II

103D CONGRESS
1ST SESSION

S. 741

To amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2 (legislative day, MARCH 3), 1993

Mr. BREAUX introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Individual Investment Account Act of 1991''.

SEC. 2. ESTABLISHMENT OF INDIVIDUAL INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. INDIVIDUAL INVESTMENT ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there shall be allowed as a deduction an amount equal to the aggregate amount paid in cash for the taxable year by such individual to an individual investment account established for the benefit of such individual.

"(b) LIMITATION.—The amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed $2,500.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) INDIVIDUAL INVESTMENT ACCOUNT.—The term 'individual investment account' means a trust created or organized in the United States for the exclusive benefit of an individual, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts or in any collectible (as defined in section 408(m)).

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A taxpayer shall be deemed to have made a contribution on the last day of a taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(d) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount distributed out of an individual investment account shall be included in gross income by the distributee unless—

''(A) such amount is treated as a distribution of a contribution to such account for which no deduction was allowed under this section, or

‘‘(B) such amount is part of a qualified 1st-time homebuyer distribution.

‘‘(2) ORDERING RULES.—Distributions (other than qualified 1st-time homebuyer distributions) from an individual investment account shall be treated as made—

‘‘(A) first from contributions to such account for which no deduction was allowed under this section; and

‘‘(B) then from other amounts.

Any qualified 1st-time homebuyer distribution shall be treated as made first from amounts referred to in subparagraph (B) and then from amounts referred to in subparagraph (A).

‘‘(3) QUALIFIED 1ST-TIME HOMEBUYER DISTRIBUTION.—For purposes of this subsection—

‘‘(A) IN GENERAL.—The term ‘qualified 1st-time homebuyer distribution’ means any payment or distribution received by a 1st-time homebuyer from an individual investment account to the extent such payment or distribution is used by the individual within 60 days to pay qualified acquisition costs with respect to a principal residence for such individual.

"(B) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified 1st-time homebuyer distributions for all taxable years shall not exceed $15,000.

"(C) BASIS REDUCTION.—The basis of any principal residence described in subparagraph (A) shall be reduced by the amount of any qualified 1st-time homebuyer distribution which would be includible in gross income if the last sentence of paragraph (2)(B) did not apply.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(ii) 1ST-TIME HOMEBUYER.—The term '1st-time homebuyer' means any individual if such individual had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

“(iii) PRINCIPAL RESIDENCE.—The term ‘principal residence’ has the same meaning as when used in section 1034.

“(4) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual’s interest in an individual investment account to his former spouse under a divorce decree or under a written instrument incident to a divorce shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer shall be treated as an individual investment account of such spouse and not of such individual. Thereafter such account shall be treated, for purposes of this subtitle, as maintained for the benefit of such spouse.

“(e) TAX TREATMENT OF ACCOUNTS.—

“(1) EXEMPTION FROM TAX.—An individual investment account shall be exempt from taxation under this subtitle unless such account has ceased to be such an account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

“(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

“(A) In general.—If, during any taxable year of the individual for whose benefit the individual investment account is established, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account shall cease to be an individual investment account as of the first day of that taxable year.

“(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an individual investment account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) shall be applied as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

“(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, an individual for whose benefit an individual investment account is established uses the account or any portion thereof as security for a loan, the portion so used shall be treated as distributed to that individual.

"(4) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed out of an individual investment account to the individual for whose benefit the account is maintained if such amount is paid into another individual investment account for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution.

"(f) COST-OF-LIVING ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1992, each of the dollar amounts contained in subsections (b) and (d)(3)(B) 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, by substituting '1991' for '1989' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount (as increased under paragraph (1)) is not a multiple of $10, such dollar amount shall be increased to nearest multiple of $10 (or, if such dollar amount is a multiple of $5 and not of $10, such dollar amount shall be increased to next higher multiple of $10).

"(g) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual investment account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(h) REPORTS.—The trustee of an individual investment account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''.

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code (defining adjusted gross income) is amended by adding at the end thereof the following new paragraph:

''(14) INDIVIDUAL INVESTMENT ACCOUNT CONTRIBUTIONS.—The deduction allowed by section 220 (relating to individual investment accounts).''.

(c) NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHERE AMOUNT EQUAL TO OTHERWISE TAXABLE GAIN DEPOSITED INTO INDIVIDUAL INVESTMENT ACCOUNT.—Part III of subchapter B of chapter 1 of such Code is amended by inserting after section 121 the following new section:

''SEC. 121A. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE IF REINVESTMENT IN INDIVIDUAL INVESTMENT ACCOUNT.

''(a) GENERAL RULE.—Gross income does not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more.

''(b) LIMITATION.—The amount of gain excluded from gross income under subsection (a) shall not exceed the amount paid in cash (during the 1-year period beginning on the date of the sale or exchange) to an individual investment account (as defined in section 220(c)) established for the benefit of the taxpayer or his spouse.

''(c) CERTAIN RULES ON OWNERSHIP AND USE TO APPLY.—Rules similar to the rules of section 121(d) shall apply for purposes of determining ownership and use under this section.''.

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

''(4) SPECIAL RULE FOR INDIVIDUAL INVESTMENT ACCOUNTS.—An individual for whose benefit an individual investment account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an individual investment account by reason of the application of section 220(e)(2)(A) to such account.''; and

(2) by inserting ''or an individual investment account described in section 220(c)'' in subsection (e)(1) after ''described in section 408(a)''.

(e) FAILURE TO PROVIDE REPORTS ON INDIVIDUAL INVESTMENT ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting ''**OR ON INDIVIDUAL INVESTMENT ACCOUNTS**'' after ''**ANNUITIES**'' in the heading of such section; and

(2) by adding at the end of subsection (a) the following: ''The person required by section 220(h) to file a report regarding an individual investment account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.''.

(f) ADJUSTMENT OF BASIS OF RESIDENCE ACQUIRED THROUGH USE OF ACCOUNT.—Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ''; and'', and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 220(d)(3)(C), in the case of a residence the acquisition of which was made in whole or in part with funds from an individual investment account.''.

(g) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 121 the following new item:

''Sec. 121A. Exclusion of gain from sale of principal residence if reinvestment in individual investment account.''.

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 220 and inserting the following:

''Sec. 220. Individual investment accounts.
''Sec. 221. Cross reference.''.

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6693 and inserting the following:

''Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on individual investment accounts.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

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