6 commingled with other property except in a
7 common trust fund or common investment
8 fund.

9 “(E) The interest of an individual in the
10 balance in his account is nonforfeitable.

11 “(2) QUALIFIED DISASTER EXPENSES.—The
12 term ‘qualified disaster expenses’ means—

13 “(A) disaster mitigation expenses, and

14 “(B) disaster recovery expenses.

15 “(3) DISASTER MITIGATION EXPENSES.—The
16 term ‘disaster mitigation expenses’ means expenses
17 for any of the following with respect to the residence
18 referred to in subsection (c):

19 “(A) Tornado safe rooms manufactured or
20 constructed in accordance with FEMA 320 or
21 FEMA 361 guidance or tornado shelters manu-
22 factured or constructed in accordance with the
23 National Storm Shelter/International Code
24 Council 500 standard.

1 “(B) Opening protection, including impact
2 and wind resistant windows, exterior doors, and
3 garage doors.

4 “(C) Reinforcement of roof-to-wall and
5 floor-to-wall connections for wind or seismic ac-
6 tivity.

7 “(D) Roof covering for impact, fire, or
8 high wind resistance.

9 “(E) Cripple and shear walls to resist seis-
10 mic activity.

11 “(F) Flood resistant building materials.

12 “(G) Elevating structures and utilities
13 above base flood elevation.

14 “(H) Fire resistant exterior wall assem-
15 blies/systems.

16 “(I) Lightning protection systems.

17 “(J) Whole home standby generators.

18 “(K) Any activity specified by the Sec-
19 retary as appropriate to mitigate the risks of
20 future hazards (including earthquake, flood,
21 hail, hurricane, sinkhole, lightning, power out-
22 age, tornado, and wildfire) and other natural
23 disasters.

24 “(4) DISASTER RECOVERY EXPENSES.—The
25 term ‘disaster recovery expenses’ means with respect

1 to the residence referred to in subsection (c) any ex-
2 pense incurred to replace or repair disaster-related
3 uninsured personal casualty personal losses totaling
4 \$3,000 or greater.

5 “(5) DISASTER-RELATED UNINSURED PER-
6 SONAL CASUALTY LOSS.—The term ‘disaster-related
7 uninsured personal casualty loss’ means a personal
8 casualty loss (as defined in section 165(h)(4)(B), de-
9 termined without regard to the second sentence
10 thereof) attributable to a State or federally declared
11 disaster for which a deduction is allowable under
12 section 165 (without regard to subsection (h)(1)).

13 “(6) FEDERALLY DECLARED DISASTER.—The
14 term ‘federally declared disaster’ has the meaning
15 given such term by section 165(h)(3)(C).

16 “(7) ACCOUNT BENEFICIARY.—The term ‘ac-
17 count beneficiary’ means the individual on whose be-
18 half the disaster savings account was established.

19 “(e) TREATMENT OF ACCOUNT.—

20 “(1) IN GENERAL.—A disaster savings account
21 is exempt from taxation under this subtitle unless
22 such account has ceased to be a disaster savings ac-
23 count. Notwithstanding the preceding sentence, any
24 such account is subject to the taxes imposed by sec-

1 tion 511 (relating to imposition of tax on unrelated
2 business income of charitable, etc. organizations).

3 “(2) ACCOUNT TERMINATIONS.—Rules similar
4 to the rules of paragraphs (2) and (4) of section
5 408(e) shall apply to disaster savings accounts, and
6 any amount treated as distributed under such rules
7 shall be treated as not used to pay disaster mitiga-
8 tion expenses.

9 “(f) TAX TREATMENT OF DISTRIBUTIONS.—

10 “(1) AMOUNTS USED FOR DISASTER MITIGA-
11 TION EXPENSES.—Any amount paid or distributed
12 out of a disaster savings account which is used ex-
13 clusively to pay qualified disaster expenses of any
14 account beneficiary shall not be includible in gross
15 income.

16 “(2) INCLUSION OF AMOUNTS NOT USED FOR
17 DISASTER MITIGATION EXPENSES.—Any amount
18 paid or distributed out of a disaster savings account
19 which is not used exclusively to pay the qualified dis-
20 aster expenses of the account beneficiary shall be in-
21 cluded in the gross income of such beneficiary.

