

109TH CONGRESS  
1ST SESSION

# H. R. 3768

---

## AN ACT

To provide emergency tax relief for persons affected by  
Hurricane Katrina.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Katrina Emergency  
3 Tax Relief Act of 2005”.

4 **SEC. 2. DESIGNATION AS EMERGENCY REQUIREMENT.**

5 Any provision of this Act causing an effect on re-  
6 ceipts, budget authority, or outlays is designated as an  
7 emergency requirement pursuant to section 402 of H.  
8 Con. Res. 95 (109th Congress).

9 **TITLE I—GENERAL TAX RELIEF**  
10 **PROVISIONS**

11 **SEC. 101. EXTENSION OF REPLACEMENT PERIOD FOR NON-**  
12 **RECOGNITION OF GAIN.**

13 Clause (i) of section 1033(a)(2)(B) of the Internal  
14 Revenue Code of 1986 shall be applied by substituting “5  
15 years” for “2 years” with respect to property which—

16 (1) is located in an area determined by the  
17 President to warrant individual or individual and  
18 public assistance from the Federal Government  
19 under the Robert T. Stafford Disaster Relief and  
20 Emergency Assistance Act by reason of Hurricane  
21 Katrina, and

22 (2) is compulsorily or involuntarily converted as  
23 a result of such hurricane,  
24 but only if substantially all of the use of the replacement  
25 property is located in any such area.

1 **SEC. 102. SUSPENSION OF LIMITATIONS ON CHARITABLE**  
2 **CONTRIBUTIONS FOR RELIEF EFFORTS RE-**  
3 **LATED TO HURRICANE KATRINA.**

4 (a) IN GENERAL.—Except as otherwise provided in  
5 subsection (b), qualified disaster contributions shall not be  
6 taken into account for purposes of subsections (b) and (d)  
7 of section 170 of the Internal Revenue Code of 1986.

8 (b) TREATMENT OF EXCESS CONTRIBUTIONS.—For  
9 purposes of section 170 of such Code—

10 (1) INDIVIDUALS.—In the case of an indi-  
11 vidual—

12 (A) LIMITATION.—Any qualified disaster  
13 contribution shall be allowed only to the extent  
14 that the aggregate of such contributions does  
15 not exceed the excess of the taxpayer's con-  
16 tribution base (as defined in paragraph (1) of  
17 section 170(b) of such Code) over the amount  
18 of all other charitable contributions allowed  
19 under such paragraph.

20 (B) CARRYOVER.—If the aggregate  
21 amount of qualified disaster contributions made  
22 in the contribution year (within the meaning of  
23 section 170(d)(1) of such Code) exceeds the  
24 limitation of subparagraph (A), such excess  
25 shall be added to the excess described in the  
26 portion of subparagraph (A) of such section

1           which precedes clause (i) thereof for purposes  
2           of applying such section.

3           (2) CORPORATIONS.—In the case of a corpora-  
4           tion—

5                   (A) LIMITATION.—Any qualified disaster  
6           contribution shall be allowed only to the extent  
7           that the aggregate of such contributions does  
8           not exceed the excess of the taxpayer’s taxable  
9           income (as determined under paragraph (2) of  
10          section 170(b) of such Code) over the amount  
11          of all other charitable contributions allowed  
12          under such paragraph.

13                  (B) CARRYOVER.—Rules similar to the  
14          rules of paragraph (1)(B) shall apply for pur-  
15          poses of this paragraph.

16          (c) EXCEPTION TO OVERALL LIMITATION ON  
17          ITEMIZED DEDUCTIONS.—So much of any deduction al-  
18          lowed under section 170 of such Code as does not exceed  
19          the qualified disaster contributions made during the tax-  
20          able year shall not be treated as an itemized deduction  
21          for purposes of section 68 of such Code.

22          (d) QUALIFIED DISASTER CONTRIBUTIONS.—For  
23          purposes of this section, the term “qualified disaster con-  
24          tribution” means any charitable contribution (as defined  
25          in section 170(c) of such Code)—

1           (1) made during the period beginning on Au-  
2           gust 28, 2005, and ending on December 31, 2005,  
3           in cash to an organization described in section  
4           170(b)(1)(A) of such Code (other than an organiza-  
5           tion described in section 509(a)(3) of such Code) for  
6           relief efforts related to Hurricane Katrina, and

7           (2) with respect to which the taxpayer has  
8           elected the application of this section.

