

115TH CONGRESS
2D SESSION

S. 3648

To provide tax relief for the victims of Hurricane Florence, Hurricane Michael, and certain California wildfires.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2018

Mr. BURR (for himself, Mr. TILLIS, Mr. GRAHAM, Mr. RUBIO, Mr. NELSON, Mrs. FEINSTEIN, and Ms. HARRIS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide tax relief for the victims of Hurricane Florence, Hurricane Michael, and certain California wildfires.

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 “Hurricanes Florence
5 and Michael and California Wildfire Tax Relief Act”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act—

8 (1) HURRICANE FLORENCE DISASTER ZONE.—

9 The term “Hurricane Florence disaster zone” means
10 that portion of the Hurricane Florence disaster area

1 determined by the President to warrant individual or
2 individual and public assistance from the Federal
3 Government under the Robert T. Stafford Disaster
4 Relief and Emergency Assistance Act by reason of
5 Hurricane Florence.

6 (2) HURRICANE FLORENCE DISASTER AREA.—

7 The term “Hurricane Florence disaster area” means
8 an area with respect to which a major disaster has
9 been declared by the President before October 13,
10 2018, under section 401 of such Act by reason of
11 Hurricane Florence.

12 (3) HURRICANE MICHAEL DISASTER ZONE.—

13 The term “Hurricane Michael disaster zone” means
14 that portion of the Hurricane Michael disaster area
15 determined by the President to warrant individual or
16 individual and public assistance from the Federal
17 Government under the Robert T. Stafford Disaster
18 Relief and Emergency Assistance Act by reason of
19 Hurricane Florence.

20 (4) HURRICANE MICHAEL DISASTER AREA.—

21 The term “Hurricane Michael disaster area” means
22 an area with respect to which a major disaster has
23 been declared by the President before November 11,
24 2018, under section 401 of such Act by reason of
25 Hurricane Michael.

1 (5) CALIFORNIA WILDFIRE DISASTER ZONE.—

2 The term “California wildfire disaster zone” means
 3 that portion of the California wildfire disaster area
 4 determined by the President to warrant individual or
 5 individual and public assistance from the Federal
 6 Government under the Robert T. Stafford Disaster
 7 Relief and Emergency Assistance Act by reason of
 8 wildfires in California.

9 (6) CALIFORNIA WILDFIRE DISASTER AREA.—

10 The term “California wildfire disaster area” means
 11 an area with respect to which between January 19,
 12 2018, through December 31, 2018, a major disaster
 13 has been declared by the President under section
 14 401 of such Act by reason of wildfires in California.

15 **SEC. 3. SPECIAL DISASTER-RELATED RULES FOR USE OF**
 16 **RETIREMENT FUNDS.**

17 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
 18 MENT PLANS.—

19 (1) IN GENERAL.—Section 72(t) of the Internal
 20 Revenue Code of 1986 shall not apply to any quali-
 21 fied disaster distribution.

22 (2) AGGREGATE DOLLAR LIMITATION.—

23 (A) IN GENERAL.—For purposes of this
 24 subsection, the aggregate amount of distribu-
 25 tions received by an individual which may be

1 treated as qualified disaster distributions for
 2 any taxable year shall not exceed the excess (if
 3 any) of—

4 (i) \$100,000; over

5 (ii) the aggregate amounts treated as
 6 qualified disaster distributions received by
 7 such individual for all prior taxable years.

8 (B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would
 9 (without regard to subparagraph (A)) be a
 10 qualified disaster distribution, a plan shall not
 11 be treated as violating any requirement of the
 12 Internal Revenue Code of 1986 merely because
 13 the plan treats such distribution as a qualified
 14 disaster distribution, unless the aggregate
 15 amount of such distributions from all plans
 16 maintained by the employer (and any member
 17 of any controlled group which includes the em-
 18 ployer) to such individual exceeds \$100,000.

19 (C) CONTROLLED GROUP.—For purposes
 20 of subparagraph (B), the term “controlled
 21 group” means any group treated as a single
 22 employer under subsection (b), (c), (m), or (o)
 23 of section 414 of the Internal Revenue Code of
 24 1986.
 25

1 (3) AMOUNT DISTRIBUTED MAY BE REPAYED.—

2 (A) IN GENERAL.—Any individual who re-
3 ceives a qualified disaster distribution may, at
4 any time during the 3-year period beginning on
5 the day after the date on which such distribu-
6 tion was received, make 1 or more contributions
7 in an aggregate amount not to exceed the
8 amount of such distribution to an eligible retire-
9 ment plan of which such individual is a bene-
10 ficiary and to which a rollover contribution of
11 such distribution could be made under section
12 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or
13 457(e)(16), of the Internal Revenue Code of
14 1986, as the case may be.

