

116TH CONGRESS
1ST SESSION

H. R. 766

To allow penalty-free distributions from retirement accounts in the case of Federal employees and certain Federal contractors impacted by the Federal Government shutdown.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2019

Mr. GRAVES of Louisiana introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To allow penalty-free distributions from retirement accounts in the case of Federal employees and certain Federal contractors impacted by the Federal Government shutdown.

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

3 **SECTION 1. TAX-FAVORED WITHDRAWALS FROM RETIRE-**
4 **MENT PLANS.**

5 (a) IN GENERAL.—Section 72(t) of the Internal Rev-
6 enue Code of 1986 shall not apply to any qualified shut-
7 down distribution.

1 (b) AGGREGATE DOLLAR LIMITATION.—

2 (1) IN GENERAL.—For purposes of this sub-
3 section, the aggregate amount of distributions re-
4 ceived by an individual which may be treated as
5 qualified shutdown distributions for any taxable
6 year, and with respect to any Federal appropriations
7 lapse, shall not exceed an amount equal to the com-
8 pensation the individual would (but for such lapse)
9 have received during such lapse.

10 (2) TREATMENT OF PLAN DISTRIBUTIONS.—

11 (A) IN GENERAL.—If a distribution to an
12 individual would (without regard to paragraph
13 (1)) be a qualified shutdown distribution, a plan
14 shall not be treated as violating any provision
15 of law merely because the plan treats such dis-
16 tribution as a qualified shutdown distribution,
17 unless the aggregate amount of such distribu-
18 tions from all plans maintained by the employer
19 (and any member of any controlled group which
20 includes the employer) to such individual ex-
21 ceeds the limitation amount with respect to
22 such individual. Plans may require such sub-
23 stantiation and certification of the individual's
24 compensation as may be necessary for purposes
25 of the preceding sentence.

1 (B) NO TSP CONDITIONS ON CONTRIBU-
2 TIONS OR DISTRIBUTIONS.—In the case of the
3 Thrift Savings Fund, no limit on the number of
4 distributions made to an individual, or on the
5 amount of contributions which may be made by
6 such individual, shall be imposed solely by rea-
7 son of a distribution which is a qualified shut-
8 down distribution.

9 (3) CONTROLLED GROUP.—For purposes of
10 paragraph (3), the term “controlled group” means
11 any group treated as a single employer under sub-
12 section (b), (c), (m), or (o) of section 414 of the In-
13 ternal Revenue Code of 1986.

14 (c) AMOUNT DISTRIBUTED MAY BE REPAID.—

15 (1) IN GENERAL.—Any individual who receives
16 a qualified shutdown distribution may, at any time
17 during the 180-day period beginning on the day
18 after the date on which the Federal appropriations
19 lapse to which the distribution relates ends with re-
20 spect to the individual, make 1 or more contribu-
21 tions in an aggregate amount not to exceed the
22 amount of such distribution to an eligible retirement
23 plan of which such individual is a beneficiary and to
24 which a rollover contribution of such distribution
25 could be made under section 402(c), 403(a)(4),

1 403(b)(8), 408(d)(3), or 457(e)(16), of the Internal
2 Revenue Code of 1986, as the case may be.

3 (2) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER
4 THAN IRAS.—For purposes of the Internal Revenue
5 Code of 1986, if a contribution is made pursuant to
6 paragraph (1) with respect to a qualified shutdown
7 distribution from an eligible retirement plan other
8 than an individual retirement plan, then the tax-
9 payer shall, to the extent of the amount of the con-
10 tribution, be treated as having received the qualified
11 shutdown distribution in an eligible rollover distribu-
12 tion (as defined in section 402(c)(4) of such Code)
13 and as having transferred the amount to the eligible
14 retirement plan in a direct trustee to trustee trans-
15 fer within 60 days of the distribution.