9   In the case of a partnership or S corporation, the election  
10 under paragraph (2) shall be made separately by each  
11 partner or shareholder.

12 **SEC. 103. MILEAGE RATE FOR CHARITABLE PURPOSES RE-**  
13 **LATED TO HURRICANE KATRINA.**

14       (a) MILEAGE RATE FOR CHARITABLE PURPOSES RE-  
15 LATED TO HURRICANE KATRINA.—Notwithstanding sub-  
16 section (i) of section 170 of the Internal Revenue Code  
17 of 1986, in the case of the use of a vehicle described in  
18 subsection (f)(12)(E)(i) of such section for provision of re-  
19 lief related to Hurricane Katrina, the standard mileage  
20 rate for purposes of such section shall be 70 percent of  
21 the standard mileage rate for business purposes prescribed  
22 by the Secretary for purposes of chapter 1 of such Code  
23 which is in effect on the date of the contribution.

1 (b) APPLICATION.—Subsection (a) shall apply only  
2 with respect to contributions made before January 1,  
3 2007.

4 **SEC. 104. EXCLUSION OF CERTAIN CANCELLATIONS OF IN-**  
5 **DEBTEDNESS.**

6 (a) IN GENERAL.—For purposes of the Internal Rev-  
7 enue Code of 1986, gross income shall not include any  
8 amount which (but for this section) would be includible  
9 in gross income by reason of the discharge (in whole or  
10 in part) of qualified nonbusiness debt of a qualified indi-  
11 vidual by an applicable entity (as defined in section  
12 6050P(c)).

13 (b) QUALIFIED NONBUSINESS DEBT.—For purposes  
14 of this section, the term “qualified nonbusiness debt”  
15 means any indebtedness other than indebtedness incurred  
16 in connection with a trade or business.

17 (c) QUALIFIED INDIVIDUAL.—For purposes of this  
18 section, the term “qualified individual” means any natural  
19 person who was a resident (as of August 28, 2005) of,  
20 or who owned real property (as of the date of such dis-  
21 charge) in, any area which is determined by the President  
22 to warrant individual or individual and public assistance  
23 from the Federal Government under the Robert T. Staf-  
24 ford Disaster Relief and Emergency Assistance Act by  
25 reason of Hurricane Katrina.

1 (d) EXCEPTION FOR REAL PROPERTY OUTSIDE DIS-  
2 ASTER AREA.—Subsection (a) shall not apply to any dis-  
3 charge of indebtedness to the extent that real property  
4 constituting security for such indebtedness is located out-  
5 side of the area described in subsection (c).

6 (e) DENIAL OF DOUBLE BENEFIT.—The amount ex-  
7 cluded from gross income under subsection (a) shall be  
8 applied to reduce the tax attributes of the taxpayer as pro-  
9 vided in section 108(b) of the Internal Revenue Code of  
10 1986.

11 (f) APPLICATION.—This section shall not apply to  
12 discharges after December 31, 2006.

13 **SEC. 105. SPECIAL RULES FOR MORTGAGE REVENUE**  
14 **BONDS.**

15 (a) IN GENERAL.—In the case of financing provided  
16 with respect to a qualified Hurricane Katrina recovery res-  
17 idence, subsection (d) of section 143 of the Internal Rev-  
18 enue Code of 1986 shall be applied as if such residence  
19 were a targeted area residence.

20 (b) QUALIFIED HURRICANE KATRINA RECOVERY  
21 RESIDENCE.—For purposes of this section, the term  
22 “qualified Hurricane Katrina recovery residence” means  
23 any residence if such residence is located in an area which  
24 is determined by the President to warrant individual or  
25 individual and public assistance from the Federal Govern-

1 ment under the Robert T. Stafford Disaster Relief and  
2 Emergency Assistance Act by reason of Hurricane  
3 Katrina.

4 (c) APPLICATION.—Subsection (a) shall not apply to  
5 financing provided after December 31, 2007.

6 **SEC. 106. SUSPENSION OF CERTAIN LIMITATIONS ON PER-**  
7 **SONAL CASUALTY LOSSES.**

8 Paragraphs (1) and (2)(A) of section 165(h) of the  
9 Internal Revenue Code of 1986 shall not apply to losses  
10 described in section 165(c)(3) of such Code which are at-  
11 tributable to Hurricane Katrina. In the case of any other  
12 losses, section 165(h)(2)(A) of such Code shall be applied  
13 without regard to the losses referred to in the preceding  
14 sentence.