15 (B) TREATMENT OF REPAYMENTS OF DIS-
16 TRIBUTIONS FROM ELIGIBLE RETIREMENT
17 PLANS OTHER THAN IRAS.—For purposes of
18 the Internal Revenue Code of 1986, if a con-
19 tribution is made pursuant to subparagraph (A)
20 with respect to a qualified disaster distribution
21 from an eligible retirement plan other than an
22 individual retirement plan, then the taxpayer
23 shall, to the extent of the amount of the con-
24 tribution, be treated as having received the
25 qualified disaster distribution in an eligible roll-

over distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a qualified disaster distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, the qualified disaster distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(4) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED DISASTER DISTRIBUTION.—Except as provided in paragraph (2), the term “qualified disaster distribution” means—

1 (i) any distribution from an eligible
2 retirement plan made on or after Sep-
3 tember 13, 2018, and before January 1,
4 2020, to an individual whose principal
5 place of abode on September 13, 2018, is
6 located in the Hurricane Florence disaster
7 area and who has sustained an economic
8 loss by reason of Hurricane Florence;

9 (ii) any distribution from an eligible
10 retirement plan made on or after October
11 7, 2018, and before January 1, 2020, to
12 an individual whose principal place of
13 abode on October 7, 2018, is located in the
14 Hurricane Michael disaster area and who
15 has sustained an economic loss by reason
16 of Hurricane Michael; and

17 (iii) any distribution from an eligible
18 retirement plan made on or after July 23,
19 2018, and before January 1, 2020, to an
20 individual whose principal place of abode
21 during any portion of the period from July
22 23, 2018, to December 31, 2018, is located
23 in the California wildfire disaster area and
24 who has sustained an economic loss by rea-

1 son of the wildfires to which the declara-
 2 tion of such area relates.

3 (B) ELIGIBLE RETIREMENT PLAN.—The
 4 term “eligible retirement plan” shall have the
 5 meaning given such term by section
 6 402(c)(8)(B) of the Internal Revenue Code of
 7 1986.

8 (5) INCOME INCLUSION SPREAD OVER 3-YEAR
 9 PERIOD.—

10 (A) IN GENERAL.—In the case of any
 11 qualified disaster distribution, unless the tax-
 12 payer elects not to have this paragraph apply
 13 for any taxable year, any amount required to be
 14 included in gross income for such taxable year
 15 shall be so included ratably over the 3-taxable-
 16 year period beginning with such taxable year.

17 (B) SPECIAL RULE.—For purposes of sub-
 18 paragraph (A), rules similar to the rules of sub-
 19 paragraph (E) of section 408A(d)(3) of the In-
 20 ternal Revenue Code of 1986 shall apply.

21 (6) SPECIAL RULES.—

22 (A) EXEMPTION OF DISTRIBUTIONS FROM
 23 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
 24 HOLDING RULES.—For purposes of sections
 25 401(a)(31), 402(f), and 3405 of the Internal

1 Revenue Code of 1986, qualified disaster dis-
 2 tributions shall not be treated as eligible roll-
 3 over distributions.

4 (B) QUALIFIED DISASTER DISTRIBUTIONS
 5 TREATED AS MEETING PLAN DISTRIBUTION RE-
 6 QUIREMENTS.—For purposes the Internal Rev-
 7 enue Code of 1986, a qualified disaster dis-
 8 tribution shall be treated as meeting the re-
 9 quirements of sections 401(k)(2)(B)(i),
 10 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A)
 11 of such Code.

12 (b) RECONTRIBUTIONS OF WITHDRAWALS FOR
 13 HOME PURCHASES.—

14 (1) RECONTRIBUTIONS.—

15 (A) IN GENERAL.—Any individual who re-
 16 ceived a qualified distribution may, during the
 17 applicable period, make 1 or more contributions
 18 in an aggregate amount not to exceed the
 19 amount of such qualified distribution to an eli-
 20 gible retirement plan (as defined in section
 21 402(c)(8)(B) of the Internal Revenue Code of
 22 1986) of which such individual is a beneficiary
 23 and to which a rollover contribution of such dis-
 24 tribution could be made under section 402(c),

1 403(a)(4), 403(b)(8), or 408(d)(3), of such
2 Code, as the case may be.

3 (B) TREATMENT OF REPAYMENTS.—Rules
4 similar to the rules of subparagraphs (B) and
5 (C) of subsection (a)(3) shall apply for purposes
6 of this subsection.

7 (2) QUALIFIED DISTRIBUTION.—For purposes
8 of this subsection—

9 (A) IN GENERAL.—The term “qualified
10 distribution” means any qualified Florence dis-
11 tribution, any qualified Michael distribution,
12 and any qualified California wildfire distribu-
13 tion.

