

116TH CONGRESS
2D SESSION

H. R. 8440

To provide disaster tax relief.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2020

Mr. THOMPSON of California (for himself, Mr. BLUMENAUER, and Ms. FINKENAUER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Small Business, 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 disaster tax relief.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Disaster Tax Relief Act of 2020”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Special disaster-related rules for use of retirement funds.

Sec. 4. Employee retention credit for employers affected by qualified disasters.

Sec. 5. Other disaster-related tax relief provisions.

Sec. 6. Treatment of certain possessions.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act—

3 (1) **QUALIFIED DISASTER AREA.**—

4 (A) **IN GENERAL.**—The term “qualified
5 disaster area” means any area with respect to
6 which a major disaster was declared, during the
7 period beginning on December 28, 2019, and
8 ending on the date which is 60 days after the
9 date of the enactment of this Act, by the Presi-
10 dent under section 401 of the Robert T. Staf-
11 ford Disaster Relief and Emergency Assistance
12 Act if the incident period of the disaster with
13 respect to which such declaration is made be-
14 gins on or before the date of the enactment of
15 this Act.

16 (B) **COVID–19 EXCEPTION.**—Such term
17 shall not include any area with respect to which
18 such a major disaster has been so declared only
19 by reason of COVID–19.

20 (2) **QUALIFIED DISASTER ZONE.**—The term
21 “qualified disaster zone” means that portion of any
22 qualified disaster area which was determined by the
23 President, during the period beginning on December
24 28, 2019, and ending on the date which is 60 days

1 after the date of the enactment of this Act, to war-
2 rant individual or individual and public assistance
3 from the Federal Government under the Robert T.
4 Stafford Disaster Relief and Emergency Assistance
5 Act by reason of the qualified disaster with respect
6 to such disaster area.

7 (3) QUALIFIED DISASTER.—The term “quali-
8 fied disaster” means, with respect to any qualified
9 disaster area, the disaster by reason of which a
10 major disaster was declared with respect to such
11 area.

12 (4) INCIDENT PERIOD.—The term “incident pe-
13 riod” means, with respect to any qualified disaster,
14 the period specified by the Federal Emergency Man-
15 agement Agency as the period during which such
16 disaster occurred (except that for purposes of this
17 Act such period shall not be treated as beginning be-
18 fore December 28, 2019, or ending after the date
19 which is 30 days after the date of the enactment of
20 this Act).

21 **SEC. 3. SPECIAL DISASTER-RELATED RULES FOR USE OF**
22 **RETIREMENT FUNDS.**

23 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
24 MENT PLANS.—

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

4 (2) AGGREGATE DOLLAR LIMITATION.—

5 (A) IN GENERAL.—For purposes of this
6 subsection, the aggregate amount of distribu-
7 tions received by an individual which may be
8 treated as qualified disaster distributions for
9 any taxable year shall not exceed the excess (if
10 any) of—

11 (i) \$100,000, over

12 (ii) the aggregate amounts treated as
13 qualified disaster distributions received by
14 such individual for all prior taxable years.

15 (B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would
16 (without regard to subparagraph (A)) be a
17 qualified disaster distribution, a plan shall not
18 be treated as violating any requirement of the
19 Internal Revenue Code of 1986 merely because
20 the plan treats such distribution as a qualified
21 disaster distribution, unless the aggregate
22 amount of such distributions from all plans
23 maintained by the employer (and any member
24

1 of any controlled group which includes the em-
2 ployer) to such individual exceeds \$100,000.

3 (C) CONTROLLED GROUP.—For purposes
4 of subparagraph (B), the term “controlled
5 group” means any group treated as a single
6 employer under subsection (b), (c), (m), or (o)
7 of section 414 of the Internal Revenue Code of
8 1986.

9 (D) SPECIAL RULE FOR INDIVIDUALS AF-
10 FECTED BY MORE THAN ONE DISASTER.—The
11 limitation of subparagraph (A) shall be applied
12 separately with respect to distributions made
13 with respect to each qualified disaster.