15 **SEC. 107. ADDITIONAL EXEMPTION FOR HOUSING HURRI-**  
16 **CANE KATRINA DISPLACED INDIVIDUALS.**

17 (a) IN GENERAL.—In the case of taxable years of a  
18 natural person beginning in 2005 and 2006, for purposes  
19 of the Internal Revenue Code of 1986, taxable income  
20 shall be reduced by \$500 for each Hurricane Katrina dis-  
21 placed individual of the taxpayer for the taxable year.

22 (b) LIMITATIONS.—

23 (1) DOLLAR LIMITATION.—The reduction under  
24 subsection (a) shall not exceed \$2,000, reduced by



1 the amount of the reduction under this section for  
2 all previous taxable years.

3 (2) INDIVIDUALS TAKEN INTO ACCOUNT ONLY  
4 ONCE.—An individual shall not be taken into ac-  
5 count under subsection (a) if such individual was  
6 taken into account under such subsection by the tax-  
7 payer in any prior taxable year.

8 (c) HURRICANE KATRINA DISPLACED INDIVIDUAL.—  
9 For purposes of this subsection, the term “Hurricane  
10 Katrina displaced individual” means, with respect to any  
11 taxpayer for any taxable year, a natural person who—

12 (1) was (as of August 28, 2005) a resident of  
13 any area which is determined by the President to  
14 warrant individual or individual and public assist-  
15 ance from the Federal Government under the Robert  
16 T. Stafford Disaster Relief and Emergency Assist-  
17 ance Act by reason of Hurricane Katrina,

18 (2) is displaced from the person’s residence lo-  
19 cated in the area described in paragraph (1), and

20 (3) is provided housing free of charge by the  
21 taxpayer in the principal residence of the taxpayer  
22 for a period of 60 consecutive days which ends in  
23 such taxable year.

24 Such term shall not include the spouse or any dependent  
25 of the taxpayer.

1 **SEC. 108. SPECIAL RULE FOR DETERMINING EARNED IN-**  
2 **COME.**

3 (a) **IN GENERAL.**—In the case of a qualified indi-  
4 vidual, if the earned income of the taxpayer for the taxable  
5 year of such taxpayer which includes August 28, 2005,  
6 is less than the earned income which is attributable to the  
7 taxpayer for the preceding taxable year, the credits al-  
8 lowed under sections 24(d) and 32 of the Internal Revenue  
9 Code of 1986 may, at the election of the taxpayer, be de-  
10 termined by substituting—

11 (1) such earned income for the preceding tax-  
12 able year, for

13 (2) such earned income for the taxable year  
14 which includes August 28, 2005.

15 (b) **QUALIFIED INDIVIDUAL.**—For purposes of this  
16 section, the term “qualified individual” means any indi-  
17 vidual who was (as of August 28, 2005) a resident of any  
18 area which is determined by the President to warrant indi-  
19 vidual or individual and public assistance from the Federal  
20 Government under the Robert T. Stafford Disaster Relief  
21 and Emergency Assistance Act by reason of Hurricane  
22 Katrina.

23 (c) **EARNED INCOME.**—For purposes of this section,  
24 the term “earned income” has the meaning given such  
25 term under section 32(c) of such Code.

26 (d) **SPECIAL RULES.**—

1           (1) APPLICATION TO JOINT RETURNS.—For  
2       purpose of subsection (a), in the case of a joint re-  
3       turn for a taxable year which includes August 28,  
4       2005,

5           (A) such subsection shall apply if either  
6       spouse is a qualified individual,

7           (B) the earned income which is attrib-  
8       utable to the taxpayer for the preceding taxable  
9       year shall be the sum of the earned income  
10      which is attributable to each spouse for such  
11      preceding taxable year, and

12          (C) the substitution described in such sub-  
13      section shall apply only with respect to earned  
14      income which is attributable to a spouse who is  
15      a qualified individual.

16          (2) UNIFORM APPLICATION OF ELECTION.—  
17      Any election made under subsection (a) shall apply  
18      with respect to both section 24(d) and section 32 of  
19      such Code.