14 (B) QUALIFIED FLORENCE DISTRIBUTION.—The term “qualified Florence distribu-
15 tion” means any distribution—
16

17 (i) described in section
18 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
19 only to the extent such distribution relates
20 to financial hardship), 403(b)(11)(B), or
21 72(t)(2)(F), of the Internal Revenue Code
22 of 1986;

23 (ii) received after February 28, 2018,
24 and before October 13, 2018; and

1 (iii) which was to be used to purchase
2 or construct a principal residence in the
3 Hurricane Florence disaster area, but
4 which was not so purchased or constructed
5 on account of Hurricane Florence.

6 (C) QUALIFIED MICHAEL DISTRIBUTION.—
7 The term “qualified Michael distribution”
8 means any distribution—

9 (i) described in section
10 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
11 only to the extent such distribution relates
12 to financial hardship), 403(b)(11)(B), or
13 72(t)(2)(F), of the Internal Revenue Code
14 of 1986;

15 (ii) received after February 28, 2018,
16 and before November 11, 2018; and

17 (iii) which was to be used to purchase
18 or construct a principal residence in the
19 Hurricane Michael disaster area, but which
20 was not so purchased or constructed on ac-
21 count of Hurricane Michael.

22 (D) QUALIFIED CALIFORNIA WILDFIRE
23 DISTRIBUTION.—The term “qualified California
24 wildfire distribution” means any distribution—

1 (i) described in section
 2 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
 3 only to the extent such distribution relates
 4 to financial hardship), 403(b)(11)(B), or
 5 72(t)(2)(F), of the Internal Revenue Code
 6 of 1986;

7 (ii) received after February 28, 2018,
 8 and before December 31, 2018; and

9 (iii) which was to be used to purchase
 10 or construct a principal residence in the
 11 California wildfire disaster area, but which
 12 was not so purchased or constructed on ac-
 13 count of the wildfires to which the declara-
 14 tion of such area relates.

15 (3) APPLICABLE PERIOD.—For purposes of this
 16 subsection, the term “applicable period” means—

17 (A) with respect to any qualified Florence
 18 distribution, the period beginning on September
 19 13, 2018, and ending on February 28, 2019;

20 (B) with respect to any qualified Michael
 21 distribution, the period beginning on October 7,
 22 2018, and ending on February 28, 2019; and

23 (C) with respect to any qualified California
 24 wildfire distribution, the period beginning on

1 July 23, 2018, and ending on February 28,
2 2019.

3 (c) LOANS FROM QUALIFIED PLANS.—

4 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-
5 ED AS DISTRIBUTIONS.—In the case of any loan
6 from a qualified employer plan (as defined under
7 section 72(p)(4) of the Internal Revenue Code of
8 1986) to a qualified individual made during the ap-
9 plicable period—

10 (A) clause (i) of section 72(p)(2)(A) of
11 such Code shall be applied by substituting
12 “\$100,000” for “\$50,000”; and

13 (B) clause (ii) of such section shall be ap-
14 plied by substituting “the present value of the
15 nonforfeitable accrued benefit of the employee
16 under the plan” for “one-half of the present
17 value of the nonforfeitable accrued benefit of
18 the employee under the plan”.

19 (2) DELAY OF REPAYMENT.—In the case of a
20 qualified individual with an outstanding loan on or
21 after the qualified beginning date from a qualified
22 employer plan (as defined in section 72(p)(4) of the
23 Internal Revenue Code of 1986)—

24 (A) if the due date pursuant to subpara-
25 graph (B) or (C) of section 72(p)(2) of such

1 Code for any repayment with respect to such
 2 loan occurs during the period beginning on the
 3 qualified beginning date and ending on Decem-
 4 ber 31, 2019, such due date shall be delayed for
 5 1 year;

6 (B) any subsequent repayments with re-
 7 spect to any such loan shall be appropriately
 8 adjusted to reflect the delay in the due date
 9 under paragraph (1) and any interest accruing
 10 during such delay; and

11 (C) in determining the 5-year period and
 12 the term of a loan under subparagraph (B) or
 13 (C) of section 72(p)(2) of such Code, the period
 14 described in subparagraph (A) shall be dis-
 15 regarded.

16 (3) QUALIFIED INDIVIDUAL.—For purposes of
 17 this subsection—

18 (A) IN GENERAL.—The term “qualified in-
 19 dividual” means any qualified Hurricane Flor-
 20 ence individual, any qualified Hurricane Mi-
 21 chael individual, and any qualified California
 22 wildfire individual.

23 (B) QUALIFIED HURRICANE FLORENCE IN-
 24 DIVIDUAL.—The term “qualified Hurricane
 25 Florence individual” means any individual

1 whose principal place of abode on September
2 13, 2018, is located in the Hurricane Florence
3 disaster area and who has sustained an eco-
4 nomic loss by reason of Hurricane Florence.