14 (3) AMOUNT DISTRIBUTED MAY BE REPAYED.—

15 (A) IN GENERAL.—Any individual who re-
16 ceives a qualified disaster distribution may, at
17 any time during the 3-year period beginning on
18 the day after the date on which such distribu-
19 tion was received, make 1 or more contributions
20 in an aggregate amount not to exceed the
21 amount of such distribution to an eligible retire-
22 ment plan of which such individual is a bene-
23 ficiary and to which a rollover contribution of
24 such distribution could be made under section
25 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or

1 457(e)(16), of the Internal Revenue Code of
2 1986, as the case may be.

3 (B) TREATMENT OF REPAYMENTS OF DIS-
4 TRIBUTIONS FROM ELIGIBLE RETIREMENT
5 PLANS OTHER THAN IRAS.—For purposes of
6 the Internal Revenue Code of 1986, if a con-
7 tribution is made pursuant to subparagraph (A)
8 with respect to a qualified disaster distribution
9 from an eligible retirement plan other than an
10 individual retirement plan, then the taxpayer
11 shall, to the extent of the amount of the con-
12 tribution, be treated as having received the
13 qualified disaster distribution in an eligible roll-
14 over distribution (as defined in section
15 402(c)(4) of such Code) and as having trans-
16 ferred the amount to the eligible retirement
17 plan in a direct trustee to trustee transfer with-
18 in 60 days of the distribution.

19 (C) TREATMENT OF REPAYMENTS OF DIS-
20 TRIBUTIONS FROM IRAS.—For purposes of the
21 Internal Revenue Code of 1986, if a contribu-
22 tion is made pursuant to subparagraph (A)
23 with respect to a qualified disaster distribution
24 from an individual retirement plan (as defined
25 by section 7701(a)(37) of such Code), then, to

1 the extent of the amount of the contribution,
2 the qualified disaster distribution shall be treat-
3 ed as a distribution described in section
4 408(d)(3) of such Code and as having been
5 transferred to the eligible retirement plan in a
6 direct trustee to trustee transfer within 60 days
7 of the distribution.

8 (4) DEFINITIONS.—For purposes of this sub-
9 section—

10 (A) QUALIFIED DISASTER DISTRIBUTION.—Except as provided in paragraph (2),
11 the term “qualified disaster distribution” means
12 any distribution from an eligible retirement
13 plan made—
14

15 (i) on or after the first day of the in-
16 cident period of a qualified disaster and
17 before the date which is 180 days after the
18 date of the enactment of this Act, and

19 (ii) to an individual whose principal
20 place of abode at any time during the inci-
21 dent period of such qualified disaster is lo-
22 cated in the qualified disaster area with re-
23 spect to such qualified disaster and who
24 has sustained an economic loss by reason
25 of such qualified disaster.

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

6 (5) INCOME INCLUSION SPREAD OVER 3-YEAR
 7 PERIOD.—

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

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

19 (6) SPECIAL RULES.—

20 (A) EXEMPTION OF DISTRIBUTIONS FROM
 21 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
 22 HOLDING RULES.—For purposes of sections
 23 401(a)(31), 402(f), and 3405 of the Internal
 24 Revenue Code of 1986, qualified disaster dis-

1 tributions shall not be treated as eligible roll-
2 over distributions.

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

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

13 (1) RECONTRIBUTIONS.—

14 (A) IN GENERAL.—Any individual who re-
15 ceived a qualified distribution may, during the
16 applicable period, make 1 or more contributions
17 in an aggregate amount not to exceed the
18 amount of such qualified distribution to an eli-
19 gible retirement plan (as defined in section
20 402(c)(8)(B) of the Internal Revenue Code of
21 1986) of which such individual is a beneficiary
22 and to which a rollover contribution of such dis-
23 tribution could be made under section 402(c),
24 403(a)(4), 403(b)(8), or 408(d)(3), of such
25 Code, as the case may be.

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

5 (2) QUALIFIED DISTRIBUTION.—For purposes
 6 of this subsection, the term “qualified distribution”
 7 means any distribution—

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

13 (B) which was to be used to purchase or
 14 construct a principal residence in a qualified
 15 disaster area, but which was not so used on ac-
 16 count of the qualified disaster with respect to
 17 such area, and

18 (C) which was received during the period
 19 beginning on the date which is 180 days before
 20 the first day of the incident period of such
 21 qualified disaster and ending on the date which
 22 is 30 days after the last day of such incident
 23 period.

