

§1010(a)–(d), Dec. 19, 2009, 123 Stat. 3472, 3473; Pub. L. 111–144, §3(a), (b)(1)–(4), Mar. 2, 2010, 124 Stat. 43, 44; Pub. L. 111–157, §3(a), (b), Apr. 15, 2010, 124 Stat. 1117; Pub. L. 113–295, div. A, title II, §209(j)(3), Dec. 19, 2014, 128 Stat. 4031, related to premium assistance for COBRA continuation coverage.

### § 6433. Saver's Match

#### (a) In general

##### (1) Allowance of match

Any eligible individual who makes qualified retirement savings contributions for the taxable year shall be allowed a matching contribution for such taxable year in an amount equal to the applicable percentage of so much of the qualified retirement savings contributions made by such eligible individual for the taxable year as does not exceed \$2,000.

##### (2) Payment of match

###### (A) In general

Except as provided in subparagraph (B), the matching contribution under this section shall be allowed as a credit which shall be payable by the Secretary as a contribution (as soon as practicable after the eligible individual has filed a tax return making a claim for such matching contribution for the taxable year) to the applicable retirement savings vehicle of the eligible individual.

###### (B) Exception

In the case of an eligible individual who elects the application of this subparagraph and with respect to whom the matching contribution determined under paragraph (1) is greater than zero but less than \$100 for the taxable year, subparagraph (A) shall not apply and such matching contribution shall be treated as a credit allowed by subpart C of part IV of subchapter A of chapter 1.

#### (b) Applicable percentage

For purposes of this section—

##### (1) In general

Except as provided in paragraph (2), the applicable percentage is 50 percent.

##### (2) Phaseout

The percentage under paragraph (1) shall be reduced (but not below zero) by the number of percentage points which bears the same ratio to 50 percentage points as—

(A) the excess of—

(i) the taxpayer's modified adjusted gross income for such taxable year, over

(ii) the applicable dollar amount, bears to

(B) the phaseout range.

If any reduction determined under this paragraph is not a whole percentage point, such reduction shall be rounded to the next lowest whole percentage point.

##### (3) Applicable dollar amount; phaseout range

###### (A) Joint returns and surviving spouses

Except as provided in subparagraph (B)—

(i) the applicable dollar amount is \$41,000, and

(ii) the phaseout range is \$30,000.

#### (B) Other returns

In the case of—

(i) a head of a household (as defined in section 2(b)), the applicable dollar amount and the phaseout range shall be  $\frac{3}{4}$  of the amounts applicable under subparagraph (A) (as adjusted under subsection (h)), and

(ii) any taxpayer who is not filing a joint return, who is not a head of a household (as so defined), and who is not a surviving spouse (as defined in section 2(a)), the applicable dollar amount and the phaseout range shall be  $\frac{1}{2}$  of the amounts applicable under subparagraph (A) (as so adjusted).

#### (c) Eligible individual

For purposes of this section—

##### (1) In general

The term “eligible individual” means any individual if such individual has attained the age of 18 as of the close of the taxable year.

##### (2) Dependents and full-time students not eligible

The term “eligible individual” shall not include—

(A) any individual with respect to whom a deduction under section 151 is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins, and

(B) any individual who is a student (as defined in section 152(f)(2)).

##### (3) Nonresident aliens not eligible

The term “eligible individual” shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of chapter 1 by reason of an election under subsection (g) or (h) of section 6013.

#### (d) Qualified retirement savings contributions

For purposes of this section—

##### (1) In general

The term “qualified retirement savings contributions” means, with respect to any taxable year, the sum of—

(A) the amount of the qualified retirement contributions (as defined in section 219(e)) made by the eligible individual,

(B) the amount of—

(i) any elective deferrals (as defined in section 402(g)(3)) of such individual, and

(ii) any elective deferral of compensation by such individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

(C) the amount of voluntary employee contributions by such individual to any qualified retirement plan (as defined in section 4974(c)).