20          (3) ERRORS TREATED AS MATHEMATICAL  
21      ERROR.—For purposes of section 6213 of such  
22      Code, an incorrect use on a return of earned income  
23      pursuant to subsection (a) shall be treated as a  
24      mathematical or clerical error.

1           (4) NO EFFECT ON DETERMINATION OF GROSS  
2       INCOME.—For purposes of the Internal Revenue  
3       Code of 1986, gross income shall be determined  
4       without regard to any substitution under subsection  
5       (a).

6 **SEC. 109. SECRETARIAL AUTHORITY TO MAKE ADJUST-**  
7                               **MENTS REGARDING TAXPAYER AND DEPEND-**  
8                               **ENCY STATUS.**

9       With respect to taxable years beginning in 2005 or  
10   2006, the Secretary of the Treasury, or his delegate, may  
11   make such adjustments in the application of the internal  
12   revenue laws as may be necessary to ensure that taxpayers  
13   do not lose dependency exemptions or child credits or ex-  
14   perience a change of filing status by reason of temporary  
15   relocations after Hurricane Katrina or by reason of the  
16   receipt of hurricane relief. Any adjustments made under  
17   the preceding sentence shall ensure that an individual is  
18   not taken into account by more than one taxpayer with  
19   respect to the same tax benefit.

20 **SEC. 110. WORK OPPORTUNITY TAX CREDIT FOR HURRI-**  
21                               **CANE KATRINA EMPLOYEES.**

22       (a) IN GENERAL.—For purposes of section 51 of the  
23   Internal Revenue Code of 1986, a Hurricane Katrina em-  
24   ployee shall be treated as a member of a targeted group.

1       (b) HURRICANE KATRINA EMPLOYEE.—For pur-  
2 poses of this section, the term “Hurricane Katrina em-  
3 ployee” means any individual who, on August 28, 2005,  
4 had a principal place of abode in a Hurricane Katrina dis-  
5 aster area.

6       (c) SPECIAL RULES FOR DETERMINING CREDIT.—  
7 For purposes of applying subpart F of part IV of sub-  
8 chapter A of chapter 1 of such Code to wages paid or in-  
9 curred to any Hurricane Katrina employee—

10           (1) section 51(c)(4) of such Code shall not  
11 apply, and

12           (2) except in the case of an employee of the em-  
13 ployer (within the meaning of section 51 of such  
14 Code) on August 28, 2005, or an employee initially  
15 hired after such date, section 51(i)(2) of such Code  
16 shall not apply.

17       (d) APPLICATION OF SECTION.—This section shall  
18 apply only to wages (within the meaning on section 51(c)  
19 of such Code) paid or incurred to any individual who—

20           (1) is being hired for a position the principal  
21 place of employment of which is located in a Hurri-  
22 cane Katrina disaster area, and

23           (2) who begins work for the employer during  
24 the 2-year period beginning on August 29, 2005.

1 (e) HURRICANE KATRINA DISASTER AREA.—For  
 2 purposes of this section, the term “Hurricane Katrina dis-  
 3 aster area” means any area which is determined by the  
 4 President to warrant individual or individual and public  
 5 assistance from the Federal Government under the Robert  
 6 T. Stafford Disaster Relief and Emergency Assistance Act  
 7 by reason of Hurricane Katrina.

8 **TITLE II—PENALTY FREE USE**  
 9 **OF RETIREMENT FUNDS IN**  
 10 **THE CASE OF NATURAL DIS-**  
 11 **ASTERS**

12 **SEC. 201. PENALTY FREE WITHDRAWALS FROM RETIRE-**  
 13 **MENT PLANS UPON FEDERAL DECLARATION**  
 14 **OF NATURAL DISASTER.**

15 (a) IN GENERAL.—Paragraph (2) of section 72(t) of  
 16 the Internal Revenue Code of 1986 (relating to 10-percent  
 17 additional tax on early distributions from qualified retire-  
 18 ment plans) is amended by adding at the end the following  
 19 new subparagraph:

20 “(G) DISTRIBUTIONS FROM RETIREMENT  
 21 PLANS UPON FEDERAL DECLARATION OF NAT-  
 22 URAL DISASTER.—

23 “(i) IN GENERAL.—Any qualified dis-  
 24 aster-relief distribution.

