

PUBLIC LAW 109-73—SEPT. 23, 2005

KATRINA EMERGENCY TAX RELIEF ACT OF
2005

Public Law 109–73
109th Congress

An Act

Sept. 23, 2005
[H.R. 3768]

Katrina
Emergency Tax
Relief Act of
2005.
26 USC 1 note.

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

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

SECTION 1. SHORT TITLE, ETC.

(a) **SHORT TITLE.**—This Act may be cited as the “Katrina Emergency Tax Relief Act of 2005”.

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

Sec. 1. Short title, etc.

Sec. 2. Hurricane Katrina disaster area.

TITLE I—SPECIAL RULES FOR USE OF RETIREMENT FUNDS FOR RELIEF RELATING TO HURRICANE KATRINA

Sec. 101. Tax-favored withdrawals from retirement plans for relief relating to Hurricane Katrina.

Sec. 102. Recontributions of withdrawals for home purchases cancelled due to Hurricane Katrina.

Sec. 103. Loans from qualified plans for relief relating to Hurricane Katrina.

Sec. 104. Provisions relating to plan amendments.

TITLE II—EMPLOYMENT RELIEF

Sec. 201. Work opportunity tax credit for Hurricane Katrina employees.

Sec. 202. Employee retention credit for employers affected by Hurricane Katrina.

TITLE III—CHARITABLE GIVING INCENTIVES

Sec. 301. Temporary suspension of limitations on charitable contributions.

Sec. 302. Additional exemption for housing Hurricane Katrina displaced individuals.

Sec. 303. Increase in standard mileage rate for charitable use of vehicles.

Sec. 304. Mileage reimbursements to charitable volunteers excluded from gross income.

Sec. 305. Charitable deduction for contributions of food inventory.

Sec. 306. Charitable deduction for contributions of book inventories to public schools.

TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS

Sec. 401. Exclusions of certain cancellations of indebtedness by reason of Hurricane Katrina.

Sec. 402. Suspension of certain limitations on personal casualty losses.

Sec. 403. Required exercise of authority under section 7508A for tax relief relating to Hurricane Katrina.

Sec. 404. Special rules for mortgage revenue bonds.

Sec. 405. Extension of replacement period for nonrecognition of gain for property located in Hurricane Katrina disaster area.

Sec. 406. Special rule for determining earned income.

Sec. 407. Secretarial authority to make adjustments regarding taxpayer and dependency status.

TITLE V—EMERGENCY REQUIREMENT

Sec. 501. Emergency requirement.

SEC. 2. HURRICANE KATRINA DISASTER AREA.

For purposes of this Act—

(1) **HURRICANE KATRINA DISASTER AREA.**—The term “Hurricane Katrina disaster area” means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

(2) **CORE DISASTER AREA.**—The term “core disaster area” means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act.

**TITLE I—SPECIAL RULES FOR USE OF
RETIREMENT FUNDS FOR RELIEF RE-
LATING TO HURRICANE KATRINA****SEC. 101. TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS
FOR RELIEF RELATING TO HURRICANE KATRINA.**

(a) **IN GENERAL.**—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified Hurricane Katrina distribution.

(b) **AGGREGATE DOLLAR LIMITATION.**—

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

(A) \$100,000, over

(B) the aggregate amounts treated as qualified Hurricane Katrina distributions received by such individual for all prior taxable years.

(2) **TREATMENT OF PLAN DISTRIBUTIONS.**—If a distribution to an individual would (without regard to paragraph (1)) be a qualified Hurricane Katrina 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 Katrina 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.

(3) **CONTROLLED GROUP.**—For purposes of paragraph (2), the term “controlled group” means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code.

(c) **AMOUNT DISTRIBUTED MAY BE REPAID.**—

(1) **IN GENERAL.**—Any individual who receives a qualified Hurricane Katrina 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 such Code, as the case may be.

(2) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified Hurricane Katrina 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 Katrina 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.

(3) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified Hurricane Katrina 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 Katrina 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.

(d) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED HURRICANE KATRINA DISTRIBUTION.—Except as provided in subsection (b), the term “qualified Hurricane Katrina distribution” means any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

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

(e) INCOME INCLUSION SPREAD OVER 3 YEAR PERIOD FOR QUALIFIED HURRICANE KATRINA DISTRIBUTIONS.—

(1) IN GENERAL.—In the case of any qualified Hurricane Katrina distribution, unless the taxpayer elects not to have this subsection 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.