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

1 the case of a principal residence in a qualified dis-
2 aster area with respect to any qualified disaster, the
3 period beginning on the first day of the incident pe-
4 riod of such qualified disaster and ending on the
5 date which is 180 days after the date of the enact-
6 ment of this Act.

7 (c) LOANS FROM QUALIFIED PLANS.—

8 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-
9 ED AS DISTRIBUTIONS.—In the case of any loan
10 from a qualified employer plan (as defined under
11 section 72(p)(4) of the Internal Revenue Code of
12 1986) to a qualified individual made during the 180-
13 day period beginning on the date of the enactment
14 of this Act—

15 (A) clause (i) of section 72(p)(2)(A) of
16 such Code shall be applied by substituting
17 “\$100,000” for “\$50,000”, and

18 (B) clause (ii) of such section shall be ap-
19 plied by substituting “the present value of the
20 nonforfeitable accrued benefit of the employee
21 under the plan” for “one-half of the present
22 value of the nonforfeitable accrued benefit of
23 the employee under the plan”.

24 (2) DELAY OF REPAYMENT.—In the case of a
25 qualified individual (with respect to any qualified

1 disaster) with an outstanding loan (on or after the
2 first day of the incident period of such qualified dis-
3 aster) from a qualified employer plan (as defined in
4 section 72(p)(4) of the Internal Revenue Code of
5 1986)—

6 (A) if the due date pursuant to subpara-
7 graph (B) or (C) of section 72(p)(2) of such
8 Code for any repayment with respect to such
9 loan occurs during the period beginning on the
10 first day of the incident period of such qualified
11 disaster and ending on the date which is 180
12 days after the last day of such incident period,
13 such due date shall be delayed for 1 year (or,
14 if later, until the date which is 180 days after
15 the date of the enactment of this Act),

16 (B) any subsequent repayments with re-
17 spect to any such loan shall be appropriately
18 adjusted to reflect the delay in the due date
19 under subparagraph (A) and any interest accru-
20 ing during such delay, and

21 (C) in determining the 5-year period and
22 the term of a loan under subparagraph (B) or
23 (C) of section 72(p)(2) of such Code, the period
24 described in subparagraph (A) of this para-
25 graph shall be disregarded.

1 (3) QUALIFIED INDIVIDUAL.—For purposes of
2 this subsection, the term “qualified individual”
3 means any individual—

4 (A) whose principal place of abode at any
5 time during the incident period of any qualified
6 disaster is located in the qualified disaster area
7 with respect to such qualified disaster, and

8 (B) who has sustained an economic loss by
9 reason of such qualified disaster.

10 (d) PROVISIONS RELATING TO PLAN AMEND-
11 MENTS.—

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

17 (2) AMENDMENTS TO WHICH SUBSECTION AP-
18 PLIES.—

19 (A) IN GENERAL.—This subsection shall
20 apply to any amendment to any plan or annuity
21 contract which is made—

22 (i) pursuant to any provision of this
23 section, or pursuant to any regulation
24 issued by the Secretary or the Secretary of

1 Labor under any provision of this section,
2 and

3 (ii) on or before the last day of the
4 first plan year beginning on or after Janu-
5 ary 1, 2020, or such later date as the Sec-
6 retary may prescribe.

7 In the case of a governmental plan (as defined
8 in section 414(d) of the Internal Revenue Code
9 of 1986), clause (ii) shall be applied by sub-
10 stituting the date which is 2 years after the
11 date otherwise applied under clause (ii).

12 (B) CONDITIONS.—This subsection shall
13 not apply to any amendment unless—

14 (i) during the period—

15 (I) beginning on the date that
16 this section or the regulation de-
17 scribed in subparagraph (A)(i) takes
18 effect (or in the case of a plan or con-
19 tract amendment not required by this
20 section or such regulation, the effec-
21 tive date specified by the plan), and

22 (II) ending on the date described
23 in subparagraph (A)(ii) (or, if earlier,
24 the date the plan or contract amend-
25 ment is adopted),

1 the plan or contract is operated as if such plan
2 or contract amendment were in effect, and
3 (ii) such plan or contract amendment
4 applies retroactively for such period.