22 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
23 FORE DUE DATE OF RETURN.—

24 “(A) IN GENERAL.—If any excess con-
25 tribution is contributed for a taxable year to

1 any disaster savings account of an individual,
2 paragraph (2) shall not apply to distributions
3 from the disaster savings accounts of such indi-
4 vidual (to the extent such distributions do not
5 exceed the aggregate excess contributions to all
6 such accounts of such individual for such year)
7 if—

8 “(i) such distribution is received by
9 the individual on or before the last day
10 prescribed by law (including extensions of
11 time) for filing such individual’s return for
12 such taxable year, and

13 “(ii) such distribution is accompanied
14 by the amount of net income attributable
15 to such excess contribution.

16 Any net income described in clause (ii) shall be
17 included in the gross income of the individual
18 for the taxable year in which it is received.

19 “(B) EXCESS CONTRIBUTION.—For pur-
20 poses of subparagraph (A), the term ‘excess
21 contribution’ means any contribution (other
22 than a rollover contribution described in para-
23 graph (5)) which is not deductible under this
24 section.

1 “(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT
2 USED FOR DISASTER MITIGATION EXPENSES.—

3 “(A) IN GENERAL.—The tax imposed by
4 this chapter on the account beneficiary for any
5 taxable year in which there is a payment or dis-
6 tribution from a disaster savings account of
7 such beneficiary which is includible in gross in-
8 come under paragraph (2) shall be increased by
9 20 percent of the amount which is so includible.

10 “(B) EXCEPTION FOR DISABILITY OR
11 DEATH.—Subparagraph (A) shall not apply if
12 the payment or distribution is made after the
13 account beneficiary becomes disabled within the
14 meaning of section 72(m)(7) or dies.

15 “(5) ROLLOVER CONTRIBUTION.—An amount is
16 described in this paragraph as a rollover contribu-
17 tion if it meets the requirements of subparagraphs
18 (A) and (B).

19 “(A) IN GENERAL.—Paragraph (2) shall
20 not apply to any amount paid or distributed
21 from a disaster savings account to the account
22 beneficiary to the extent the amount received is
23 paid into a disaster savings account for the ben-
24 efit of such beneficiary not later than the 60th

1 day after the day on which the beneficiary re-
2 ceives the payment or distribution.

3 “(B) LIMITATION.—This paragraph shall
4 not apply to any amount described in subpara-
5 graph (A) received by an individual from a dis-
6 aster savings account if, at any time during the
7 1-year period ending on the day of such receipt,
8 such individual received any other amount de-
9 scribed in subparagraph (A) from a disaster
10 savings account which was not includible in the
11 individual’s gross income because of the appli-
12 cation of this paragraph.

13 “(g) COST-OF-LIVING ADJUSTMENT.—

14 “(1) IN GENERAL.—In the case of any taxable
15 year beginning in a calendar year after 2018, each
16 \$5,000 amount in subsection (b) and the \$3,000
17 amount in subsection (d)(4) shall be increased by an
18 amount equal to—

19 “(A) such dollar amount, multiplied by

20 “(B) the cost-of-living adjustment deter-
21 mined under section 1(f)(3) for the calendar
22 year in which such taxable year begins deter-
23 mined by substituting ‘calendar year 2017’ for
24 ‘calendar year 1992’ in subparagraph (B)
25 thereof.

1 “(2) ROUNDING.—If any increase under para-
2 graph (1) is not a multiple of \$50, such increase
3 shall be rounded to the nearest multiple of \$50.

4 “(h) SPECIAL RULES.—

5 “(1) DENIAL OF DEDUCTION TO DEPEND-
6 ENTS.—No deduction shall be allowed under this
7 section to any individual with respect to whom a de-
8 duction under section 151 is allowable to another
9 taxpayer for a taxable year beginning in the cal-
10 endar year in which such individual’s taxable year
11 begins.