(2) SPECIAL RULE.—For purposes of paragraph (1), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of such Code shall apply.

(f) SPECIAL RULES.—

(1) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of such Code, qualified Hurricane Katrina distributions shall not be treated as eligible rollover distributions.

(2) QUALIFIED HURRICANE KATRINA DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of such Code, a qualified Hurricane Katrina distribution shall be treated as meeting the requirements of sections

Applicability.

401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of such Code.

SEC. 102. RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES CANCELLED DUE TO HURRICANE KATRINA.

(a) RECONTRIBUTIONS.—

(1) IN GENERAL.—Any individual who received a qualified distribution may, during the period beginning on August 25, 2005, and ending on February 28, 2006, 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) 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.

(2) TREATMENT OF REPAYMENTS.—Rules similar to the rules of paragraphs (2) and (3) of section 101(c) of this Act shall apply for purposes of this section.

Applicability.

(b) QUALIFIED DISTRIBUTION DEFINED.—For purposes of this section, the term “qualified distribution” means any distribution—

(1) 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 such Code,

(2) received after February 28, 2005, and before August 29, 2005, and

(3) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

SEC. 103. LOANS FROM QUALIFIED PLANS FOR RELIEF RELATING TO HURRICANE KATRINA.

(a) 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 after the date of enactment of this Act and before January 1, 2007—

Applicability.

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

(2) 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”.

(b) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after August 25, 2005, from a qualified employer plan (as defined in section 72(p)(4) of such Code)—

(1) 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 August 25, 2005, and ending on December 31, 2006, such due date shall be delayed for 1 year,

(2) 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

(3) 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 paragraph (1) shall be disregarded.

(c) **QUALIFIED INDIVIDUAL.**—For purposes of this section, the term “qualified individual” means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

SEC. 104. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) **IN GENERAL.**—If this section 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 subsection (b)(2)(A).

(b) **AMENDMENTS TO WHICH SECTION APPLIES.**—

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

(A) pursuant to any amendment made by this title, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this title, and

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

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

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

(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.

Effective date.

TITLE II—EMPLOYMENT RELIEF

SEC. 201. WORK OPPORTUNITY TAX CREDIT FOR HURRICANE KATRINA EMPLOYEES.

(a) **IN GENERAL.**—For purposes of section 51 of the Internal Revenue Code of 1986, a Hurricane Katrina employee shall be treated as a member of a targeted group.

(b) **HURRICANE KATRINA EMPLOYEE.**—For purposes of this section, the term “Hurricane Katrina employee” means—

(1) any individual who on August 28, 2005, had a principal place of abode in the core disaster area and who is hired

during the 2-year period beginning on such date for a position the principal place of employment of which is located in the core disaster area, and

(2) any individual who on such date had a principal place of abode in the core disaster area, who is displaced from such abode by reason of Hurricane Katrina, and who is hired during the period beginning on such date and ending on December 31, 2005.

(c) REASONABLE IDENTIFICATION ACCEPTABLE.—In lieu of the certification requirement under subparagraph (A) of section 51(d)(12) of such Code, an individual may provide to the employer reasonable evidence that the individual is a Hurricane Katrina employee, and subparagraph (B) of such section shall be applied as if such evidence were a certification described in such subparagraph.

Applicability.

(d) SPECIAL RULES FOR DETERMINING CREDIT.—For purposes of applying subpart F of part IV of subchapter A of chapter 1 of such Code to wages paid or incurred to any Hurricane Katrina employee—

Applicability.

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

(2) section 51(i)(2) of such Code shall not apply with respect to the first hire of such employee as a Hurricane Katrina employee, unless such employee was an employee of the employer on August 28, 2005.

SEC. 202. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE KATRINA.

(a) IN GENERAL.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year 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.

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

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

(A) which conducted an active trade or business on August 28, 2005, in a core disaster area, and

(B) with respect to whom the trade or business described in subparagraph (A) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

(2) ELIGIBLE EMPLOYEE.—The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in a core disaster area.

(3) QUALIFIED WAGES.—The term “qualified wages” means wages (as defined in section 51(c)(1) of such Code, 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 28, 2005, and before January 1, 2006, which occurs during the period—

(A) beginning on the date on which the trade or business described in paragraph (1) first became inoperable

at the principal place of employment of the employee immediately before Hurricane Katrina, and

(B) 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.

