

116TH CONGRESS
2D SESSION

S. 4596

To provide tax relief for persons affected by certain 2020 disasters.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2020

Ms. ERNST (for herself, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. CASSIDY, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide tax relief for persons affected by certain 2020 disasters.

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. SHORT TITLE.**

4 This Act may be cited as the “Disaster Tax Relief
5 Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act—

8 (1) **QUALIFIED DISASTER AREA.**—The term
9 “qualified disaster area” means any area with re-
10 spect to which a major disaster was declared, during

1 the period beginning on July 1, 2020, and ending on
2 the date which is 60 days after the date of the en-
3 actment of this Act, by the President under section
4 401 of the Robert T. Stafford Disaster Relief and
5 Emergency Assistance Act if the incident period of
6 the disaster with respect to which such declaration
7 is made begins on or before the date of the enact-
8 ment of this Act.

9 (2) QUALIFIED DISASTER ZONE.—The term
10 “qualified disaster zone” means that portion of any
11 qualified disaster area which was determined by the
12 President, during the period beginning on July 1,
13 2020, and ending on the date which is 60 days after
14 the date of the enactment of this Act, to warrant in-
15 dividual or individual and public assistance from the
16 Federal Government under the Robert T. Stafford
17 Disaster Relief and Emergency Assistance Act by
18 reason of the qualified disaster with respect to such
19 disaster area.

20 (3) QUALIFIED DISASTER.—The term “quali-
21 fied disaster” means, with respect to any qualified
22 disaster area, the disaster by reason of which a
23 major disaster was declared with respect to such
24 area.

1 (4) INCIDENT PERIOD.—The term “incident pe-
2 riod” means, with respect to any qualified disaster,
3 the period specified by the Federal Emergency Man-
4 agement Agency as the period during which such
5 disaster occurred (except that for purposes of this
6 Act such period shall not be treated as beginning be-
7 fore July 1, 2020, or ending after the date which is
8 30 days after the date of the enactment of this Act).

9 **SEC. 3. SPECIAL DISASTER-RELATED RULES FOR USE OF**
10 **RETIREMENT FUNDS.**

11 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
12 MENT PLANS.—

13 (1) IN GENERAL.—Section 72(t) of the Internal
14 Revenue Code of 1986 shall not apply to any quali-
15 fied disaster distribution.

16 (2) AGGREGATE DOLLAR LIMITATION.—

17 (A) IN GENERAL.—For purposes of this
18 subsection, the aggregate amount of distribu-
19 tions received by an individual which may be
20 treated as qualified disaster distributions for
21 any taxable year shall not exceed the excess (if
22 any) of—

23 (i) \$100,000, over

1 (ii) the aggregate amounts treated as
2 qualified disaster distributions received by
3 such individual for all prior taxable years.

4 (B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would
5 (without regard to subparagraph (A)) be a
6 qualified disaster distribution, a plan shall not
7 be treated as violating any requirement of the
8 Internal Revenue Code of 1986 merely because
9 the plan treats such distribution as a qualified
10 disaster distribution, unless the aggregate
11 amount of such distributions from all plans
12 maintained by the employer (and any member
13 of any controlled group which includes the em-
14 ployer) to such individual exceeds \$100,000.

15 (C) CONTROLLED GROUP.—For purposes
16 of subparagraph (B), the term “controlled
17 group” means any group treated as a single
18 employer under subsection (b), (c), (m), or (o)
19 of section 414 of the Internal Revenue Code of
20 1986.

21 (D) SPECIAL RULE FOR INDIVIDUALS AF-
22 FFECTED BY MORE THAN ONE DISASTER.—The
23 limitation of subparagraph (A) shall be applied
24

1 separately with respect to distributions made
2 with respect to each qualified disaster.

3 (3) AMOUNT DISTRIBUTED MAY BE REPAID.—

4 (A) IN GENERAL.—Any individual who re-
5 ceives a qualified disaster distribution may, at
6 any time during the 3-year period beginning on
7 the day after the date on which such distribu-
8 tion was received, make 1 or more contributions
9 in an aggregate amount not to exceed the
10 amount of such distribution to an eligible retire-
11 ment plan of which such individual is a bene-
12 ficiary and to which a rollover contribution of
13 such distribution could be made under section
14 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or
15 457(e)(16), of the Internal Revenue Code of
16 1986, as the case may be.