5 **SEC. 4. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**
6 **AFFECTED BY QUALIFIED DISASTERS.**

7 (a) IN GENERAL.—For purposes of section 38 of the
8 Internal Revenue Code of 1986, in the case of an eligible
9 employer, the 2020 qualified disaster employee retention
10 credit shall be treated as a credit listed at the end of sub-
11 section (b) of such section. For purposes of this sub-
12 section, the 2020 qualified disaster employee retention
13 credit for any taxable year is an amount equal to 40 per-
14 cent of the qualified wages with respect to each eligible
15 employee of such employer for such taxable year. The
16 amount of qualified wages with respect to any employee
17 which may be taken into account under this subsection
18 by the employer for any taxable year shall not exceed
19 \$6,000 (reduced by the amount of qualified wages with
20 respect to such employee which may be so taken into ac-
21 count for any prior taxable year).

22 (b) DEFINITIONS.—For purposes of this section—

23 (1) ELIGIBLE EMPLOYER.—The term “eligible
24 employer” means any employer—

1 (A) which conducted an active trade or
2 business in a qualified disaster zone at any time
3 during the incident period of the qualified dis-
4 aster with respect to such qualified disaster
5 zone, and

6 (B) with respect to whom the trade or
7 business described in subparagraph (A) is inop-
8 erable at any time during the period beginning
9 on the first day of the incident period of such
10 qualified disaster and ending on the date of the
11 enactment of this Act, as a result of damage
12 sustained by reason of such qualified disaster.

13 (2) ELIGIBLE EMPLOYEE.—The term “eligible
14 employee” means with respect to an eligible em-
15 ployer an employee whose principal place of employ-
16 ment with such eligible employer (determined imme-
17 diately before the qualified disaster referred to in
18 paragraph (1)) was in the qualified disaster zone re-
19 ferred to in such paragraph.

20 (3) QUALIFIED WAGES.—The term “qualified
21 wages” means wages (as defined in section 51(c)(1)
22 of the Internal Revenue Code of 1986, but without
23 regard to section 3306(b)(2)(B) of such Code) paid
24 or incurred by an eligible employer with respect to
25 an eligible employee at any time on or after the date

1 on which the trade or business described in para-
2 graph (1) first became inoperable at the principal
3 place of employment of the employee (determined
4 immediately before the qualified disaster referred to
5 in such paragraph) and before the earlier of—

6 (A) the date on which such trade or busi-
7 ness has resumed significant operations at such
8 principal place of employment, or

9 (B) the date which 150 days after the last
10 day of the incident period of the qualified dis-
11 aster referred to in paragraph (1).

12 Such term shall include wages paid without regard
13 to whether the employee performs no services, per-
14 forms services at a different place of employment
15 than such principal place of employment, or per-
16 forms services at such principal place of employment
17 before significant operations have resumed. Such
18 term shall not include any wages taken into account
19 under section 2301 of the Coronavirus Aid, Relief,
20 and Economic Security Act.

21 (c) SPECIAL RULES.—

22 (1) EMPLOYEE NOT TAKEN INTO ACCOUNT
23 MORE THAN ONCE.—An employee shall not be treat-
24 ed as an eligible employee for purposes of this sub-
25 section for any period with respect to any employer

1 if such employer is allowed a credit under section 51
2 of the Internal Revenue Code of 1986 with respect
3 to such employee for such period.

4 (2) DENIAL OF DOUBLE BENEFIT.—Any wages
5 taken into account in determining the credit allowed
6 under this section shall not be taken into account as
7 wages for purposes of sections 41, 45A, 45P, 45S,
8 51, and 1396 of the Internal Revenue Code of 1986.

9 (3) CERTAIN OTHER RULES TO APPLY.—For
10 purposes of this subsection, rules similar to the rules
11 of sections 51(i)(1), 52, and 280C(a), of the Internal
12 Revenue Code of 1986, shall apply.