(c) CREDIT NOT ALLOWED FOR LARGE BUSINESSES.—The term “eligible employer” shall not include any trade or business for any taxable year if such trade or business employed an average of more than 200 employees on business days during the taxable year.

(d) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) of such Code shall apply.

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

(f) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—The credit allowed under this section shall be added to the current year business credit under section 38(b) of such Code and shall be treated as a credit allowed under subpart D of part IV of subchapter A of chapter 1 of such Code.

TITLE III—CHARITABLE GIVING INCENTIVES

SEC. 301. TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Except as otherwise provided in subsection (b), section 170(b) 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 section 170 of such Code to other contributions.

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

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

(A) 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 (F) of section 170(b)(1) of such Code) over the amount of all other charitable contributions allowed under such section 170(b)(1).

(B) 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 subparagraph (A), 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.

(2) CORPORATIONS.—In the case of a corporation—

(A) **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.

(B) **CARRYOVER.**—Rules similar to the rules of paragraph (1)(B) shall apply for purposes of this paragraph.

Applicability.

(c) **EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.**—So much of any deduction allowed under section 170 of such Code 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.

(d) **QUALIFIED CONTRIBUTIONS.**—

(1) **IN GENERAL.**—For purposes of this section, the term “qualified contribution” means any charitable contribution (as defined in section 170(c) of such Code)—

(A) paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) of such Code (other than an organization described in section 509(a)(3) of such Code),

(B) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, and

(C) with respect to which the taxpayer has elected the application of this section.

(2) **EXCEPTION.**—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

(3) **APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.**—In the case of a partnership or S corporation, the election under paragraph (1)(C) shall be made separately by each partner or shareholder.

SEC. 302. ADDITIONAL EXEMPTION FOR HOUSING HURRICANE KATRINA DISPLACED INDIVIDUALS.

(a) **IN GENERAL.**—In the case of taxable years of a natural person beginning in 2005 or 2006, for purposes of the Internal Revenue Code of 1986, taxable income shall be reduced by \$500 for each Hurricane Katrina displaced individual of the taxpayer for the taxable year.

(b) **LIMITATIONS.**—

(1) **DOLLAR LIMITATION.**—The reduction under subsection (a) shall not exceed \$2,000, reduced by the amount of the reduction under this section for all prior taxable years.

(2) **INDIVIDUALS TAKEN INTO ACCOUNT ONLY ONCE.**—An individual shall not be taken into account under subsection (a) if such individual was taken into account under such subsection by the taxpayer for any prior taxable year.

(3) **IDENTIFYING INFORMATION REQUIRED.**—An individual shall not be taken into account under subsection (a) for a taxable year unless the taxpayer identification number of such

individual is included on the return of the taxpayer for such taxable year.

(c) HURRICANE KATRINA DISPLACED INDIVIDUAL.—For purposes of this section, the term “Hurricane Katrina displaced individual” means, with respect to any taxpayer for any taxable year, any natural person if—

(1) such person’s principal place of abode on August 28, 2005, was in the Hurricane Katrina disaster area,

(2)(A) in the case of such an abode located in the core disaster area, such person is displaced from such abode, or

(B) in the case of such an abode located outside of the core disaster area, such person is displaced from such abode, and

(i) such abode was damaged by Hurricane Katrina, or

(ii) such person was evacuated from such abode by reason of Hurricane Katrina, and

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

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

(d) COMPENSATION FOR HOUSING.—No deduction shall be allowed under this section if the taxpayer receives any rent or other amount (from any source) in connection with the providing of such housing.

SEC. 303. INCREASE IN STANDARD MILEAGE RATE FOR CHARITABLE USE OF VEHICLES.

Notwithstanding section 170(i) of the Internal Revenue Code of 1986, for purposes of computing the deduction under section 170 of such Code for use of a vehicle described in subsection (f)(12)(E)(i) of such section for provision of relief related to Hurricane Katrina during the period beginning on August 25, 2005, and ending on December 31, 2006, the standard mileage rate shall be 70 percent of the standard mileage rate in effect under section 162(a) of such Code at the time of such use. Any increase under this section shall be rounded to the next highest cent.