5 (C) QUALIFIED HURRICANE MICHAEL IN-
6 DIVIDUAL.—The term “qualified Hurricane Mi-
7 chael individual” means any individual whose
8 principal place of abode on October 7, 2018, is
9 located in the Hurricane Michael disaster area
10 and who has sustained an economic loss by rea-
11 son of Hurricane Michael.

12 (D) QUALIFIED CALIFORNIA WILDFIRE IN-
13 DIVIDUAL.—The term “qualified California
14 wildfire individual” means any individual whose
15 principal place of abode during any portion of
16 the period from July 23, 2018, to December 31,
17 2018, is located in the California wildfire dis-
18 aster area and who has sustained an economic
19 loss by reason of wildfires to which the declara-
20 tion of such area relates.

21 (4) APPLICABLE PERIOD; QUALIFIED BEGIN-
22 NING DATE.—For purposes of this subsection—

23 (A) HURRICANE FLORENCE.—In the case
24 of any Hurricane Florence individual—

1 (i) the applicable period is the period
2 beginning on the date of the enactment of
3 this Act and ending on December 31,
4 2019; and

5 (ii) the qualified beginning date is
6 September 13, 2018.

7 (B) HURRICANE MICHAEL.—In the case of
8 any Hurricane Michael individual—

9 (i) the applicable period is the period
10 beginning on the date of the enactment of
11 this Act and ending on December 31,
12 2019; and

13 (ii) the qualified beginning date is Oc-
14 tober 7, 2018.

15 (C) CALIFORNIA WILDFIRES.—In the case
16 of any qualified California wildfire individual—

17 (i) the applicable period is the period
18 beginning on the date of the enactment of
19 this Act and ending on December 31,
20 2019; and

21 (ii) the qualified beginning date is
22 July 23, 2018.

23 (d) PROVISIONS RELATING TO PLAN AMEND-
24 MENTS.—

1 (1) IN GENERAL.—If this subsection applies to
 2 any amendment to any plan or annuity contract,
 3 such plan or contract shall be treated as being oper-
 4 ated in accordance with the terms of the plan during
 5 the period described in paragraph (2)(B)(i).

6 (2) AMENDMENTS TO WHICH SUBSECTION AP-
 7 PLIES.—

8 (A) IN GENERAL.—This subsection shall
 9 apply to any amendment to any plan or annuity
 10 contract which is made—

11 (i) pursuant to any provision of this
 12 section, or pursuant to any regulation
 13 issued by the Secretary or the Secretary of
 14 Labor under any provision of this section;
 15 and

16 (ii) on or before the last day of the
 17 first plan year beginning on or after Janu-
 18 ary 1, 2020, or such later date as the Sec-
 19 retary may prescribe.

20 In the case of a governmental plan (as defined
 21 in section 414(d) of the Internal Revenue Code
 22 of 1986), clause (ii) shall be applied by sub-
 23 stituting the date which is 2 years after the
 24 date otherwise applied under clause (ii).

1 (B) CONDITIONS.—This subsection shall
 2 not apply to any amendment unless—

3 (i) during the period—

4 (I) beginning on the date that
 5 this section or the regulation de-
 6 scribed in subparagraph (A)(i) takes
 7 effect (or in the case of a plan or con-
 8 tract amendment not required by this
 9 section or such regulation, the effec-
 10 tive date specified by the plan); and

11 (II) ending on the date described
 12 in subparagraph (A)(ii) (or, if earlier,
 13 the date the plan or contract amend-
 14 ment is adopted),

15 the plan or contract is operated as if such plan
 16 or contract amendment were in effect; and

17 (ii) such plan or contract amendment
 18 applies retroactively for such period.

19 **SEC. 4. EMPLOYMENT RELIEF.**

20 (a) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS
 21 AFFECTED BY HURRICANE FLORENCE.—

22 (1) IN GENERAL.—For purposes of section 38
 23 of the Internal Revenue Code of 1986, in the case
 24 of an eligible employer, the Hurricane Florence em-
 25 ployee retention credit shall be treated as a credit

1 listed in subsection (b) of such section. For purposes
 2 of this subsection, the Hurricane Florence employee
 3 retention credit for any taxable year is an amount
 4 equal to 40 percent of the qualified wages with re-
 5 spect to each eligible employee of such employer for
 6 such taxable year. For purposes of the preceding
 7 sentence, the amount of qualified wages which may
 8 be taken into account with respect to any individual
 9 shall not exceed \$6,000.

10 (2) DEFINITIONS.—For purposes of this sub-
 11 section—

12 (A) ELIGIBLE EMPLOYER.—The term “eli-
 13 gible employer” means any employer—

14 (i) which conducted an active trade or
 15 business on September 13, 2018, in the
 16 Hurricane Florence disaster zone; and

17 (ii) with respect to whom the trade or
 18 business described in clause (i) is inoper-
 19 able on any day after September 13, 2018,
 20 and before January 1, 2019, as a result of
 21 damage sustained by reason of Hurricane
 22 Florence.

