

Public Law 115–63
115th Congress

An Act

Sept. 29, 2017
[H.R. 3823]

To amend title 49, United States Code, to extend authorizations for the airport improvement program, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to provide disaster tax relief, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Disaster Tax
Relief and
Airport and
Airway
Extension Act
of 2017.
26 USC 1 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Disaster Tax Relief and Airport and Airway Extension Act of 2017”.

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

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL AVIATION PROGRAMS

Sec. 101. Extension of airport improvement program.
Sec. 102. Extension of expiring authorities.
Sec. 103. Federal Aviation Administration operations.
Sec. 104. Small community air service.
Sec. 105. Air navigation facilities and equipment.
Sec. 106. Research, engineering, and development.
Sec. 107. Funding for aviation programs.

TITLE II—AVIATION REVENUE PROVISIONS

Sec. 201. Expenditure authority from Airport and Airway Trust Fund.
Sec. 202. Extension of taxes funding Airport and Airway Trust Fund.

TITLE III—EXPIRING HEALTH PROVISIONS

Sec. 301. Extension of certain public health programs.
Sec. 302. Extension of Medicare Patient IVIG Access Demonstration Project.
Sec. 303. Funds from the Medicare Improvement Fund.

TITLE IV—DEVELOPMENT OF PRIVATE FLOOD INSURANCE MARKET

Sec. 401. Private flood insurance.

TITLE V—TAX RELIEF FOR HURRICANES HARVEY, IRMA, AND MARIA

Sec. 501. Definitions.
Sec. 502. Special disaster-related rules for use of retirement funds.
Sec. 503. Disaster-related employment relief.
Sec. 504. Additional disaster-related tax relief provisions.
Sec. 505. Budgetary effects.

Time periods.

**TITLE I—FEDERAL AVIATION
PROGRAMS**

SEC. 101. EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) IN GENERAL.—Section 48103(a) of title 49, United States Code, is amended by striking the period at the end and inserting “and \$1,670,410,959 for the period beginning on October 1, 2017, and ending on March 31, 2018.”.

(2) OBLIGATION OF AMOUNTS.—Subject to limitations specified in advance in appropriations Acts, sums made available pursuant to the amendment made by paragraph (1) may be obligated at any time through September 30, 2018, and shall remain available until expended.

(3) PROGRAM IMPLEMENTATION.—For purposes of calculating funding apportionments and meeting other requirements under sections 47114, 47115, 47116, and 47117 of title 49, United States Code, for the period beginning on October 1, 2017, and ending on March 31, 2018, the Administrator of the Federal Aviation Administration shall—

(A) first calculate such funding apportionments on an annualized basis as if the total amount available under section 48103 of such title for fiscal year 2018 were \$3,350,000,000; and

(B) then reduce by 50 percent—

(i) all funding apportionments calculated under subparagraph (A); and

(ii) amounts available pursuant to sections 47117(b) and 47117(f)(2) of such title.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) of title 49, United States Code, is amended in the matter preceding paragraph (1) by striking “September 30, 2017,” and inserting “March 31, 2018,”.

SEC. 102. EXTENSION OF EXPIRING AUTHORITIES.

(a) Section 47107(r)(3) of title 49, United States Code, is amended by striking “October 1, 2017” and inserting “April 1, 2018”.

(b) Section 47114(c)(1)(F) of title 49, United States Code, is amended—

(1) in the subparagraph heading by striking “FOR FISCAL YEAR 2017”; and

(2) in the matter preceding clause (i) by striking “for fiscal year 2017 an amount” and inserting “for each of fiscal years 2017 and 2018 an amount”.

(c) Section 47115(j) of title 49, United States Code, is amended by inserting “and for the period beginning on October 1, 2017, and ending on March 31, 2018” after “fiscal years 2012 through 2017”.

(d) Section 47124(b)(3)(E) of title 49, United States Code, is amended by inserting “and not more than \$5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018,” after “fiscal years 2012 through 2017”.

(e) Section 47141(f) of title 49, United States Code, is amended by striking “September 30, 2017” and inserting “March 31, 2018”.