SEC. 304. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income of an individual for taxable years ending on or after August 25, 2005, does not include amounts received, from an organization described in section 170(c) of such Code, as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization in connection with providing relief relating to Hurricane Katrina during the period beginning on August 25, 2005, and ending on December 31, 2006. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under chapter 1 of such Code if section 274(d) of such Code were applied—

(1) by using the standard business mileage rate in effect under section 162(a) at the time of such use, and

(2) as if the individual were an employee of an organization not described in section 170(c) of such Code.

Applicability.

(b) **APPLICATION TO VOLUNTEER SERVICES ONLY.**—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

(c) **NO DOUBLE BENEFIT.**—No deduction or credit shall be allowed under any other provision of such Code with respect to the expenses excludable from gross income under subsection (a).

SEC. 305. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) **IN GENERAL.**—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to special rule for certain contributions of inventory and other property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

26 USC 170.

“(C) **SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.**—

“(i) **GENERAL RULE.**—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

Applicability.

“(I) without regard to whether the contribution is made by a C corporation, and

“(II) only to food that is apparently wholesome food.

“(ii) **LIMITATION.**—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer’s aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

“(iii) **APPARENTLY WHOLESOME FOOD.**—For purposes of this subparagraph, the term ‘apparently wholesome food’ has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

“(iv) **TERMINATION.**—This subparagraph shall not apply to contributions made after December 31, 2005.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made on or after August 28, 2005, in taxable years ending after such date.

26 USC 170 note.

SEC. 306. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) **IN GENERAL.**—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property), as amended by section 305, is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) **SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY TO PUBLIC SCHOOLS.**—

“(i) **CONTRIBUTIONS OF BOOK INVENTORY.**—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether the donee is an organization

Applicability.

described in the matter preceding clause (i) of subparagraph (A).

“(ii) **QUALIFIED BOOK CONTRIBUTION.**—For purposes of this paragraph, the term ‘qualified book contribution’ means a charitable contribution of books to a public school which is an educational organization described in subsection (b)(1)(A)(ii) and which provides elementary education or secondary education (kindergarten through grade 12).

“(iii) **CERTIFICATION BY DONEE.**—Subparagraph (A) shall not apply to any contribution unless (in addition to the certifications required by subparagraph (A) (as modified by this subparagraph)), the donee certifies in writing that—

“(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee’s educational programs, and

“(II) the donee will use the books in its educational programs.

“(iv) **TERMINATION.**—This subparagraph shall not apply to contributions made after December 31, 2005.”.

26 USC 170 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to contributions made on or after August 28, 2005, in taxable years ending after such date.

TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS

SEC. 401. EXCLUSIONS OF CERTAIN CANCELLATIONS OF INDEBTEDNESS BY REASON OF HURRICANE KATRINA.

(a) **IN GENERAL.**—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of a natural person described in subsection (b) by an applicable entity (as defined in section 6050P(c)(1) of such Code).

(b) **PERSONS DESCRIBED.**—A natural person is described in this subsection if the principal place of abode of such person on August 25, 2005, was located—

(1) in the core disaster area, or

(2) in the Hurricane Katrina disaster area (but outside the core disaster area) and such person suffered economic loss by reason of Hurricane Katrina.

(c) **EXCEPTIONS.**—

(1) **BUSINESS INDEBTEDNESS.**—Subsection (a) shall not apply to any indebtedness incurred in connection with a trade or business.

(2) **REAL PROPERTY OUTSIDE CORE DISASTER AREA.**—Subsection (a) shall not apply to any discharge of indebtedness to the extent that real property constituting security for such indebtedness is located outside of the Hurricane Katrina disaster area.

(d) **DENIAL OF DOUBLE BENEFIT.**—For purposes of the Internal Revenue Code of 1986, the amount excluded from gross income under subsection (a) shall be treated in the same manner as an amount excluded under section 108(a) of such Code.

(e) **EFFECTIVE DATE.**—This section shall apply to discharges made on or after August 25, 2005, and before January 1, 2007.

SEC. 402. SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.

Paragraphs (1) and (2)(A) of section 165(h) of the Internal Revenue Code of 1986 shall not apply to losses described in section 165(c)(3) of such Code which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina. In the case of any other losses, section 165(h)(2)(A) of such Code shall be applied without regard to the losses referred to in the preceding sentence.

Applicability.

SEC. 403. REQUIRED EXERCISE OF AUTHORITY UNDER SECTION 7508A FOR TAX RELIEF RELATING TO HURRICANE KATRINA.