1           “(ii) AGGREGATE LIMITATION.—The  
2           aggregate amount of payments or distribu-  
3           tions received by an individual which may  
4           be treated as qualified disaster-relief dis-  
5           tributions for any taxable year shall not  
6           exceed the excess (if any) of —

7                       “(I) \$100,000, over

8                       “(II) the aggregate amounts  
9           treated as qualified disaster-relief dis-  
10          tributions with respect to such indi-  
11          vidual for all prior taxable years.

12           “(iii) AMOUNT DISTRIBUTED MAY BE  
13          REPAID.—

14                       “(I) IN GENERAL.—Any indi-  
15          vidual who receives a qualified dis-  
16          aster-relief distribution may, at any  
17          time during the 3-year period begin-  
18          ning on the day after the date on  
19          which such distribution was made,  
20          make one or more contributions in an  
21          aggregate amount not to exceed the  
22          amount of such distribution to an eli-  
23          gible retirement plan (as defined in  
24          section 402(c)(8)(B)) of which such  
25          individual is a beneficiary and to

1 which a rollover contribution of such  
2 distribution could be made under sec-  
3 tion 402(c), 403(a)(4), 403(b)(8), or  
4 408(d)(3), as the case may be.

5 “(II) TREATMENT OF REPAY-  
6 MENTS FOR DISTRIBUTIONS FROM EL-  
7 IGIBLE RETIREMENT PLANS OTHER  
8 THAN IRAS.—For purposes of this  
9 title, if a contribution is made pursu-  
10 ant to subclause (I) with respect to a  
11 qualified disaster-relief distribution  
12 from an eligible retirement plan (as so  
13 defined) other than an individual re-  
14 tirement plan, then the taxpayer shall,  
15 to the extent of the amount of the  
16 contribution, be treated as having re-  
17 ceived the qualified disaster-relief dis-  
18 tribution in an eligible rollover dis-  
19 tribution (as defined in section  
20 402(c)(4)) and as having transferred  
21 the amount to the eligible retirement  
22 plan in a direct trustee to trustee  
23 transfer within 60 days of the dis-  
24 tribution.



## 1 “(III) TREATMENT OF REPAY-

2 MENTS FOR DISTRIBUTIONS FROM

3 IRAS.—For purposes of this title, if a

4 contribution is made pursuant to sub-

5 clause (I) with respect to a qualified

6 disaster-relief distribution from an in-

7 dividual retirement plan, then, to the

8 extent of the amount of the contribu-

9 tion, the qualified disaster-relief dis-

10 tribution shall be treated as a dis-

11 tribution described in section

12 408(d)(3) and as having been trans-

13 ferred to the eligible retirement plan

14 in a direct trustee to trustee transfer

15 within 60 days of the distribution.

## 16 “(IV) APPLICATION TO GOVERN-

17 MENTAL SECTION 457 PLANS.—In de-

18 termining whether any distribution is

19 a qualified disaster-relief distribution

20 for purposes of this clause, an eligible

21 deferred compensation plan (as de-

22 fined in section 457(b)) maintained by

23 an employer described in section

24 457(e)(1)(A) shall be treated as a

25 qualified retirement plan.

1           “(iv) QUALIFIED DISASTER-RELIEF  
2 DISTRIBUTION.—For purposes of this sub-  
3 paragraph, the term ‘qualified disaster-re-  
4 lief distribution’ means any distribution—

5           “(I) to an individual who has  
6 sustained a loss as a result of a major  
7 disaster declared under section 401 of  
8 the Robert T. Stafford Disaster Relief  
9 and Emergency Assistance Act by rea-  
10 son of Hurricane Katrina and who  
11 has a principal place of abode imme-  
12 diately before the declaration in a  
13 qualified disaster area, and

14           “(II) which is made during the 1-  
15 year period beginning on the date  
16 such declaration is made.

17           “(v) QUALIFIED DISASTER AREA.—  
18 For purposes of this subparagraph, the  
19 term ‘qualified disaster area’ means any  
20 area which is determined by the President  
21 to warrant individual or individual and  
22 public assistance from the Federal Govern-  
23 ment under the Robert T. Stafford Dis-  
24 aster Relief and Emergency Assistance Act  
25 by reason of Hurricane Katrina.”.