(f) Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (117 Stat. 2518) is amended by inserting “and for the period beginning on October 1, 2017, and ending on March 31, 2018,” after “fiscal years 2012 through 2017”.

(g) Section 409(d) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 41731 note) is amended by striking “September 30, 2017” and inserting “March 31, 2018”.

(h) Section 140(c)(1) of the FAA Modernization and Reform Act of 2012 (126 Stat. 28) is amended by striking “2017” and inserting “2018”.

(i) Section 411(h) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 42301 prec. note) is amended by striking “September 30, 2017” and inserting “March 31, 2018”.

(j) Section 822(k) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 47141 note) is amended by striking “September 30, 2017” and inserting “March 31, 2018”.

(k) Section 2306(b) of the FAA Extension, Safety, and Security Act of 2016 (130 Stat. 641) is amended by striking “October 1, 2017” and inserting “April 1, 2018”.

SEC. 103. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

Section 106(k) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D) by striking “and” at the end;

(B) in subparagraph (E) by striking the period at the end and inserting “; and”; and

(C) by inserting after subparagraph (E) the following:

“(F) \$4,999,191,956 for the period beginning on October 1, 2017, and ending on March 31, 2018.”; and

(2) in paragraph (3) by inserting “and for the period beginning on October 1, 2017, and ending on March 31, 2018” after “fiscal years 2012 through 2017”.

SEC. 104. SMALL COMMUNITY AIR SERVICE.

(a) **ESSENTIAL AIR SERVICE AUTHORIZATION.**—Section 41742(a)(2) of title 49, United States Code, is amended by striking “and \$175,000,000 for each of fiscal years 2016 and 2017” and inserting “\$175,000,000 for each of fiscal years 2016 and 2017, and \$74,794,521 for the period beginning on October 1, 2017, and ending on March 31, 2018.”.

(b) **AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.**—Section 41743(e)(2) of title 49, United States Code, is amended by inserting “and \$4,986,301 for the period beginning on October 1, 2017, and ending on March 31, 2018,” after “fiscal years 2012 through 2017”.

SEC. 105. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101(a) of title 49, United States Code, is amended by adding at the end the following:

“(6) \$1,423,589,041 for the period beginning on October 1, 2017, and ending on March 31, 2018.”.

SEC. 106. RESEARCH, ENGINEERING, AND DEVELOPMENT.

Section 48102(a) of title 49, United States Code, is amended—

(1) in paragraph (8) by striking “and” at the end;

(2) in paragraph (9) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(10) \$88,008,219 for the period beginning on October 1, 2017 and ending on March 31, 2018.”.

SEC. 107. FUNDING FOR AVIATION PROGRAMS.

(a) **IN GENERAL.**—Section 48114 of title 49, United States Code, is amended—

(1) in subsection (a)(2) by striking “2017” and inserting “2018”; and

(2) in subsection (c)(2) by striking “2017” and inserting “2018”.

(b) COMPLIANCE WITH FUNDING REQUIREMENTS.—The budget authority authorized in this title, including the amendments made by this title, shall be deemed to satisfy the requirements of subsections (a)(1)(B) and (a)(2) of section 48114 of title 49, United States Code, for the period beginning on October 1, 2017, and ending on March 31, 2018.

TITLE II—AVIATION REVENUE PROVISIONS

SEC. 201. EXPENDITURE AUTHORITY FROM AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Section 9502(d)(1) of the Internal Revenue Code of 1986 is amended—

26 USC 9502.

(1) in the matter preceding subparagraph (A) by striking “October 1, 2017” and inserting “April 1, 2018”; and

(2) in subparagraph (A) by striking the semicolon at the end and inserting “or the Disaster Tax Relief and Airport and Airway Extension Act of 2017;”.

(b) CONFORMING AMENDMENT.—Section 9502(e)(2) of such Code is amended by striking “October 1, 2017” and inserting “April 1, 2018”.

SEC. 202. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.

(a) FUEL TAXES.—Section 4081(d)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “September 30, 2017” and inserting “March 31, 2018”.

(b) TICKET TAXES.—

(1) PERSONS.—Section 4261(k)(1)(A)(ii) of such Code is amended by striking “September 30, 2017” and inserting “March 31, 2018”.