17 (B) TREATMENT OF REPAYMENTS OF DIS-
18 TRIBUTIONS FROM ELIGIBLE RETIREMENT
19 PLANS OTHER THAN IRAS.—For purposes of
20 the Internal Revenue Code of 1986, if a con-
21 tribution is made pursuant to subparagraph (A)
22 with respect to a qualified disaster distribution
23 from an eligible retirement plan other than an
24 individual retirement plan, then the taxpayer
25 shall, to the extent of the amount of the con-

1 tribution, be treated as having received the
2 qualified disaster distribution in an eligible roll-
3 over distribution (as defined in section
4 402(c)(4) of such Code) and as having trans-
5 ferred the amount to the eligible retirement
6 plan in a direct trustee to trustee transfer with-
7 in 60 days of the distribution.

8 (C) TREATMENT OF REPAYMENTS OF DIS-
9 TRIBUTIONS FROM IRAS.—For purposes of the
10 Internal Revenue Code of 1986, if a contribu-
11 tion is made pursuant to subparagraph (A)
12 with respect to a qualified disaster distribution
13 from an individual retirement plan (as defined
14 by section 7701(a)(37) of such Code), then, to
15 the extent of the amount of the contribution,
16 the qualified disaster distribution shall be treat-
17 ed as a distribution described in section
18 408(d)(3) of such Code and as having been
19 transferred to the eligible retirement plan in a
20 direct trustee to trustee transfer within 60 days
21 of the distribution.

22 (4) DEFINITIONS.—For purposes of this sub-
23 section—

24 (A) QUALIFIED DISASTER DISTRIBUTION.—Except as provided in paragraph (2),
25

1 the term “qualified disaster distribution” means
2 any distribution from an eligible retirement
3 plan made—

4 (i) on or after the first day of the in-
5 cident period of a qualified disaster and
6 before the date which is 180 days after the
7 date of the enactment of this Act, and

8 (ii) to an individual whose principal
9 place of abode at any time during the inci-
10 dent period of such qualified disaster is lo-
11 cated in the qualified disaster area with re-
12 spect to such qualified disaster and who
13 has sustained an economic loss by reason
14 of such qualified disaster.

15 (B) ELIGIBLE RETIREMENT PLAN.—The
16 term “eligible retirement plan” shall have the
17 meaning given such term by section
18 402(c)(8)(B) of the Internal Revenue Code of
19 1986.

20 (5) INCOME INCLUSION SPREAD OVER 3-YEAR
21 PERIOD.—

22 (A) IN GENERAL.—In the case of any
23 qualified disaster distribution, unless the tax-
24 payer elects not to have this paragraph apply
25 for any taxable year, any amount required to be

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

4 (B) SPECIAL RULE.—For purposes of sub-
5 paragraph (A), rules similar to the rules of sub-
6 paragraph (E) of section 408A(d)(3) of the In-
7 ternal Revenue Code of 1986 shall apply.

8 (6) SPECIAL RULES.—

9 (A) EXEMPTION OF DISTRIBUTIONS FROM
10 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
11 HOLDING RULES.—For purposes of sections
12 401(a)(31), 402(f), and 3405 of the Internal
13 Revenue Code of 1986, qualified disaster dis-
14 tributions shall not be treated as eligible roll-
15 over distributions.

16 (B) QUALIFIED DISASTER DISTRIBUTIONS
17 TREATED AS MEETING PLAN DISTRIBUTION RE-
18 QUIREMENTS.—For purposes the Internal Rev-
19 enue Code of 1986, a qualified disaster dis-
20 tribution shall be treated as meeting the re-
21 quirements of sections 401(k)(2)(B)(i),
22 403(b)(7)(A)(i), 403(b)(11), and 457(d)(1)(A)
23 of such Code and section 8433(h)(1) of title 5,
24 United States Code, and, in the case of a
25 money purchase pension plan, a qualified dis-

1 aster distribution which is an in-service with-
2 drawal shall be treated as meeting the distribu-
3 tion rules of section 401(a) of such Code.