13 (d) ELECTION TO NOT TAKE CERTAIN WAGES INTO
14 ACCOUNT.—

15 (1) IN GENERAL.—This section shall not apply
16 to qualified wages paid by an eligible employer with
17 respect to which such employer makes an election
18 (at such time and in such manner as the Secretary
19 may prescribe) to have this section not apply to such
20 wages.

21 (2) COORDINATION WITH PAYCHECK PROTEC-
22 TION PROGRAM.—The Secretary, in consultation
23 with the Administrator of the Small Business Ad-
24 ministration, shall issue guidance providing that
25 payroll costs paid or incurred during the covered pe-

1 riod shall not fail to be treated as qualified wages
 2 under this section by reason of an election under
 3 paragraph (1) to the extent that a covered loan of
 4 the eligible employer is not forgiven by reason of a
 5 decision under section 1106(g) of the CARES Act.
 6 Terms used in the preceding sentence which are also
 7 used in section 1106 of such Act shall have the same
 8 meaning as when used in such section.

9 (e) AMENDMENT TO PAYCHECK PROTECTION PRO-
 10 GRAM.—Section 1106(a)(8) of the CARES Act is amended
 11 by inserting “, except that such costs shall not include
 12 qualified wages taken into account in determining the
 13 credit allowed under section 4 of the Disaster Tax Relief
 14 Act of 2020” before the period at the end.

15 **SEC. 5. OTHER DISASTER-RELATED TAX RELIEF PROVI-**
 16 **SIONS.**

17 (a) SPECIAL RULES FOR QUALIFIED DISASTER RE-
 18 LIEF CONTRIBUTIONS.—

19 (1) IN GENERAL.—In the case of a qualified
 20 disaster relief contribution made by a corporation—

21 (A) section 2205(a)(2)(B) of the CARES
 22 Act shall be applied first to qualified contribu-
 23 tions without regard to any qualified disaster
 24 relief contributions and then separately to such
 25 qualified disaster relief contribution, and

(B) in applying such section to such qualified disaster relief contributions, clause (i) thereof shall be applied—

(i) by substituting “100 percent” for “25 percent”, and

(ii) by treating qualified contributions other than qualified disaster relief contributions as contributions allowed under section 170(b)(2) of the Internal Revenue Code of 1986.

(2) QUALIFIED DISASTER RELIEF CONTRIBUTION.—For purposes of this subsection, the term “qualified disaster relief contribution” means any qualified contribution (as defined in section 2205(a)(3) of the CARES Act) if—

(A) such contribution—

(i) is paid, during the period beginning on December 28, 2019, and ending on the date which is 60 days after the date of the enactment of this Act, and

(ii) is made for relief efforts in one or more qualified disaster areas,

(B) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of section 170(f)(8)

1 of such Code) that such contribution was used
2 (or is to be used) for relief efforts described in
3 subparagraph (A)(ii), and

4 (C) the taxpayer has elected the applica-
5 tion of this subsection with respect to such con-
6 tribution.

7 (3) CROSS-REFERENCE.—For the suspension of
8 the limitation on qualified disaster relief contribu-
9 tions made by an individual during 2020, see section
10 2205(a) of the CARES Act.

11 (b) SPECIAL RULES FOR QUALIFIED DISASTER-RE-
12 LATED PERSONAL CASUALTY LOSSES.—

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

15 (A) the amount determined under section
16 165(h)(2)(A)(ii) of the Internal Revenue Code
17 of 1986 shall be equal to the sum of—

18 (i) such net disaster loss, and

19 (ii) so much of the excess referred to
20 in the matter preceding clause (i) of sec-
21 tion 165(h)(2)(A) of such Code (reduced
22 by the amount in clause (i) of this sub-
23 paragraph) as exceeds 10 percent of the
24 adjusted gross income of the individual,

1 (B) in the case of qualified disaster-related
2 personal casualty losses, section 165(h)(1) of
3 such Code shall be applied to by substituting
4 “\$500” for “\$500 (\$100 for taxable years be-
5 ginning after December 31, 2009)”,

6 (C) the standard deduction determined
7 under section 63(c) of such Code shall be in-
8 creased by the net disaster loss, and

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

13 (2) NET DISASTER LOSS.—For purposes of this
14 subsection, the term “net disaster loss” means the
15 excess of qualified disaster-related personal casualty
16 losses over personal casualty gains (as defined in
17 section 165(h)(3)(A) of the Internal Revenue Code
18 of 1986).