23 (B) ELIGIBLE EMPLOYEE.—The term “eli-
 24 gible employee” means with respect to an eligi-
 25 ble employer an employee whose principal place

1 of employment on September 13, 2018, with
2 such eligible employer was in the Hurricane
3 Florence disaster zone.

4 (C) QUALIFIED WAGES.—The term “quali-
5 fied wages” means wages (as defined in section
6 51(c)(1) of the Internal Revenue Code of 1986,
7 but without regard to section 3306(b)(2)(B) of
8 such Code) paid or incurred by an eligible em-
9 ployer with respect to an eligible employee on
10 any day after September 13, 2018, and before
11 January 1, 2019, which occurs during the pe-
12 riod—

13 (i) beginning on the date on which the
14 trade or business described in subpara-
15 graph (A) first became inoperable at the
16 principal place of employment of the em-
17 ployee immediately before Hurricane Flor-
18 ence; and

19 (ii) ending on the date on which such
20 trade or business has resumed significant
21 operations at such principal place of em-
22 ployment.

23 Such term shall include wages paid without re-
24 gard to whether the employee performs no serv-
25 ices, performs services at a different place of

1 employment than such principal place of em-
2 ployment, or performs services at such principal
3 place of employment before significant oper-
4 ations have resumed.

5 (3) CERTAIN RULES TO APPLY.—For purposes
6 of this subsection, rules similar to the rules of sec-
7 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-
8 enue Code of 1986, shall apply.

9 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT
10 MORE THAN ONCE.—An employee shall not be treat-
11 ed as an eligible employee for purposes of this sub-
12 section for any period with respect to any employer
13 if such employer is allowed a credit under section 51
14 of the Internal Revenue Code of 1986 with respect
15 to such employee for such period.

16 (b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS
17 AFFECTED BY HURRICANE MICHAEL.—

18 (1) IN GENERAL.—For purposes of section 38
19 of the Internal Revenue Code of 1986, in the case
20 of an eligible employer, the Hurricane Michael em-
21 ployee retention credit shall be treated as a credit
22 listed in subsection (b) of such section. For purposes
23 of this subsection, the Hurricane Michael employee
24 retention credit for any taxable year is an amount
25 equal to 40 percent of the qualified wages with re-

1 spect to each eligible employee of such employer for
2 such taxable year. For purposes of the preceding
3 sentence, the amount of qualified wages which may
4 be taken into account with respect to any individual
5 shall not exceed \$6,000.

6 (2) DEFINITIONS.—For purposes of this sub-
7 section—

8 (A) ELIGIBLE EMPLOYER.—The term “eli-
9 gible employer” means any employer—

10 (i) which conducted an active trade or
11 business on October 7, 2018, in the Hurri-
12 cane Michael disaster zone; and

13 (ii) with respect to whom the trade or
14 business described in clause (i) is inoper-
15 able on any day after October 7, 2018, and
16 before January 1, 2019, as a result of
17 damage sustained by reason of Hurricane
18 Michael.

19 (B) ELIGIBLE EMPLOYEE.—The term “eli-
20 gible employee” means with respect to an eligi-
21 ble employer an employee whose principal place
22 of employment on October 7, 2018, with such
23 eligible employer was in the Hurricane Michael
24 disaster zone.

(C) QUALIFIED WAGES.—The term “qualified wages” means wages (as defined in section 51(c)(1) of the Internal Revenue Code of 1986, but without regard to section 3306(b)(2)(B) of such Code) paid or incurred by an eligible employer with respect to an eligible employee on any day after October 7, 2018, and before January 1, 2019, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Michael; and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

1 (3) CERTAIN RULES TO APPLY.—For purposes
 2 of this subsection, rules similar to the rules of sec-
 3 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-
 4 enue Code of 1986, shall apply.

5 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT
 6 MORE THAN ONCE.—An employee shall not be treat-
 7 ed as an eligible employee for purposes of this sub-
 8 section for any period with respect to any employer
 9 if such employer is allowed a credit under section 51
 10 of the Internal Revenue Code of 1986 with respect
 11 to such employee for such period.

12 (c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS
 13 AFFECTED BY CALIFORNIA WILDFIRES.—

14 (1) IN GENERAL.—For purposes of section 38
 15 of the Internal Revenue Code of 1986, in the case
 16 of an eligible employer, the 2018 California wildfire
 17 employee retention credit shall be treated as a credit
 18 listed in subsection (b) of such section. For purposes
 19 of this subsection, the 2018 California wildfire em-
 20 ployee retention credit for any taxable year is an
 21 amount equal to 40 percent of the qualified wages
 22 with respect to each eligible employee of such em-
 23 ployer for such taxable year. For purposes of the
 24 preceding sentence, the amount of qualified wages

1 which may be taken into account with respect to any
2 individual shall not exceed \$6,000.