17 (3) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM IRAS.—For purposes of the Internal
18 Revenue Code of 1986, if a contribution is made
19 pursuant to paragraph (1) with respect to a quali-
20 fied shutdown distribution from an individual retire-
21 ment plan (as defined by section 7701(a)(37) of
22 such Code), then, to the extent of the amount of the
23 contribution, the qualified shutdown distribution
24 shall be treated as a distribution described in section
25

1 408(d)(3) of such Code and as having been trans-
2 ferred to the eligible retirement plan in a direct
3 trustee to trustee transfer within 60 days of the dis-
4 tribution.

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

6 (1) QUALIFIED SHUTDOWN DISTRIBUTION.—

7 The term “qualified shutdown distribution” means
8 any distribution by an applicable individual from an
9 eligible retirement plan made during a Federal ap-
10 propriations lapse with respect to such individual.

11 (2) APPLICABLE INDIVIDUAL.—The term “ap-
12 plicable individual” means any individual—

13 (A) who is a Federal employee furloughed
14 due to a Federal appropriations lapse,

15 (B) who is placed on unpaid leave as a
16 Federal contractor, or as an employee of a Fed-
17 eral contractor, due to a Federal appropriations
18 lapse,

19 (C) who is an employee of a State or other
20 Federal grantee—

21 (i) whose compensation is advanced or
22 reimbursed in whole or in part by the Fed-
23 eral Government, and

24 (ii) who is furloughed due to a Fed-
25 eral appropriations lapse, or

1 (D) who is furloughed due to a Federal ap-
2 propriations lapse as an employee of the Dis-
3 trict of Columbia Courts, the Public Defender
4 Service for the District of Columbia, or the Dis-
5 trict of Columbia government.

6 Such term shall include any excepted employee or an
7 employee performing emergency work, as such terms
8 are defined by the Office of Personnel Management
9 or the appropriate District of Columbia public em-
10 ployer, as applicable, during a Federal appropria-
11 tions lapse.

12 (3) FEDERAL APPROPRIATION LAPSE.—

13 (A) IN GENERAL.—The term “Federal ap-
14 propriations lapse” means any continuous pe-
15 riod during which there is a lapse in Federal
16 appropriations.

17 (B) PERIOD OF LAPSE.—A period of lapse
18 in Federal appropriations shall not be a Federal
19 appropriations lapse with respect to an indi-
20 vidual—

21 (i) for longer than the period during
22 which the individual is furloughed (or on
23 unpaid leave in the case of an individual
24 described in paragraph (2)(B)) due to such
25 lapse, and

1 (ii) unless such period includes the
2 end of a pay period for which compensa-
3 tion was not received by reason of such
4 lapse.

5 (4) ELIGIBLE RETIREMENT PLAN.—The term
6 “eligible retirement plan” shall have the meaning
7 given such term by section 402(c)(8)(B) of the In-
8 ternal Revenue Code of 1986.

9 (e) INCOME INCLUSION SPREAD OVER 3-YEAR PE-
10 RIOD.—

11 (1) IN GENERAL.—In the case of any qualified
12 shutdown distribution, unless the taxpayer elects not
13 to have this paragraph apply for any taxable year,
14 any amount required to be included in gross income
15 for such taxable year shall be so included ratably
16 over the 3-taxable-year period beginning with such
17 taxable year.

18 (2) SPECIAL RULE.—For purposes of para-
19 graph (1), rules similar to the rules of subparagraph
20 (E) of section 408A(d)(3) of the Internal Revenue
21 Code of 1986 shall apply.

22 (f) SPECIAL RULES.—

23 (1) EXEMPTION OF DISTRIBUTIONS FROM
24 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
25 HOLDING RULES.—For purposes of sections

1 401(a)(31), 402(f), and 3405 of the Internal Rev-
2 enue Code of 1986, qualified shutdown distributions
3 shall not be treated as eligible rollover distributions.

4 (2) QUALIFIED SHUTDOWN DISTRIBUTIONS
5 TREATED AS MEETING PLAN DISTRIBUTION RE-
6 QUIREMENTS.—For purposes of the Internal Rev-
7 enue Code of 1986, a qualified shutdown distribu-
8 tion shall be treated as meeting the requirements of
9 sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii),
10 403(b)(11), and 457(d)(1)(A) of such Code.

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