4 (b) RECONTRIBUTIONS OF WITHDRAWALS FOR
5 HOME PURCHASES.—

6 (1) RECONTRIBUTIONS.—

7 (A) IN GENERAL.—Any individual who re-
8 ceived a qualified distribution may, during the
9 applicable period, make 1 or more contributions
10 in an aggregate amount not to exceed the
11 amount of such qualified distribution to an eli-
12 gible retirement plan (as defined in section
13 402(c)(8)(B) of the Internal Revenue Code of
14 1986) of which such individual is a beneficiary
15 and to which a rollover contribution of such dis-
16 tribution could be made under section 402(c),
17 403(a)(4), 403(b)(8), or 408(d)(3), of such
18 Code, as the case may be.

19 (B) TREATMENT OF REPAYMENTS.—Rules
20 similar to the rules of subparagraphs (B) and
21 (C) of subsection (a)(3) shall apply for purposes
22 of this subsection.

23 (2) QUALIFIED DISTRIBUTION.—For purposes
24 of this subsection, the term “qualified distribution”
25 means any distribution—

1 (A) described in section
2 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(i) (but only
3 to the extent such distribution relates to finan-
4 cial hardship), 403(b)(11)(B), or 72(t)(2)(F),
5 of the Internal Revenue Code of 1986,

6 (B) which was to be used to purchase or
7 construct a principal residence in a qualified
8 disaster area, but which was not so used on ac-
9 count of the qualified disaster with respect to
10 such area, and

11 (C) which was received during the period
12 beginning on the date which is 180 days before
13 the first day of the incident period of such
14 qualified disaster and ending on the date which
15 is 30 days after the last day of such incident
16 period.

17 (3) APPLICABLE PERIOD.—For purposes of this
18 subsection, the term “applicable period” means, in
19 the case of a principal residence in a qualified dis-
20 aster area with respect to any qualified disaster, the
21 period beginning on the first day of the incident pe-
22 riod of such qualified disaster and ending on the
23 date which is 180 days after the date of the enact-
24 ment of this Act.

25 (c) LOANS FROM QUALIFIED PLANS.—

1 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-
2 ED AS DISTRIBUTIONS.—In the case of any loan
3 from a qualified employer plan (as defined under
4 section 72(p)(4) of the Internal Revenue Code of
5 1986) to a qualified individual made during the 180-
6 day period beginning on the date of the enactment
7 of this Act—

8 (A) clause (i) of section 72(p)(2)(A) of
9 such Code shall be applied by substituting
10 “\$100,000” for “\$50,000”, and

11 (B) clause (ii) of such section shall be ap-
12 plied by substituting “the present value of the
13 nonforfeitable accrued benefit of the employee
14 under the plan” for “one-half of the present
15 value of the nonforfeitable accrued benefit of
16 the employee under the plan”.

17 (2) DELAY OF REPAYMENT.—In the case of a
18 qualified individual (with respect to any qualified
19 disaster) with an outstanding loan (on or after the
20 first day of the incident period of such qualified dis-
21 aster) from a qualified employer plan (as defined in
22 section 72(p)(4) of the Internal Revenue Code of
23 1986)—

24 (A) if the due date pursuant to subpara-
25 graph (B) or (C) of section 72(p)(2) of such

1 Code for any repayment with respect to such
2 loan occurs during the period beginning on the
3 first day of the incident period of such qualified
4 disaster and ending on the date which is 180
5 days after the last day of such incident period,
6 such due date shall be delayed for 1 year (or,
7 if later, until the date which is 180 days after
8 the date of the enactment of this Act),

9 (B) any subsequent repayments with re-
10 spect to any such loan shall be appropriately
11 adjusted to reflect the delay in the due date
12 under subparagraph (A) and any interest accru-
13 ing during such delay, and

14 (C) in determining the 5-year period and
15 the term of a loan under subparagraph (B) or
16 (C) of section 72(p)(2) of such Code, the period
17 described in subparagraph (A) of this para-
18 graph shall be disregarded.

19 (3) QUALIFIED INDIVIDUAL.—For purposes of
20 this subsection, the term “qualified individual”
21 means any individual—

22 (A) whose principal place of abode at any
23 time during the incident period of any qualified
24 disaster is located in the qualified disaster area
25 with respect to such qualified disaster, and

1 (B) who has sustained an economic loss by
2 reason of such qualified disaster.