3 (2) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) ELIGIBLE EMPLOYER.—The term “eli-
6 gible employer” means any employer—

7 (i) which conducted an active trade or
8 business on July 23, 2018, in the Cali-
9 fornia wildfire disaster zone; and

10 (ii) with respect to whom the trade or
11 business described in clause (i) is inoper-
12 able on any day after July 23, 2018, and
13 before January 1, 2019, as a result of
14 damage sustained by reason of the
15 wildfires to which such the declaration of
16 such the California wildfire disaster area
17 relates.

18 (B) ELIGIBLE EMPLOYEE.—The term “eli-
19 gible employee” means with respect to an eligi-
20 ble employer an employee whose principal place
21 of employment on July 23, 2018, with such eli-
22 gible employer was in the California wildfire
23 disaster zone.

24 (C) QUALIFIED WAGES.—The term “quali-
25 fied wages” means wages (as defined in section

1 51(c)(1) of the Internal Revenue Code of 1986,
2 but without regard to section 3306(b)(2)(B) of
3 such Code) paid or incurred by an eligible em-
4 ployer with respect to an eligible employee on
5 any day after July 23, 2018, and before Janu-
6 ary 1, 2019, which occurs during the period—

7 (i) beginning on the date on which the
8 trade or business described in subpara-
9 graph (A) first became inoperable at the
10 principal place of employment of the em-
11 ployee immediately before the wildfires to
12 which the declaration of the California
13 wildfire disaster area relates; and

14 (ii) ending on the date on which such
15 trade or business has resumed significant
16 operations at such principal place of em-
17 ployment.

18 Such term shall include wages paid without re-
19 gard to whether the employee performs no serv-
20 ices, performs services at a different place of
21 employment than such principal place of em-
22 ployment, or performs services at such principal
23 place of employment before significant oper-
24 ations have resumed.

1 (3) CERTAIN RULES TO APPLY.—For purposes
 2 of this subsection, rules similar to the rules of sec-
 3 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-
 4 enue Code of 1986, shall apply.

5 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT
 6 MORE THAN ONCE.—An employee shall not be treat-
 7 ed as an eligible employee for purposes of this sub-
 8 section for any period with respect to any employer
 9 if such employer is allowed a credit under section 51
 10 of the Internal Revenue Code of 1986 with respect
 11 to such employee for such period.

12 **SEC. 5. TREATMENT AS OPPORTUNITY ZONES.**

13 Section 1400Z–1 of the Internal Revenue Code of
 14 1986 is amended by adding at the end the following new
 15 subsection:

16 “(g) APPLICATION TO CERTAIN DISASTER ZONES.—
 17 For purposes of this subchapter—

18 “(1) IN GENERAL.—Any applicable disaster
 19 zone shall be treated as an opportunity zone, except
 20 that for purposes of determining—

21 “(A) whether any property which would
 22 not be qualified opportunity fund business prop-
 23 erty without regard to this subsection is quali-
 24 fied opportunity fund business property, and

1 “(B) whether any corporation or partner-
 2 ship which is not a qualified opportunity fund
 3 business without regard to this subsection is a
 4 qualified opportunity fund business,
 5 subparagraphs (B)(i)(I), (C)(i), and (D)(i)(I) of sec-
 6 tion 1400Z-2(d)(2) shall each be applied by sub-
 7 stituting ‘the applicable start date’ for ‘December
 8 31, 2017’.

9 “(2) OTHER RULES.—

10 “(A) WAIVER OF DESIGNATION LIMITA-
 11 TION.—An applicable disaster zone shall not be
 12 taken into account in determining the limitation
 13 under subsection (d).

14 “(B) TERMINATION.—For purposes of
 15 subsection (f), an applicable disaster zone shall
 16 be treated as being designated as a qualified
 17 opportunity zone on the date of the enactment
 18 of this subsection.

19 “(3) DEFINITIONS.—For purposes of this sub-
 20 section—

21 “(A) APPLICABLE DISASTER ZONE.—The
 22 term ‘applicable disaster zone’ means any area
 23 which—

24 “(i) has been determined by the Presi-
 25 dent of the United States to warrant indi-

vidual or individual and public assistance
 from the Federal Government under the
 Robert T. Stafford Disaster Relief and
 Emergency Assistance Act by reason of
 Hurricane Florence,

“(ii) has been determined by the
 President of the United States to warrant
 individual or individual and public assist-
 ance from the Federal Government under
 the Robert T. Stafford Disaster Relief and
 Emergency Assistance Act by reason of
 Hurricane Michael, or

“(iii) has been determined by the
 President of the United States to warrant
 individual or individual and public assist-
 ance from the Federal Government under
 the Robert T. Stafford Disaster Relief and
 Emergency Assistance Act by reason of
 wildfires in California occurring after July
 22, 2018, and before January 1, 2019.