1 (b) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE  
 2 TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—  
 3 Paragraph (4) of section 402(c) of such Code (relating  
 4 to eligible rollover distribution) is amended by striking  
 5 “and” at the end of subparagraph (B), by striking the  
 6 period at the end of subparagraph (C) and inserting “,  
 7 and”, and by inserting at the end the following new sub-  
 8 paragraph:

9 “(D) any qualified disaster-relief distribu-  
 10 tion (within the meaning of section  
 11 72(t)(2)(G)).”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 401(k)(2)(B)(i) of such Code is  
 14 amended by striking “or” at the end of subclause  
 15 (III), by striking “and” at the end of subclause (IV)  
 16 and inserting “or”, and by inserting after subclause  
 17 (IV) the following new subclause:

18 “(V) the date on which a period  
 19 referred to in section  
 20 72(t)(2)(G)(iii)(II) begins (but only to  
 21 the extent provided in section  
 22 72(t)(2)(G)), and”.

23 (2) Section 403(b)(7)(A)(ii) of such Code is  
 24 amended by inserting “sustains a loss as a result of  
 25 a major disaster declared under section 401 of the

1 Robert T. Stafford Disaster Relief and Emergency  
2 Assistance Act by reason of Hurricane Katrina (but  
3 only to the extent provided in section 72(t)(2)(G)),”  
4 before “or”.

5 (3) Section 403(b)(11) of such Code is amend-  
6 ed by striking “or” at the end of subparagraph (A),  
7 by striking the period at the end of subparagraph  
8 (B) and inserting “, or”, and by inserting after sub-  
9 paragraph (B) the following new subparagraph:

10 “(C) for distributions to which section  
11 72(t)(2)(G) applies.”.

12 (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to distributions received after Au-  
14 gust 28, 2005.

15 **SEC. 202. INCOME AVERAGING FOR DISASTER-RELIEF DIS-**  
16 **TRIBUTIONS RELATED TO HURRICANE**  
17 **KATRINA.**

18 (a) IN GENERAL.—In the case of any qualified dis-  
19 aster-relief distribution (within the meaning of section  
20 72(t)(2)(G) of the Internal Revenue Code of 1986) from  
21 a qualified retirement plan (as defined in section 4974(c)  
22 of such Code) to a qualified individual, unless the taxpayer  
23 elects not to have this section apply for any taxable year,  
24 any amount required to be included in gross income for

1 such taxable year shall be so included ratably over the 3-  
2 taxable year period beginning with such taxable year.

3 (b) SPECIAL RULES.—

4 (1) APPLICATION TO GOVERNMENTAL SECTION  
5 457 PLANS.—In determining whether any distribu-  
6 tion is a qualified disaster-relief distribution (as so  
7 defined) for purposes of this section, an eligible de-  
8 ferred compensation plan (as defined in section  
9 457(b) of such Code) maintained by an employer de-  
10 scribed in section 457(e)(1)(A) of such Code shall be  
11 treated as a qualified retirement plan (as so defined)

12 (2) CERTAIN RULES TO APPLY.—Rules similar  
13 to the rules of subparagraph (E) of section  
14 408A(d)(3) of such Code shall apply for purposes of  
15 this section.

16 (c) QUALIFIED INDIVIDUAL.—For purposes of this  
17 section, the term “qualified individual” means an indi-  
18 vidual who has sustained a loss as a result of the major  
19 disaster declared under section 401 of the Robert T. Staf-  
20 ford Disaster Relief and Emergency Assistance Act (42  
21 U.S.C. 5170) by reason of Hurricane Katrina and who  
22 has a principal place of abode immediately before the dec-  
23 laration in a Hurricane Katrina disaster area.

24 (d) HURRICANE KATRINA DISASTER AREA.—For  
25 purposes of this section, the term “Hurricane Katrina dis-

1 aster area” means any area which is determined by the  
 2 President to warrant individual or individual and public  
 3 assistance from the Federal Government under the Robert  
 4 T. Stafford Disaster Relief and Emergency Assistance Act  
 5 by reason of Hurricane Katrina.

6 **SEC. 203. RECONTRIBUTIONS OF WITHDRAWALS FOR HOME**  
 7 **PURCHASES CANCELLED DUE TO HURRI-**  
 8 **CANE KATRINA.**

9 (a) RECONTRIBUTIONS.—

10 (1) IN GENERAL.—Any individual who received  
 11 a qualified distribution may, at any time during the  
 12 6-month period beginning on the day after the dis-  
 13 aster declaration date, make one or more contribu-  
 14 tions in an aggregate amount not to exceed the  
 15 amount of such qualified distribution to an eligible  
 16 retirement plan (as defined in section 402(c)(8)(B)  
 17 of the Internal Revenue Code of 1986) of which such  
 18 individual is a beneficiary and to which a rollover  
 19 contribution of such distribution could be made  
 20 under section 402(c), 403(a)(4), 403(b)(8),  
 21 408(d)(3), or 457(e)(16) of such Code, as the case  
 22 may be.