(2) PROPERTY.—Section 4271(d)(1)(A)(ii) of such Code is amended by striking “September 30, 2017” and inserting “March 31, 2018”.

(c) FRACTIONAL OWNERSHIP PROGRAMS.—

(1) TREATMENT AS NONCOMMERCIAL AVIATION.—Section 4083(b) of such Code is amended by striking “October 1, 2017” and inserting “April 1, 2018”.

(2) EXEMPTION FROM TICKET TAXES.—Section 4261(j) of such Code is amended by striking “September 30, 2017” and inserting “March 31, 2018”.

TITLE III—EXPIRING HEALTH PROVISIONS

SEC. 301. EXTENSION OF CERTAIN PUBLIC HEALTH PROGRAMS.

(a) EXTENSION OF PROGRAM OF PAYMENTS TO TEACHING HEALTH CENTERS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.—Section 340H(g) of the Public Health Service Act (42 U.S.C. 256h(g)) is amended—

(1) by striking “and \$60,000,000” and inserting “, \$60,000,000”; and

(2) by inserting “, and \$15,000,000 for the first quarter of fiscal year 2018” before the period at the end.

(b) EXTENSION OF SPECIAL DIABETES PROGRAM FOR INDIANS.—Section 330C(c)(2) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(D) \$37,500,000 for the first quarter of fiscal year 2018.”.

(c) TECHNICAL CORRECTIONS.—Part D of the Public Health Service Act is amended by redesignating—

(1) the second subpart XI (42 U.S.C. 256i; relating to a community-based collaborative care network program) as subpart XII; and

(2) the second section 340H (42 U.S.C. 256i) as section 340I.

Time periods.

SEC. 302. EXTENSION OF MEDICARE PATIENT IVIG ACCESS DEMONSTRATION PROJECT.

Section 101(b) of the Medicare IVIG Access and Strengthening Medicare and Repaying Taxpayers Act of 2012 (42 U.S.C. 1395l note) is amended—

(1) in paragraph (1), by inserting after “for a period of 3 years” the following: “and, subject to the availability of funds under subsection (g)—

“(A) if the date of enactment of the Disaster Tax Relief and Airport and Airway Extension Act of 2017 is on or before September 30, 2017, for the period beginning on October 1, 2017, and ending on December 31, 2020; and

“(B) if the date of enactment of such Act is after September 30, 2017, for the period beginning on the date of enactment of such Act and ending on December 31, 2020”; and

(2) in paragraph (2), by adding at the end the following new sentences: “Subject to the preceding sentence, a Medicare beneficiary enrolled in the demonstration project on September 30, 2017, shall be automatically enrolled during the period beginning on the date of the enactment of the Disaster Tax Relief and Airport and Airway Extension Act of 2017 and ending on December 31, 2020, without submission of another application.”.

SEC. 303. FUNDS FROM THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking “during and after fiscal year 2021, \$270,000,000” and inserting “during and after fiscal year 2021, \$220,000,000”.

TITLE V—TAX RELIEF FOR HURRICANES HARVEY, IRMA, AND MARIA

SEC. 501. DEFINITIONS.

Determinations.
President.

(a) HURRICANE HARVEY DISASTER ZONE AND DISASTER AREA.—
For purposes of this title—

(1) HURRICANE HARVEY DISASTER ZONE.—The term “Hurricane Harvey disaster zone” means that portion of the Hurricane Harvey disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Harvey.

(2) HURRICANE HARVEY DISASTER AREA.—The term “Hurricane Harvey disaster area” means an area with respect to which a major disaster has been declared by the President before September 21, 2017, under section 401 of such Act by reason of Hurricane Harvey.

(b) HURRICANE IRMA DISASTER ZONE AND DISASTER AREA.—
For purposes of this title—

(1) HURRICANE IRMA DISASTER ZONE.—The term “Hurricane Irma disaster zone” means that portion of the Hurricane Irma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Irma.