3 (d) PROVISIONS RELATING TO PLAN AMEND-
4 MENTS.—

5 (1) IN GENERAL.—If this subsection applies to
6 any amendment to any plan or annuity contract,
7 such plan or contract shall be treated as being oper-
8 ated in accordance with the terms of the plan during
9 the period described in paragraph (2)(B)(i).

10 (2) AMENDMENTS TO WHICH SUBSECTION AP-
11 PLIES.—

12 (A) IN GENERAL.—This subsection shall
13 apply to any amendment to any plan or annuity
14 contract which is made—

15 (i) pursuant to any provision of this
16 section, or pursuant to any regulation
17 issued by the Secretary or the Secretary of
18 Labor under any provision of this section,
19 and

20 (ii) on or before the last day of the
21 first plan year beginning on or after Janu-
22 ary 1, 2021, or such later date as the Sec-
23 retary may prescribe.

24 In the case of a governmental plan (as defined
25 in section 414(d) of the Internal Revenue Code

1 of 1986), clause (ii) shall be applied by sub-
 2 stituting the date which is 2 years after the
 3 date otherwise applied under clause (ii).

4 (B) CONDITIONS.—This subsection shall
 5 not apply to any amendment unless—

6 (i) during the period—

7 (I) beginning on the date that
 8 this section or the regulation de-
 9 scribed in subparagraph (A)(i) takes
 10 effect (or in the case of a plan or con-
 11 tract amendment not required by this
 12 section or such regulation, the effec-
 13 tive date specified by the plan), and

14 (II) ending on the date described
 15 in subparagraph (A)(ii) (or, if earlier,
 16 the date the plan or contract amend-
 17 ment is adopted),

18 the plan or contract is operated as if such plan
 19 or contract amendment were in effect, and

20 (ii) such plan or contract amendment
 21 applies retroactively for such period.

22 **SEC. 4. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**
 23 **AFFECTED BY QUALIFIED DISASTERS.**

24 (a) IN GENERAL.—For purposes of section 38 of the
 25 Internal Revenue Code of 1986, in the case of an eligible

1 employer, the 2020 qualified disaster employee retention
2 credit shall be treated as a credit listed at the end of sub-
3 section (b) of such section. For purposes of this sub-
4 section, the 2020 qualified disaster employee retention
5 credit for any taxable year is an amount equal to 40 per-
6 cent of the qualified wages with respect to each eligible
7 employee of such employer for such taxable year. The
8 amount of qualified wages with respect to any employee
9 which may be taken into account under this subsection
10 by the employer for any taxable year shall not exceed
11 \$6,000 (reduced by the amount of qualified wages with
12 respect to such employee which may be so taken into ac-
13 count for any prior taxable year).

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

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

17 (A) which conducted an active trade or
18 business in a qualified disaster zone at any time
19 during the incident period of the qualified dis-
20 aster with respect to such qualified disaster
21 zone, and

22 (B) with respect to whom the trade or
23 business described in subparagraph (A) is inop-
24 erable at any time during the period beginning
25 on the first day of the incident period of such

1 qualified disaster and ending on the date of the
2 enactment of this Act, as a result of damage
3 sustained by reason of such qualified disaster.

4 (2) ELIGIBLE EMPLOYEE.—The term “eligible
5 employee” means with respect to an eligible em-
6 ployer an employee whose principal place of employ-
7 ment with such eligible employer (determined imme-
8 diately before the qualified disaster referred to in
9 paragraph (1)) was in the qualified disaster zone re-
10 ferred to in such paragraph.

11 (3) QUALIFIED WAGES.—The term “qualified
12 wages” means wages (as defined in section 51(c)(1)
13 of the Internal Revenue Code of 1986, but without
14 regard to section 3306(b)(2)(B) of such Code) paid
15 or incurred by an eligible employer with respect to
16 an eligible employee at any time on or after the date
17 on which the trade or business described in para-
18 graph (1) first became inoperable at the principal
19 place of employment of the employee (determined
20 immediately before the qualified disaster referred to
21 in such paragraph) and before the earlier of—

22 (A) the date on which such trade or busi-
23 ness has resumed significant operations at such
24 principal place of employment, or

1 (B) the date which is 150 days after the
2 last day of the incident period of the qualified
3 disaster referred to in paragraph (1).