23 (2) TREATMENT OF REPAYMENTS.—

24 (A) TREATMENT OF REPAYMENTS FOR  
 25 DISTRIBUTIONS FROM ELIGIBLE RETIREMENT

1 PLANS OTHER THAN IRAS.—For purposes of  
2 the Internal Revenue Code of 1986, if a con-  
3 tribution is made pursuant to paragraph (1)  
4 with respect to a qualified distribution from an  
5 eligible retirement plan (as so defined) other  
6 than an individual retirement plan (as defined  
7 in section 7701(a)(37) of such Code), then the  
8 taxpayer shall, to the extent of the amount of  
9 the contribution, be treated as having received  
10 the qualified distribution in an eligible rollover  
11 distribution (as defined in section 402(c)(4) of  
12 such Code) and as having transferred the  
13 amount to the eligible retirement plan in a di-  
14 rect trustee to trustee transfer within 60 days  
15 of the distribution.

16 (B) TREATMENT OF REPAYMENTS FOR  
17 DISTRIBUTIONS FROM IRAS.—For purposes of  
18 the Internal Revenue Code of 1986, if a con-  
19 tribution is made pursuant to paragraph (1)  
20 with respect to a qualified distribution from an  
21 individual retirement plan (as so defined), then,  
22 to the extent of the amount of the contribution,  
23 the qualified distribution shall be treated as a  
24 distribution described in section 408(d)(3) of  
25 such Code and as having been transferred to

1 the eligible retirement plan (as so defined) in a  
2 direct trustee to trustee transfer within 60 days  
3 of the distribution.

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

5 (1) QUALIFIED DISTRIBUTION.—The term  
6 “qualified distribution” means any distribution—

7 (A) described in section  
8 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii),  
9 403(b)(11)(B), 457(d)(1)(A)(iii), or 72(t)(2)(F)  
10 of the Internal Revenue Code of 1986,

11 (B) received after February 28, 2005, and  
12 before August 29, 2005, and

13 (C) which was to be used to purchase or  
14 construct a principal residence in a Hurricane  
15 Katrina disaster area, but which was not so  
16 purchased or constructed.

17 (2) DISASTER DECLARATION DATE.—The term  
18 “disaster declaration date” means the date on which  
19 the President designated the area as a Hurricane  
20 Katrina disaster area.

21 (3) HURRICANE KATRINA DISASTER AREA.—  
22 The term “Hurricane Katrina disaster area” means  
23 any area which is determined by the President to  
24 warrant individual or individual and public assist-  
25 ance from the Federal Government under the Robert



1 T. Stafford Disaster Relief and Emergency Assist-  
2 ance Act by reason of Hurricane Katrina.

3 **SEC. 204. LOANS FROM QUALIFIED PLANS IN CONNECTION**  
4 **WITH HURRICANE KATRINA.**

5 (a) INCREASE IN LIMIT ON LOANS NOT TREATED AS  
6 DISTRIBUTIONS.—In the case of any loan from a qualified  
7 employer plan (as defined under section 72(p)(4) of the  
8 Internal Revenue Code of 1986) to a qualified individual  
9 (as defined in section 202(c)) made after the date of en-  
10 actment of this Act and before the date which is 1 year  
11 after the disaster declaration date (as defined in section  
12 203(b)(2))—

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

16 (2) clause (ii) of such section shall be applied  
17 by substituting “the present value of the nonforfeit-  
18 able accrued benefit of the employee under the plan”  
19 for “one-half of the present value of the nonforfeit-  
20 able accrued benefit of the employee under the  
21 plan”.