Such term shall not include any amount attributable to a payment under subsection (a)(2).

##### (2) Reduction for certain distributions

###### (A) In general

The qualified retirement savings contributions determined under paragraph (1) for a

taxable year shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) may be made.

**(B) Testing period**

For purposes of subparagraph (A), the testing period, with respect to a taxable year, is the period which includes—

- (i) such taxable year,
- (ii) the 2 preceding taxable years, and
- (iii) the period after such taxable year and before the due date (including extensions) for filing the return of tax for such taxable year.

**(C) Excepted distributions**

There shall not be taken into account under subparagraph (A)—

- (i) any distribution referred to in section 72(p), 401(k)(8), 401(m)(6), 402(g)(2), 404(k), or 408(d)(4),
- (ii) any distribution to which section 408(d)(3) or 408A(d)(3) applies, and
- (iii) any portion of a distribution if such portion is transferred or paid in a rollover contribution (as defined in section 402(c), 403(a)(4), 403(b)(8), 408A(e), or 457(e)(16)) to an account or plan to which qualified retirement savings contributions can be made.

**(D) Treatment of distributions received by spouse of individual**

For purposes of determining distributions received by an individual under subparagraph (A) for any taxable year, any distribution received by the spouse of such individual shall be treated as received by such individual if such individual and spouse file a joint return for such taxable year and for the taxable year during which the spouse receives the distribution.

**(e) Applicable retirement savings vehicle**

**(1) In general**

The term “applicable retirement savings vehicle” means an account or plan elected by the eligible individual under paragraph (2).

**(2) Election**

Any such election to have contributed the amount determined under subsection (a) shall be to an account or plan which—

- (A) is—
  - (i) the portion of a plan which—
    - (I) is described in clause (v) of section 402(c)(8)(B), is a qualified cash or deferred arrangement (within the meaning of section 401(k)), or is an annuity contract described in section 403(b) which is purchased under a salary reduction agreement, and
    - (II) does not consist of a qualified Roth contribution program (as defined in section 402A(b)), or
  - (ii) an individual retirement plan which is not a Roth IRA,
- (B) is for the benefit of the eligible individual,

(C) accepts contributions made under this section, and

(D) is designated by such individual (in such form and manner as the Secretary may provide).

**(f) Other definitions and special rules**

**(1) Modified adjusted gross income**

For purposes of this section, the term “modified adjusted gross income” means adjusted gross income—

- (A) determined without regard to sections 911, 931, and 933, and
- (B) determined without regard to any exclusion or deduction allowed for any qualified retirement savings contribution made during the taxable year.

**(2) Treatment of contributions**

In the case of any contribution under subsection (a)(2)—

- (A) except as otherwise provided in this section or by the Secretary under regulations, such contribution shall be treated as—
  - (i) an elective deferral made by the individual, if contributed to an applicable retirement savings vehicle described in subsection (e)(2)(A)(i), or
  - (ii) as an individual retirement plan contribution made by such individual, if contributed to such a plan,

(B) such contribution shall not be taken into account with respect to any applicable limitation under sections 402(g)(1), 403(b), 408(a)(1), 408(b)(2)(B), 408A(c)(2), 414(v)(2), 415(c), or 457(b)(2), and shall be disregarded for purposes of sections 401(a)(4), 401(k)(3), 401(k)(11)(B)(i)(III), and 416, and

(C) such contribution shall not be treated as an amount that may be paid, made available, or distributable to the participant under section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(i)(V), or 457(d)(1)(A)(iii).

**(3) Treatment of qualified plans, etc.**

A plan or arrangement to which a contribution is made under this section shall not be treated as violating any requirement under section 401, 403, 408, or 457 solely by reason of accepting such contribution.

**(4) Erroneous matching contributions**

**(A) In general**

If any contribution is erroneously paid under subsection (a)(2), including a payment that is not made to an applicable retirement savings vehicle, the amount of such erroneous payment shall be treated as an underpayment of tax (other than for purposes of part II of subchapter A of chapter 68) for the taxable year in which the Secretary determines the payment is erroneous.