4 Such term shall include wages paid without regard
5 to whether the employee performs no services, per-
6 forms services at a different place of employment
7 than such principal place of employment, or per-
8 forms services at such principal place of employment
9 before significant operations have resumed.

10 (c) CERTAIN RULES TO APPLY.—For purposes of
11 this section, rules similar to the rules of sections 51(i)(1),
12 52, and 280C(a), of the Internal Revenue Code of 1986,
13 shall apply.

14 (d) ELECTION TO NOT TAKE CERTAIN WAGES INTO
15 ACCOUNT.—

16 (1) IN GENERAL.—This section shall not apply
17 to qualified wages paid by an eligible employer with
18 respect to which such employer makes an election
19 (at such time and in such manner as the Secretary
20 may prescribe) to have this section not apply to such
21 wages.

22 (2) COORDINATION WITH PAYCHECK PROTEC-
23 TION PROGRAM.—

24 (A) IN GENERAL.—Section 1106(a)(8) of
25 the CARES Act is amended by striking “of this

1 Act.” and inserting “of this Act, except that
2 such costs shall not include qualified wages (as
3 defined in section 4 of the Disaster Tax Relief
4 Act of 2020) which—

5 “(A) are paid or incurred in calendar quar-
6 ters beginning after June 30, 2020, and

7 “(B) are taken into account in determining
8 the credit allowed under section 4 of the Dis-
9 aster Tax Relief Act of 2020”.

10 (B) GUIDANCE.—The Secretary, in con-
11 sultation with the Administrator of the Small
12 Business Administration, shall issue guidance
13 providing that payroll costs paid or incurred
14 during the covered period shall not fail to be
15 treated as qualified wages under this section by
16 reason of an election under paragraph (1) to
17 the extent that a covered loan of the eligible
18 employer is not forgiven under section 1106(b)
19 of the CARES Act by reason of such payroll
20 costs. Terms used in the preceding sentence
21 which are also used in section 1106 of the
22 CARES Act shall have the same meaning as
23 when used in such section.

24 (e) COORDINATION WITH OTHER TAX BENEFITS.—
25 Any wages taken into account in determining the credit

1 allowed under this section shall not be taken into account
2 as wages for purposes of section 51 of the Internal Rev-
3 enue Code of 1986 or section 2301 of the CARES Act.

4 **SEC. 5. OTHER DISASTER-RELATED TAX RELIEF PROVI-**
5 **SIONS.**

6 (a) SPECIAL RULES FOR QUALIFIED DISASTER RE-
7 LIEF CONTRIBUTIONS.—

8 (1) INDIVIDUALS.—For the suspension of limi-
9 tations on qualified disaster relief contributions
10 made by an individual during 2020, see section
11 2205(a) of the CARES Act.

12 (2) CORPORATIONS.—In the case of a qualified
13 disaster relief contribution made by a corporation—

14 (A) section 2205(a)(2)(B) of the CARES
15 Act shall be applied first with respect to quali-
16 fied contributions other than qualified disaster
17 relief contributions and then separately with re-
18 spect to such qualified disaster relief contribu-
19 tion, and

20 (B) in applying such section to such quali-
21 fied disaster relief contributions, clause (i)
22 thereof shall be applied—

23 (i) by substituting “100 percent” for
24 “25 percent”, and

1 (ii) by treating qualified contributions
2 other than qualified disaster relief con-
3 tributions as contributions allowed under
4 section 170(b)(2) of the Internal Revenue
5 Code of 1986.

6 (3) QUALIFIED DISASTER RELIEF CONTRIBU-
7 TION.—For purposes of this subsection, the term
8 “qualified disaster relief contribution” means any
9 qualified contribution (as defined in section
10 2205(a)(3) of the CARES Act) if—

11 (A) such contribution—

12 (i) is paid, during the period begin-
13 ning on July 1, 2020, and ending on the
14 date which is 90 days after the date of the
15 enactment of this Act, and

16 (ii) is made for relief efforts in one or
17 more qualified disaster areas,

18 (B) the taxpayer obtains from such organi-
19 zation contemporaneous written acknowledg-
20 ment (within the meaning of section 170(f)(8)
21 of such Code) that such contribution was used
22 (or is to be used) for relief efforts described in
23 subparagraph (A)(ii), and

1 (C) the taxpayer has elected the applica-
2 tion of this subsection with respect to such con-
3 tribution.