22 (b) DELAY OF REPAYMENT.—In the case of a quali-  
23 fied individual (as defined in section 202(c)) with an out-  
24 standing loan on or after August 26, 2005, from a quali-

1 fied employer plan (as defined in section 72(p)(4) of the  
2 Internal Revenue Code of 1986)—

3 (1) if the due date pursuant to subparagraph  
4 (B) or (C) of section 72(p)(2) of such Code for any  
5 repayment with respect to such loan occurs during  
6 the period beginning after August 29, 2005, and  
7 ending before August 30, 2006, such due date shall  
8 be delayed for 1 year,

9 (2) any subsequent repayments with respect to  
10 any such loan shall be appropriately adjusted to re-  
11 flect the delay in the due date under paragraph (1)  
12 and any interest accruing during such delay, and

13 (3) in determining the 5-year period and the  
14 term of a loan under subparagraph (B) or (C) of  
15 section 72(p)(2) of such Code, such period shall be  
16 disregarded.

17 **SEC. 205. PROVISIONS RELATING TO PLAN AMENDMENTS.**

18 (a) IN GENERAL.—If this section applies to any plan  
19 or contract amendment—

20 (1) such plan or contract shall be treated as  
21 being operated in accordance with the terms of the  
22 plan during the period described in subsection  
23 (b)(2)(A), and

24 (2) except as provided by the Secretary of the  
25 Treasury, such plan shall not fail to meet the re-

1       quirements of section 411(d)(6) of the Internal Rev-  
2       enue Code of 1986 and section 204(g) of the Em-  
3       ployee Retirement Income Security Act of 1974 by  
4       reason of such amendment.

5       (b) AMENDMENTS TO WHICH SECTION APPLIES.—

6           (1) IN GENERAL.—This section shall apply to  
7       any amendment to any plan or annuity contract  
8       which is made—

9           (A) pursuant to any amendment made by  
10       this title, or pursuant to any regulation issued  
11       by the Secretary of the Treasury or the Sec-  
12       retary of Labor under this title, and

13          (B) on or before the last day of the first  
14       plan year beginning on or after January 1,  
15       2007, or such later date as the Secretary of the  
16       Treasury may prescribe.

17       In the case of a governmental plan (as defined in  
18       section 414(d) of the Internal Revenue Code of  
19       1986), subparagraph (B) shall be applied by sub-  
20       stituting the date which is 2 years after the date  
21       otherwise applied under subparagraph (B).

22          (2) CONDITIONS.—This section shall not apply  
23       to any amendment unless—

24           (A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (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

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

## **TITLE III—EXTENSION OF CERTAIN PROVISIONS TO FLORIDA AND OTHER AFFECTED AREAS**

### **SEC. 301. EXTENSION OF CERTAIN PROVISIONS TO FLORIDA AND OTHER AFFECTED AREAS.**

(a) IN GENERAL.—The following provisions shall be applied as if they did not include the phrase “individual or individual and public”:

1           (1) Section 101 of this Act (relating to exten-  
2           sion of replacement period for nonrecognition of  
3           gain).

4           (2) Section 104 of this Act (relating to exclu-  
5           sion of certain cancellations of indebtedness), but  
6           only if the discharge is on account of Hurricane  
7           Katrina.

8           (3) Section 105 of this Act (relating to special  
9           rules for mortgage revenue bonds), but only with re-  
10          spect to residences damaged as a result of Hurricane  
11          Katrina.

12          (4) Section 106 of this Act (relating to suspen-  
13          sion of certain limitations on personal casualty  
14          losses).

15          (5) Section 107 of this Act (relating to addi-  
16          tional exemption for housing Hurricane Katrina dis-  
17          placed individuals).

18          (6) Sections 108 and 109 of this Act (relating  
19          to special rule for certain family related benefits),  
20          but only with respect to individuals dislocated from  
21          their residence by reason of Hurricane Katrina.

22          (7) Title II of this Act (relating to penalty free  
23          use of retirement funds in the case of natural disas-  
24          ters) and section 72(t)(2)(G) of the Internal Rev-

1        enue Code of 1986 (as added by section 201 of this  
2        Act).

3        (b) CLARIFICATION OF SCOPE OF PROVISIONS RE-  
4        LATING TO CHARITABLE CONTRIBUTIONS.—The provi-  
5        sions of sections 102 and 103 shall apply to relief efforts  
6        related to Hurricane Katrina whether or not such efforts  
7        are carried out in an area directly impacted by Hurricane  
8        Katrina.

        Passed the House of Representatives September 15,  
2005.

        Attest:

*Clerk.*

109TH CONGRESS  
1ST SESSION

**H. R. 3768**

---

---

**AN ACT**

To provide emergency tax relief for persons affected  
by Hurricane Katrina.