“(B) APPLICABLE START DATE.—The
 term ‘applicable start date’ means—

“(i) with respect to any applicable dis-
 aster zone described in subparagraph
 (A)(i), September 13, 2018,

1 “(ii) with respect to any applicable
 2 disaster zone described in subparagraph
 3 (A)(ii), October 7, 2018, and
 4 “(iii) with respect to any applicable
 5 disaster zone described in subparagraph
 6 (A)(iii), July 23, 2018.”.

7 **SEC. 6. ADDITIONAL DISASTER-RELATED TAX RELIEF PRO-**
 8 **VISIONS.**

9 (a) TEMPORARY SUSPENSION OF LIMITATIONS ON
 10 CHARITABLE CONTRIBUTIONS.—

11 (1) IN GENERAL.—Except as otherwise pro-
 12 vided in paragraph (2), subsection (b) of section 170
 13 of the Internal Revenue Code of 1986 shall not
 14 apply to qualified contributions and such contribu-
 15 tions shall not be taken into account for purposes of
 16 applying subsections (b) and (d) of such section to
 17 other contributions.

18 (2) TREATMENT OF EXCESS CONTRIBUTIONS.—
 19 For purposes of section 170 of the Internal Revenue
 20 Code of 1986—

21 (A) INDIVIDUALS.—In the case of an indi-
 22 vidual—

23 (i) LIMITATION.—Any qualified con-
 24 tribution shall be allowed only to the ex-
 25 tent that the aggregate of such contribu-

tions does not exceed the excess of the taxpayer's contribution base (as defined in subparagraph (H) of section 170(b)(1) of such Code) over the amount of all other charitable contributions allowed under section 170(b)(1) of such Code.

(ii) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1) of such Code) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

(B) CORPORATIONS.—In the case of a corporation—

(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b) of such Code) over the amount of all other

charitable contributions allowed under such paragraph.

(ii) CARRYOVER.—Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

(3) QUALIFIED CONTRIBUTIONS.—

(A) IN GENERAL.—For purposes of this subsection, the term “qualified contribution” means any charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) if—

(i) such contribution—

(I) is paid during the period beginning on July 23, 2018, and ending on December 31, 2018, in cash to an organization described in section 170(b)(1)(A) of such Code; and

(II) is made for relief efforts in the Hurricane Florence disaster area, the Hurricane Michael disaster area, or the California wildfire disaster area;

(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of sec-

tion 170(f)(8) of such Code) that such contribution was used (or is to be used) for relief efforts described in clause (i)(II); and

(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

(B) EXCEPTION.—Such term shall not include a contribution by a donor if the contribution is—

(i) to an organization described in section 509(a)(3) of the Internal Revenue Code of 1986; or

(ii) for the establishment of a new, or maintenance of an existing, donor advised fund (as defined in section 4966(d)(2) of such Code).

(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

(b) SPECIAL RULES FOR QUALIFIED DISASTER-RELATED PERSONAL CASUALTY LOSSES.—

(1) IN GENERAL.—If an individual has a net disaster loss for any taxable year—

(A) the amount determined under section 165(h)(2)(A)(ii) of the Internal Revenue Code of 1986 shall be equal to the sum of—

(i) such net disaster loss; and

(ii) so much of the excess referred to in the matter preceding clause (i) of section 165(h)(2)(A) of such Code (reduced by the amount in clause (i) of this subparagraph) as exceeds 10 percent of the adjusted gross income of the individual;

(B) section 165(h)(1) of such Code shall be applied by substituting “\$500” for “\$500 (\$100 for taxable years beginning after December 31, 2009)”;

(C) the standard deduction determined under section 63(c) of such Code shall be increased by the net disaster loss; and

(D) section 56(b)(1)(E) of such Code shall not apply to so much of the standard deduction as is attributable to the increase under subparagraph (C) of this paragraph.

(2) NET DISASTER LOSS.—For purposes of this subsection, the term “net disaster loss” means the

1 excess of qualified disaster-related personal casualty
2 losses over personal casualty gains (as defined in
3 section 165(h)(3)(A) of the Internal Revenue Code
4 of 1986).

5 (3) QUALIFIED DISASTER-RELATED PERSONAL
6 CASUALTY LOSSES.—For purposes of this sub-
7 section, the term “qualified disaster-related personal
8 casualty losses” means—

9 (A) losses described in section 165(c)(3) of
10 the Internal Revenue Code of 1986 which arise
11 in the Hurricane Florence disaster area on or
12 after September 13, 2018, and which are at-
13 tributable to Hurricane Florence;

14 (B) losses described in section 165(c)(3) of
15 the Internal Revenue Code of 1986 which arise
16 in the Hurricane Michael disaster area on or
17 after October 7, 2018, and which are attrib-
18 utable to Hurricane Michael; and

19 (C) losses described in section 165(c)(3) of
20 the Internal Revenue Code of 1986 which arise
21 in the California wildfire disaster area on or
22 after July 23, 2018, and which are attributable
23 to the wildfires to which the declaration of such
24 area relates.