(2) HURRICANE IRMA DISASTER AREA.—The term “Hurricane Irma disaster area” means an area with respect to which a major disaster has been declared by the President before September 21, 2017, under section 401 of such Act by reason of Hurricane Irma.

(c) HURRICANE MARIA DISASTER ZONE AND DISASTER AREA.—
For purposes of this title—

(1) HURRICANE MARIA DISASTER ZONE.—The term “Hurricane Maria disaster zone” means that portion of the Hurricane Maria disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Maria.

(2) HURRICANE MARIA DISASTER AREA.—The term “Hurricane Maria disaster area” means an area with respect to which a major disaster has been declared by the President before September 21, 2017, under section 401 of such Act by reason of Hurricane Maria.

SEC. 502. SPECIAL DISASTER-RELATED RULES FOR USE OF RETIREMENT FUNDS.

(a) TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS.—

(1) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified hurricane distribution.

(2) AGGREGATE DOLLAR LIMITATION.—

(A) IN GENERAL.—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified hurricane distributions for any taxable year shall not exceed the excess (if any) of—

(i) \$100,000, over

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

(B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of the Internal Revenue Code of 1986 merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$100,000.

Definitions.

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

Deadlines.

(3) AMOUNT DISTRIBUTED MAY BE REPAYED.—

Time period.

(A) IN GENERAL.—Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), of the Internal Revenue Code of 1986, as the case may be.

(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover 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 hurricane 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 hurricane 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—

Time periods.

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

(i) any distribution from an eligible retirement plan made on or after August 23, 2017, and before January 1, 2019, to an individual whose principal place of abode on August 23, 2017, is located in the Hurricane Harvey disaster area and who has sustained an economic loss by reason of Hurricane Harvey,

(ii) any distribution (which is not described in clause (i)) from an eligible retirement plan made on or after September 4, 2017, and before January 1, 2019, to an individual whose principal place of abode on September 4, 2017, is located in the Hurricane Irma disaster area and who has sustained an economic loss by reason of Hurricane Irma, and

(iii) any distribution (which is not described in clause (i) or (ii)) from an eligible retirement plan made on or after September 16, 2017, and before January 1, 2019, to an individual whose principal place of abode on September 16, 2017, is located in the Hurricane Maria disaster area and who has sustained an economic loss by reason of Hurricane Maria.

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

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

(A) IN GENERAL.—In the case of any qualified hurricane distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable-year period beginning with such taxable year.

(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of the Internal Revenue Code of 1986 shall apply.

Applicability.

(6) SPECIAL RULES.—

(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of the Internal Revenue Code of 1986, qualified hurricane distributions shall not be treated as eligible rollover distributions.

(B) QUALIFIED HURRICANE DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of the Internal Revenue Code of 1986, a qualified hurricane distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of such Code.

(b) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

(1) RECONTRIBUTIONS.—

(A) IN GENERAL.—Any individual who received a qualified distribution may, during the period beginning on August 23, 2017, and ending on February 28, 2018, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)

Time period.

	of the Internal Revenue Code of 1986) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), of such Code, as the case may be.
Applicability.	(B) TREATMENT OF REPAYMENTS.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(3) shall apply for purposes of this subsection.
Definition.	(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection, the term “qualified distribution” means any distribution—
	(A) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F), of the Internal Revenue Code of 1986,
Time period.	(B) received after February 28, 2017, and before September 21, 2017, and
	(C) which was to be used to purchase or construct a principal residence in the Hurricane Harvey disaster area, the Hurricane Irma disaster area, or the Hurricane Maria disaster area, but which was not so purchased or constructed on account of Hurricane Harvey, Hurricane Irma, or Hurricane Maria.
Time periods.	(c) LOANS FROM QUALIFIED PLANS.—
Applicability.	(1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4) of the Internal Revenue Code of 1986) to a qualified individual made during the period beginning on the date of the enactment of this Act and ending on December 31, 2018—
	(A) clause (i) of section 72(p)(2)(A) of such Code shall be applied by substituting “\$100,000” for “\$50,000”, and
	(B) clause (ii) of such section shall be applied by substituting “the present value of the nonforfeitable accrued benefit of the employee under the plan” for “one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan”.
	(2) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan (as defined in section 72(p)(4) of the Internal Revenue Code of 1986)—
	(A) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) of such Code for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date and ending on December 31, 2018, such due date shall be delayed for 1 year,
	(B) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and
Determination.	(C) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2) of such Code, the period described in subparagraph (A) shall be disregarded.
Definitions.	(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

(A) IN GENERAL.—The term “qualified individual” means any qualified Hurricane Harvey individual, any qualified Hurricane Irma individual, and any qualified Hurricane Maria individual.