19 (3) QUALIFIED DISASTER-RELATED PERSONAL
20 CASUALTY LOSSES.—For purposes of this sub-
21 section, the term “qualified disaster-related personal
22 casualty losses” means losses described in section
23 165(c)(3) of the Internal Revenue Code of 1986
24 which arise in a qualified disaster area on or after
25 the first day of the incident period of the qualified

1 disaster to which such area relates, and which are
2 attributable to such qualified disaster.

3 (c) TEMPORARY SPECIAL RULE FOR DETERMINING
4 EARNED INCOME FOR TAXPAYERS WHOSE INCOME WAS
5 AFFECTED BY COVID–19 DISASTER.—

6 (1) IN GENERAL.—If the earned income of the
7 taxpayer for the taxpayer’s first taxable year begin-
8 ning in 2020 is less than the earned income of the
9 taxpayer for the preceding taxable year, the credits
10 allowed under sections 24(d) and 32 of the Internal
11 Revenue Code of 1986 may, at the election of the
12 taxpayer, be determined by substituting—

13 (A) such earned income for the preceding
14 taxable year, for

15 (B) such earned income for the taxpayer’s
16 first taxable year beginning in 2020.

17 (2) EARNED INCOME.—

18 (A) IN GENERAL.—For purposes of this
19 section, the term “earned income” has the
20 meaning given such term under section 32(c) of
21 the Internal Revenue Code of 1986.

22 (B) APPLICATION TO JOINT RETURNS.—
23 For purposes of subsection (a), in the case of
24 a joint return, the earned income of the tax-
25 payer for the preceding taxable year shall be

1 the sum of the earned income of each spouse
2 for such preceding taxable year.

3 (3) SPECIAL RULES.—

4 (A) ERRORS TREATED AS MATHEMATICAL
5 ERROR.—For purposes of section 6213 of the
6 Internal Revenue Code of 1986, an incorrect
7 use on a return of earned income pursuant to
8 subsection (a) shall be treated as a mathe-
9 matical or clerical error.

10 (B) NO EFFECT ON DETERMINATION OF
11 GROSS INCOME, ETC.—Except as otherwise pro-
12 vided in this subsection, the Internal Revenue
13 Code of 1986 shall be applied without regard to
14 any substitution under subsection (a).

15 **SEC. 6. TREATMENT OF CERTAIN POSSESSIONS.**

16 (a) PAYMENTS TO POSSESSIONS WITH MIRROR
17 CODE TAX SYSTEMS.—The Secretary of the Treasury
18 shall pay to each possession of the United States which
19 has a mirror code tax system amounts equal to the loss
20 (if any) to that possession by reason of the application
21 of the provisions of this Act. Such amounts shall be deter-
22 mined by the Secretary of the Treasury based on informa-
23 tion provided by the government of the respective posses-
24 sion.

1 (b) PAYMENTS TO OTHER POSSESSIONS.—The Sec-
2 retary of the Treasury shall pay to each possession of the
3 United States which does not have a mirror code tax sys-
4 tem amounts estimated by the Secretary of the Treasury
5 as being equal to the aggregate benefits (if any) that
6 would have been provided to residents of such possession
7 by reason of the provisions of this Act if a mirror code
8 tax system had been in effect in such possession. The pre-
9 ceding sentence shall not apply unless the respective pos-
10 session has a plan, which has been approved by the Sec-
11 retary of the Treasury, under which such possession will
12 promptly distribute such payments to its residents.

13 (c) MIRROR CODE TAX SYSTEM.—For purposes of
14 this section, the term “mirror code tax system” means,
15 with respect to any possession of the United States, the
16 income tax system of such possession if the income tax
17 liability of the residents of such possession under such sys-
18 tem is determined by reference to the income tax laws of
19 the United States as if such possession were the United
20 States.

21 (d) TREATMENT OF PAYMENTS.—For purposes of
22 section 1324 of title 31, United States Code, the payments
23 under this section shall be treated in the same manner

- 1 as a refund due from a credit provision referred to in sub-
- 2 section (b)(2) of such section.