1 (c) SPECIAL RULE FOR DETERMINING EARNED IN-
2 COME.—

3 (1) IN GENERAL.—In the case of a qualified in-
4 dividual, if the earned income of the taxpayer for the
5 applicable taxable year is less than the earned in-
6 come of the taxpayer for the preceding taxable year,
7 the credits allowed under sections 24(d) and 32 of
8 the Internal Revenue Code of 1986 may, at the elec-
9 tion of the taxpayer, be determined by sub-
10 stituting—

11 (A) such earned income for the preceding
12 taxable year; for

13 (B) such earned income for the applicable
14 taxable year.

15 (2) QUALIFIED INDIVIDUAL.—For purposes of
16 this subsection—

17 (A) IN GENERAL.—The term “qualified in-
18 dividual” means any qualified Hurricane Flor-
19 ence individual, any qualified Hurricane Mi-
20 chael individual, and any qualified California
21 wildfire individual.

22 (B) QUALIFIED HURRICANE FLORENCE IN-
23 DIVIDUAL.—The term “qualified Hurricane
24 Florence individual” means any individual

1 whose principal place of abode on September
2 13, 2018, was located—

3 (i) in the Hurricane Florence disaster
4 zone; or

5 (ii) in the Hurricane Florence disaster
6 area (but outside the Hurricane Florence
7 disaster zone) and such individual was dis-
8 placed from such principal place of abode
9 by reason of Hurricane Florence.

10 (C) QUALIFIED HURRICANE MICHAEL IN-
11 DIVIDUAL.—The term “qualified Hurricane Mi-
12 chael individual” means any individual whose
13 principal place of abode on October 7, 2018,
14 was located—

15 (i) in the Hurricane Michael disaster
16 zone; or

17 (ii) in the Hurricane Michael disaster
18 area (but outside the Hurricane Michael
19 disaster zone) and such individual was dis-
20 placed from such principal place of abode
21 by reason of Hurricane Michael.

22 (D) QUALIFIED CALIFORNIA WILDFIRE IN-
23 DIVIDUAL.—The term “qualified California
24 wildfire individual” means any individual whose
25 principal place of abode during any portion of

1 the period from July 23, 2018, to December 31,
2 2018, was located—

3 (i) in the California wildfire disaster
4 zone; or

5 (ii) in the California wildfire disaster
6 area (but outside the California disaster
7 zone) and such individual was displaced
8 from such principal place of abode by rea-
9 son of the wildfires to which the declara-
10 tion of such area relates.

11 (3) APPLICABLE TAXABLE YEAR.—The term
12 “applicable taxable year” means the taxable year
13 which includes—

14 (A) in the case of a qualified Hurricane
15 Florence individual, September 13, 2018;

16 (B) in the case of a qualified Hurricane
17 Michael individual, October 7, 2018; and

18 (C) in the case of a qualified California
19 wildfire individual, any portion of the period
20 from July 23, 2018, to December 31, 2018.

21 (4) EARNED INCOME.—For purposes of this
22 subsection, the term “earned income” has the mean-
23 ing given such term under section 32(c) of the Inter-
24 nal Revenue Code of 1986.

25 (5) SPECIAL RULES.—

1 (A) APPLICATION TO JOINT RETURNS.—

2 For purposes of paragraph (1), in the case of
3 a joint return for an applicable taxable year—

4 (i) such paragraph shall apply if ei-
5 ther spouse is a qualified individual; and

6 (ii) the earned income of the taxpayer
7 for the preceding taxable year shall be the
8 sum of the earned income of each spouse
9 for such preceding taxable year.

10 (B) UNIFORM APPLICATION OF ELEC-
11 TION.—Any election made under paragraph (1)
12 shall apply with respect to both sections 24(d)
13 and 32, of the Internal Revenue Code of 1986.

14 (C) ERRORS TREATED AS MATHEMATICAL
15 ERROR.—For purposes of section 6213 of the
16 Internal Revenue Code of 1986, an incorrect
17 use on a return of earned income pursuant to
18 paragraph (1) shall be treated as a mathe-
19 matical or clerical error.

20 (D) NO EFFECT ON DETERMINATION OF
21 GROSS INCOME, ETC.—Except as otherwise pro-
22 vided in this subsection, the Internal Revenue
23 Code of 1986 shall be applied without regard to
24 any substitution under paragraph (1).

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