(B) QUALIFIED HURRICANE HARVEY INDIVIDUAL.—The term “qualified Hurricane Harvey individual” means an individual whose principal place of abode on August 23, 2017, is located in the Hurricane Harvey disaster area and who has sustained an economic loss by reason of Hurricane Harvey.

(C) QUALIFIED HURRICANE IRMA INDIVIDUAL.—The term “qualified Hurricane Irma individual” means an individual (other than a qualified Hurricane Harvey individual) whose principal place of abode on September 4, 2017, is located in the Hurricane Irma disaster area and who has sustained an economic loss by reason of Hurricane Irma.

(D) QUALIFIED HURRICANE MARIA INDIVIDUAL.—The term “qualified Hurricane Maria individual” means an individual (other than a qualified Hurricane Harvey individual or a qualified Hurricane Irma individual) whose principal place of abode on September 16, 2017, is located in the Hurricane Maria disaster area and who has sustained an economic loss by reason of Hurricane Maria.

(4) QUALIFIED BEGINNING DATE.—For purposes of this subsection, the qualified beginning date is—

(A) in the case of any qualified Hurricane Harvey individual, August 23, 2017,

(B) in the case of any qualified Hurricane Irma individual, September 4, 2017, and

(C) in the case of any qualified Hurricane Maria individual, September 16, 2017.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

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

(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—

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

(i) pursuant to any provision of this section, or pursuant to any regulation issued by the Secretary or the Secretary of Labor under any provision of this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2019, or such later date as the Secretary may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under clause (ii).

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

(i) during the period—

(I) beginning on the date that this section or the regulation described in subparagraph (A)(i) takes effect (or in the case of a plan or contract

Contracts.
Applicability.

Regulations.

Time period.

Time period.

amendment not required by this section or such regulation, the effective date specified by the plan), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect, and

Applicability.

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

SEC. 503. DISASTER-RELATED EMPLOYMENT RELIEF.

(a) **EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE HARVEY.**—

(1) **IN GENERAL.**—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible employer, the Hurricane Harvey employee retention credit shall be treated as a credit listed in subsection (b) of such section. For purposes of this subsection, the Hurricane Harvey employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

Time periods.

(2) **DEFINITIONS.**—For purposes of this subsection—

(A) **ELIGIBLE EMPLOYER.**—The term “eligible employer” means any employer—

(i) which conducted an active trade or business on August 23, 2017, in the Hurricane Harvey disaster zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after August 23, 2017, and before January 1, 2018, as a result of damage sustained by reason of Hurricane Harvey.

(B) **ELIGIBLE EMPLOYEE.**—The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on August 23, 2017, with such eligible employer was in the Hurricane Harvey 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 August 23, 2017, and before January 1, 2018, 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 Harvey, 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.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52, of the Internal Revenue Code of 1986, shall apply.

(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 of the Internal Revenue Code of 1986 with respect to such employee for such period.

(b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE IRMA.—

(1) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible employer, the Hurricane Irma employee retention credit shall be treated as a credit listed in subsection (b) of such section. For purposes of this subsection, the Hurricane Irma employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

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

Time periods.

(A) ELIGIBLE EMPLOYER.—The term “eligible employer” means any employer—

(i) which conducted an active trade or business on September 4, 2017, in the Hurricane Irma disaster zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 4, 2017, and before January 1, 2018, as a result of damage sustained by reason of Hurricane Irma.

(B) ELIGIBLE EMPLOYEE.—The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on September 4, 2017, with such eligible employer was in the Hurricane Irma 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 September 4, 2017, and before January 1, 2018, 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 Irma, 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.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52, of the Internal Revenue Code of 1986, shall apply.