**(B) Distribution of erroneous matching contributions**

In the case of a contribution to which subparagraph (A) applies—

- (i) section 402(a), 403(a)(1), 403(b)(1), 408(d)(1), or 457(a)(1), whichever is applicable, shall not apply to any distribution of such contribution, and section 72(t) shall not apply to the distribution of such con-

tribution or any income attributable thereto, if such distribution is received not later than the day prescribed by law (including extensions of time) for filing the individual's return for such taxable year, and

(ii) any plan or arrangement from which such a distribution is made under this subparagraph shall not be treated as violating any requirement under section 401, 403, or 457 solely by reason of making such distribution.

**(5) Exception from reduction or offset**

Any payment made to any individual under this section shall not be—

(A) subject to reduction or offset pursuant to subsection (c), (d), (e), or (f) of section 6402 or any similar authority permitting offset, or

(B) reduced or offset by other assessed Federal taxes that would otherwise be subject to levy or collection.

**(6) Saver's match recovery payments**

**(A) In general**

In the case of an applicable retirement savings vehicle to which contributions have been made under subsection (a)(2), and from which a specified early distribution has been made during the taxable year, if the aggregate amount of such contributions exceeds the account balance of such savings vehicle at the end of the such taxable year, the tax imposed by chapter 1 shall be increased by an amount equal to such excess (reduced by the amount by which the tax under such chapter was increased under section 72(t)(1) with respect to such distribution).

**(B) Specified early distribution**

For purposes of this paragraph, the term "specified early distribution" means any portion of a distribution—

(i) which is from such applicable retirement savings vehicle to which a contribution has been made under subsection (a)(2),

(ii) which is includible in gross income, and

(iii) to which 72(t)(1) applies.

**(C) Excess may be repaid**

**(i) In general**

The increase in tax for any taxable year under subparagraph (A) shall be reduced (but not below zero) by so much of such specified early distribution as the individual elects to contribute to an applicable retirement savings vehicle not later than the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year.

**(ii) Contribution of excess**

Any individual who elects to contribute an amount under clause (i) may make one or more contributions in an aggregate amount not to exceed the amount of the specified early distribution to which the election relates to an applicable retirement savings vehicle and to which a rollover contribution of such distribution

could be made under section 402(c), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

**(iii) Limitation on contributions to applicable retirement savings vehicle other than IRAs**

The aggregate amount of contributions made by an individual under clause (ii) to any applicable savings retirement vehicle which is not an individual retirement plan shall not exceed the aggregate amount of specified early retirement distributions which are made from such savings retirement vehicle to such individual. Clause (ii) shall not apply to contributions to any applicable retirement savings vehicle which is not an individual retirement plan unless the individual is eligible to make contributions (other than those described in clause (ii)) to such retirement savings vehicle.

**(iv) Treatment of repayments of distributions from applicable eligible retirement plans other than IRAs**

If a contribution is made under clause (ii) with respect to a specified early distribution from an applicable savings retirement vehicle other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received such distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the savings retirement vehicle in a direct trustee to trustee transfer within 60 days of the distribution.

**(v) Treatment of repayments for distributions from IRAs**

If a contribution is made under clause (ii) with respect to a specified early distribution from an individual retirement plan, then, to the extent of the amount of the contribution, such distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the applicable retirement savings vehicle in a direct trustee to trustee transfer within 60 days of the distribution.

**(D) Rules to account for investment loss**

The Secretary shall prescribe such rules as may be appropriate to reduce any increase in tax otherwise made under subparagraph (A) to properly account for the extent to which any portion of the excess described in such subparagraph is allocable to investment loss in the retirement savings vehicle.