(a) **AUTHORITY INCLUDES SUSPENSION OF PAYMENT OF EMPLOYMENT AND EXCISE TAXES.**—Subparagraphs (A) and (B) of section 7508(a)(1) of the Internal Revenue Code of 1986 are amended to read as follows:

26 USC 7508.

“(A) Filing any return of income, estate, gift, employment, or excise tax;

“(B) Payment of any income, estate, gift, employment, or excise tax or any installment thereof or of any other liability to the United States in respect thereof;”.

(b) **APPLICATION WITH RESPECT TO HURRICANE KATRINA.**—In the case of any taxpayer determined by the Secretary of the Treasury to be affected by the Presidentially declared disaster relating to Hurricane Katrina, any relief provided by the Secretary of the Treasury under section 7508A of the Internal Revenue Code of 1986 shall be for a period ending not earlier than February 28, 2006, and shall be treated as applying to the filing of returns relating to, and the payment of, employment and excise taxes.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply for any period for performing an act which has not expired before August 25, 2005.

26 USC 7508 note.

SEC. 404. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

(a) **IN GENERAL.**—In the case of financing provided with respect to a qualified Hurricane Katrina recovery residence, subsection (d) of section 143 of the Internal Revenue Code of 1986 shall be applied as if such residence were a targeted area residence.

Applicability.

(b) **QUALIFIED HURRICANE KATRINA RECOVERY RESIDENCE.**—For purposes of this section, the term “qualified Hurricane Katrina recovery residence” means—

(1) any residence in the core disaster area, and

(2) any other residence if—

(A) such other residence is located in the same State as the principal residence referred to in subparagraph (B), and

(B) the mortgagor with respect to such other residence owned a principal residence on August 28, 2005, which—

(i) was located in the Hurricane Katrina disaster area, and

(ii) was rendered uninhabitable by reason of Hurricane Katrina.

(c) **SPECIAL RULE FOR HOME IMPROVEMENT LOANS.**—In the case of any loan with respect to a residence in the Hurricane Katrina disaster area, section 143(k)(4) of such Code shall be applied

Applicability.

by substituting \$150,000 for the dollar amount contained therein to the extent such loan is for the repair of damage by reason of Hurricane Katrina.

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

Applicability.

SEC. 405. EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN FOR PROPERTY LOCATED IN HURRICANE KATRINA DISASTER AREA.

Clause (i) of section 1033(a)(2)(B) of the Internal Revenue Code of 1986 shall be applied by substituting “5 years” for “2 years” with respect to property in the Hurricane Katrina disaster area which is compulsorily or involuntarily converted on or after August 25, 2005, by reason of Hurricane Katrina, but only if substantially all of the use of the replacement property is in such area.

SEC. 406. SPECIAL RULE FOR DETERMINING EARNED INCOME.

(a) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes August 25, 2005, 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—

- (1) such earned income for the preceding taxable year, for
- (2) such earned income for the taxable year which includes August 25, 2005.

(b) QUALIFIED INDIVIDUAL.—For purposes of this section, the term “qualified individual” means any individual whose principal place of abode on August 25, 2005, was located—

- (1) in the core disaster area, or
- (2) in the Hurricane Katrina disaster area (but outside the core disaster area) and such individual was displaced from such principal place of abode by reason of Hurricane Katrina.

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

(d) SPECIAL RULES.—

(1) APPLICATION TO JOINT RETURNS.—For purposes of subsection (a), in the case of a joint return for a taxable year which includes August 25, 2005—

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

(B) 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.

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

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

Applicability.

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

SEC. 407. SECRETARIAL AUTHORITY TO MAKE ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.

With respect to taxable years beginning in 2005 or 2006, the Secretary of the Treasury or the Secretary's delegate may make such adjustments in the application of the internal revenue laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina. Any adjustments made under the preceding sentence shall ensure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

TITLE V—EMERGENCY REQUIREMENT**SEC. 501. EMERGENCY REQUIREMENT.**

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

Approved September 23, 2005.

LEGISLATIVE HISTORY—H.R. 3768 (S. 1696):**CONGRESSIONAL RECORD, Vol. 151 (2005):**

Sept. 15, considered and passed House. Considered and passed Senate, amended.

Sept. 21, House agreed to Senate amendment with an amendment pursuant to H. Res. 454. Senate concurred in House amendment.