(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a), or section 51 of the Internal Revenue Code of 1986, with respect to such employee for such period.

(c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE MARIA.—

(1) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible employer, the Hurricane Maria employee retention credit shall be treated as a credit listed in subsection (b) of such section. For purposes of this subsection, the Hurricane Maria employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

Time periods.

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

(A) ELIGIBLE EMPLOYER.—The term “eligible employer” means any employer—

(i) which conducted an active trade or business on September 16, 2017, in the Hurricane Maria disaster zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 16, 2017, and before January 1, 2018, as a result of damage sustained by reason of Hurricane Maria.

(B) ELIGIBLE EMPLOYEE.—The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on September 16, 2017, with such eligible employer was in the Hurricane Maria 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 September 16, 2017, and before January 1, 2018, 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 Maria, 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.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52, of the Internal Revenue Code of 1986, shall apply.

(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or (b), or section 51 of the Internal Revenue Code of 1986, with respect to such employee for such period.

SEC. 504. ADDITIONAL DISASTER-RELATED TAX RELIEF PROVISIONS.

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

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), subsection (b) of section 170 of the Internal Revenue Code of 1986 shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of such section to other contributions.

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

(A) INDIVIDUALS.—In the case of an individual—

(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 contribution base (as defined in subparagraph (G) 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.

Applicability.

(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.

Applicability.

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

(3) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—So much of any deduction allowed under section 170 of the Internal Revenue Code of 1986 as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68 of such Code.

(4) QUALIFIED CONTRIBUTIONS.—

Definition.

(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—

Time period.

(i) such contribution—

(I) is paid during the period beginning on August 23, 2017, and ending on December 31, 2017, 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 Harvey disaster area, the Hurricane Irma disaster area, or the Hurricane Maria disaster area,

(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of section 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.

Definitions.

(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—

Determination.

(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,

Applicability.
Effective date.

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

(3) QUALIFIED DISASTER-RELATED PERSONAL CASUALTY LOSSES.—For purposes of this subsection, the term “qualified disaster-related personal casualty losses” means losses described in section 165(c)(3) of the Internal Revenue Code of 1986—

Time periods.

(A) which arise in the Hurricane Harvey disaster area on or after August 23, 2017, and which are attributable to Hurricane Harvey,

(B) which arise in the Hurricane Irma disaster area on or after September 4, 2017, and which are attributable to Hurricane Irma, or

(C) which arise in the Hurricane Maria disaster area on or after September 16, 2017, and which are attributable to Hurricane Maria.

(c) SPECIAL RULE FOR DETERMINING EARNED INCOME.—

(1) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes the applicable date is less than the earned income of the taxpayer for the preceding taxable year, the credits allowed under sections 24(d) and 32 of the Internal Revenue Code of 1986 may, at the election of the taxpayer, be determined by substituting—

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

(B) such earned income for the taxable year which includes the applicable date.

In the case of a resident of Puerto Rico determining the credit allowed under section 24(d)(1)(B)(ii) of such Code, the preceding sentence shall be applied by substituting “social security taxes (as defined in section 24(d)(2)(A) of the Internal Revenue Code of 1986)” for “earned income” each place it appears.

Puerto Rico.

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

Definitions.

(A) IN GENERAL.—The term “qualified individual” means any qualified Hurricane Harvey individual, any qualified Hurricane Irma individual, and any qualified Hurricane Maria individual.

(B) QUALIFIED HURRICANE HARVEY INDIVIDUAL.—The term “qualified Hurricane Harvey individual” means any individual whose principal place of abode on August 23, 2017, was located—

(i) in the Hurricane Harvey disaster zone, or

(ii) in the Hurricane Harvey disaster area (but outside the Hurricane Harvey disaster zone) and such individual was displaced from such principal place of abode by reason of Hurricane Harvey.

(C) **QUALIFIED HURRICANE IRMA INDIVIDUAL.**—The term “qualified Hurricane Irma individual” means any individual (other than a qualified Hurricane Harvey individual) whose principal place of abode on September 4, 2017, was located—

- (i) in the Hurricane Irma disaster zone, or
- (ii) in the Hurricane Irma disaster area (but outside the Hurricane Irma disaster zone) and such individual was displaced from such principal place of abode by reason of Hurricane Irma.