**(g) Provision by Secretary of information relating to contributions**

In the case of an amount elected by an eligible individual to be contributed to an account or plan under subsection (e)(2), the Secretary shall provide general guidance applicable to the custodian of the account or the plan sponsor, as the case may be, detailing the treatment of such contribution under subsection (f)(2) and the reporting requirements with respect to such contribution under section 6058, particularly as

such requirements are modified pursuant to section 102(c)(2)<sup>1</sup> of the SECURE 2.0 Act of 2022.

**(h) Inflation adjustments**

**(1) In general**

In the case of any taxable year beginning in a calendar year after 2027, the \$41,000 amount in subsection (b)(3)(A)(i) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 2026” for “calendar year 2016” in subparagraph (A)(ii) thereof.

**(2) Rounding**

Any increase determined under paragraph (1) shall be rounded to the nearest multiple of \$1,000.

(Added Pub. L. 117-328, div. T, title I, §103(a), Dec. 29, 2022, 136 Stat. 5279.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 102(c)(2) of the SECURE 2.0 Act of 2022, referred to in subsec. (g), probably means section 103(c)(2) of div. T of Pub. L. 117-328, known as the SECURE 2.0 Act of 2022, which is set out as a note under section 6058 of this title and which directs the Secretary of the Treasury to amend the forms relating to reports required under section 6058. There is no section 102(c)(2) of the Act.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Pub. L. 117-328, div. T, title I, §103(f), Dec. 29, 2022, 136 Stat. 5286, provided that: “The amendments made by this section [enacting this section and amending sections 25B and 6211 of this title and section 1324 of Title 31, Money and Finance] shall apply to taxable years beginning after December 31, 2026.”

**TREATMENT OF CERTAIN POSSESSIONS**

Pub. L. 117-328, div. T, title I, §103(b), Dec. 29, 2022, 136 Stat. 5284, provided that:

“(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary of the Treasury shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the amendments made by this section [enacting this section and amending sections 25B and 6211 of this title and section 1324 of Title 31, Money and Finance]. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

“(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits (if any) that would have been provided to eligible residents of such possession by reason of the amendments made by this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a process, which has been approved by the Secretary of the Treasury, under which such possession promptly transfers the payments directly on behalf of

eligible residents to a retirement savings vehicle established under the laws of such possession or the United States that is substantially similar to a plan, or is a plan, described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B) of the Internal Revenue Code of 1986 or an individual retirement plan, and the restrictions on distributions from such retirement savings vehicle are substantially similar to the provisions of section 6433(d)(2) of such Code (as added by this section).

“(3) COORDINATION WITH UNITED STATES SAVER’S MATCH.—No matching contribution shall be allowed under section 6433 of the Internal Revenue Code of 1986 (as added by this section) to any person—

“(A) to whom a matching contribution is paid by the possession by reason of the amendments made by this section, or

“(B) who is eligible for a payment under a plan described in paragraph (2).

“(4) 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.

“(5) 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.”

**PROMOTION OF SAVER’S MATCH**

Pub. L. 117-328, div. T, title I, §104(a), Dec. 29, 2022, 136 Stat. 5286, provided that: “The Secretary of the Treasury shall take such steps as the Secretary determines are necessary and appropriate to increase public awareness of the matching contribution provided under section 6433 of the Internal Revenue Code of 1986.”

**CHAPTER 66—LIMITATIONS**

Subchapter		Sec. <sup>1</sup>
A.	Limitations on assessment and collection .....	6501
B.	Limitations on credit or refund .....	6511
C.	Mitigation of effect of period of limitations .....	6521
D.	Periods of limitation in judicial proceedings .....	6531

**Subchapter A—Limitations on Assessment and Collection**

Sec.	
6501.	Limitations on assessment and collection.
6502.	Collection after assessment.
6503.	Suspension of running of period of limitation.
6504.	Cross references.

**§ 6501. Limitations on assessment and collection**

**(a) General rule**

Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. For purposes of this chapter, the term “return” means the return required to be filed by the tax-

<sup>1</sup> See References in Text note below.

<sup>1</sup> Section numbers editorially supplied.