12 “(2) TAXABLE YEAR MUST BE FULL TAXABLE
13 YEAR.—Except in the case of a taxable year closed
14 by reason of the death of the taxpayer, no deduction
15 shall be allowed under this section in the case of a
16 taxable year covering a period of less than 12
17 months.

18 “(3) CERTAIN RULES TO APPLY.—Rules similar
19 to the following rules shall apply for purposes of this
20 section:

21 “(A) Section 219(d)(2) (relating to no de-
22 duction for rollovers).

23 “(B) Section 219(f)(3) (relating to time
24 when contributions deemed made).

1 “(C) Section 219(f)(5) (relating to em-
2 ployer payments).

3 “(D) Section 408(g) (relating to commu-
4 nity property laws).

5 “(E) Section 408(h) (relating to custodial
6 accounts).

7 “(F) Section 223(f)(7) (relating to transfer
8 of account incident to divorce).

9 “(G) Section 223(f)(8) (relating to treat-
10 ment after death of account beneficiary).

11 “(4) COORDINATION WITH CASUALTY LOSS DE-
12 DUCTION.—No deduction shall be allowed under sec-
13 tion 165 for a loss for which a disaster recovery ex-
14 pense payment is made from a disaster savings ac-
15 count.

16 “(i) REPORTS.—The Secretary may require the trust-
17 ee of a disaster savings account to make such reports re-
18 garding such account to the Secretary and to the account
19 beneficiary with respect to contributions, distributions, the
20 return of excess contributions, and such other matters as
21 the Secretary determines appropriate.”.

22 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIV-
23 IDUAL ITEMIZES OTHER DEDUCTIONS.—Section 62(a)
24 of such Code is amended by inserting after paragraph (21)
25 the following new paragraph:

1 “(22) DISASTER SAVINGS ACCOUNTS.—The de-
2 duction allowed by section 224.”.

3 (c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973
4 of such Code (relating to tax on excess contributions to
5 certain tax-favored accounts and annuities) is amended—

6 (1) by striking “or” at the end of subsection
7 (a)(5), by inserting “or” at the end of subsection
8 (a)(6), and by inserting after subsection (a)(6) the
9 following new paragraph:

10 “(7) a disaster savings account (within the
11 meaning of section 224(d)),”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(i) EXCESS CONTRIBUTIONS TO DISASTER SAVINGS
15 ACCOUNTS.—For purposes of this section, in the case of
16 disaster savings accounts (within the meaning of section
17 224(d)), the term ‘excess contributions’ means the sum
18 of—

19 “(1) the aggregate amount contributed for the
20 taxable year to the accounts (other than a rollover
21 contribution described in section 224(f)(5)) which is
22 not allowable as a deduction under section 224 for
23 such year, and

1 “(2) the amount determined under this sub-
 2 section for the preceding taxable year, reduced by
 3 the sum of—

4 “(A) the distributions out of the accounts
 5 which were included in gross income under sec-
 6 tion 224(f)(2), and

7 “(B) the excess (if any) of—

8 “(i) the maximum amount allowable
 9 as a deduction under section 224(b) for
 10 the taxable year, over

11 “(ii) the amount contributed to the
 12 accounts for the taxable year.

13 For purposes of this subsection, any contribu-
 14 tion which is distributed out of the disaster sav-
 15 ings account in a distribution to which section
 16 224(f)(3) applies shall be treated as an amount
 17 not contributed.”.

18 (d) FAILURE TO PROVIDE REPORTS ON DISASTER
 19 SAVINGS ACCOUNTS.—Section 6693(a)(2) of such Code is
 20 amended by redesignating subparagraphs (D), (E), and
 21 (F) as subparagraphs (E), (F), and (G), respectively, and
 22 by inserting after subparagraph (C) the following new sub-
 23 paragraph:

24 “(D) section 224(i) (relating to disaster
 25 savings accounts),”.

1 (e) CLERICAL AMENDMENT.—The table of sections
2 for part VII of subchapter B of chapter 1 of such Code
3 is amended by striking the last item and inserting the fol-
4 lowing:

“Sec. 224. Disaster savings accounts.
“Sec. 225. Cross reference.”.

5 (f) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2017.

○