(D) **QUALIFIED HURRICANE MARIA INDIVIDUAL.**—The term “qualified Hurricane Maria individual” means any individual (other than a qualified Hurricane Harvey individual or a qualified Hurricane Irma individual) whose principal place of abode on September 16, 2017, was located—

- (i) in the Hurricane Maria disaster zone, or
- (ii) in the Hurricane Maria disaster area (but outside the Hurricane Maria disaster zone) and such individual was displaced from such principal place of abode by reason of Hurricane Maria.

(3) **APPLICABLE DATE.**—For purposes of this subsection, the term “applicable date” means—

(A) in the case of a qualified Hurricane Harvey individual, August 23, 2017,

(B) in the case of a qualified Hurricane Irma individual, September 4, 2017, and

(C) in the case of a qualified Hurricane Maria individual, September 16, 2017.

(4) **EARNED INCOME.**—For purposes of this subsection, the term “earned income” has the meaning given such term under section 32(c) of the Internal Revenue Code of 1986.

(5) **SPECIAL RULES.**—

(A) **APPLICATION TO JOINT RETURNS.**—For purposes of paragraph (1), in the case of a joint return for a taxable year which includes the applicable date—

(i) such paragraph shall apply if either spouse is a qualified individual, and

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

(B) **UNIFORM APPLICATION OF ELECTION.**—Any election made under paragraph (1) shall apply with respect to both sections 24(d) and 32, of the Internal Revenue Code of 1986.

(C) **ERRORS TREATED AS MATHEMATICAL ERROR.**—For purposes of section 6213 of the Internal Revenue Code of 1986, an incorrect use on a return of earned income pursuant to paragraph (1) shall be treated as a mathematical or clerical error.

(D) **NO EFFECT ON DETERMINATION OF GROSS INCOME, ETC.**—Except as otherwise provided in this subsection, the Internal Revenue Code of 1986 shall be applied without regard to any substitution under paragraph (1).

(d) **APPLICATION OF DISASTER-RELATED TAX RELIEF TO POSSESSIONS OF THE UNITED STATES.**—

Applicability.

(1) PAYMENTS TO UNITED STATES VIRGIN ISLANDS AND PUERTO RICO.—

(A) UNITED STATES VIRGIN ISLANDS.—The Secretary of the Treasury shall pay to the United States Virgin Islands amounts equal to the loss in revenues to the United States Virgin Islands by reason of the provisions of this title. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the United States Virgin Islands.

Determination.

(B) PUERTO RICO.—The Secretary of the Treasury shall pay to Puerto Rico amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of Puerto Rico by reason of the provisions of this title if a mirror code tax system had been in effect in Puerto Rico. The preceding sentence shall not apply with respect to Puerto Rico unless Puerto Rico has a plan, which has been approved by the Secretary of the Treasury, under which Puerto Rico will promptly distribute such payments to its residents.

Estimate.

Plan.

(2) DEFINITION AND SPECIAL RULES.—

(A) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term “mirror code tax system” means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(C) COORDINATION WITH UNITED STATES INCOME TAXES.—In the case of any person with respect to whom a tax benefit is taken into account with respect to the taxes imposed by any possession of the United States by reason of this title, the Internal Revenue Code of 1986 shall be applied with respect to such person without regard to the provisions of this title which provide such benefit.

Applicability.

SEC. 505. BUDGETARY EFFECTS.

(a) EMERGENCY DESIGNATION.—This title is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(b) DESIGNATION IN SENATE.—In the Senate, this title is designated as an emergency requirement pursuant to section 403(a)

of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

Approved September 29, 2017.

LEGISLATIVE HISTORY—H.R. 3823:

CONGRESSIONAL RECORD, Vol. 163 (2017):

Sept. 25, considered and failed House.

Sept. 27, considered in House.

Sept. 28, considered and passed House; considered and passed Senate, amended; House concurred in Senate amendment.