4 (b) SPECIAL RULES FOR QUALIFIED DISASTER-RE-
5 LATED PERSONAL CASUALTY LOSSES.—

6 (1) IN GENERAL.—If an individual has a net
7 disaster loss for any taxable year—

8 (A) the amount determined under section
9 165(h)(2)(A)(ii) of the Internal Revenue Code
10 of 1986 shall be equal to the sum of—

11 (i) such net disaster loss, and

12 (ii) so much of the excess referred to
13 in the matter preceding clause (i) of sec-
14 tion 165(h)(2)(A) of such Code (reduced
15 by the amount in clause (i) of this sub-
16 paragraph) as exceeds 10 percent of the
17 adjusted gross income of the individual,

18 (B) section 165(h)(1) of such Code shall
19 be applied with respect to qualified disaster-re-
20 lated personal casualty losses by substituting
21 “\$500” for “\$500 (\$100 for taxable years be-
22 ginning after December 31, 2009)”,

23 (C) the standard deduction determined
24 under section 63(c) of such Code shall be in-
25 creased by the net disaster loss, and

1 (D) section 56(b)(1)(D) of such Code shall
2 not apply to so much of the standard deduction
3 as is attributable to the increase under sub-
4 paragraph (C) of this paragraph.

5 (2) NET DISASTER LOSS.—For purposes of this
6 subsection, the term “net disaster loss” means the
7 excess of qualified disaster-related personal casualty
8 losses over personal casualty gains (as defined in
9 section 165(h)(3)(A) of the Internal Revenue Code
10 of 1986).

11 (3) QUALIFIED DISASTER-RELATED PERSONAL
12 CASUALTY LOSSES.—For purposes of this sub-
13 section, the term “qualified disaster-related personal
14 casualty losses” means losses described in section
15 165(c)(3) of the Internal Revenue Code of 1986
16 which arise in a qualified disaster area on or after
17 the first day of the incident period of the qualified
18 disaster to which such area relates, and which are
19 attributable to such qualified disaster.

20 (c) SPECIAL RULE FOR DETERMINING EARNED IN-
21 COME.—

22 (1) IN GENERAL.—In the case of a qualified in-
23 dividual, if the earned income of the taxpayer for the
24 applicable taxable year is less than the earned in-
25 come of the taxpayer for the preceding taxable year,

1 the credits allowed under sections 24(d) and 32 of
2 the Internal Revenue Code of 1986 may, at the elec-
3 tion of the taxpayer, be determined by sub-
4 stituting—

5 (A) such earned income for the preceding
6 taxable year, for

7 (B) such earned income for the applicable
8 taxable year.

9 (2) QUALIFIED INDIVIDUAL.—For purposes of
10 this subsection, the term “qualified individual”
11 means any individual whose principal place of abode
12 at any time during the incident period of any quali-
13 fied disaster was located—

14 (A) in the qualified disaster zone with re-
15 spect to such qualified disaster, or

16 (B) in the qualified disaster area with re-
17 spect to such qualified disaster (but outside the
18 qualified disaster zone with respect to such
19 qualified disaster) and such individual was dis-
20 placed from such principal place of abode by
21 reason of such qualified disaster.

22 (3) APPLICABLE TAXABLE YEAR.—For pur-
23 poses of this subsection, the term “applicable taxable
24 year” means—

1 (A) in the case of a qualified individual
2 other than an individual described in subpara-
3 graph (B), any taxable year which includes any
4 portion of the incident period of the qualified
5 disaster to which the qualified disaster area re-
6 ferred to in paragraph (2)(A) relates, or

7 (B) in the case of a qualified individual de-
8 scribed in subparagraph (B) of paragraph (2),
9 any taxable year which includes any portion of
10 the period described in such subparagraph.

11 (4) EARNED INCOME.—For purposes of this
12 subsection, the term “earned income” has the mean-
13 ing given such term under section 32(c) of the Inter-
14 nal Revenue Code of 1986.

15 (5) SPECIAL RULES.—

16 (A) APPLICATION TO JOINT RETURNS.—
17 For purposes of paragraph (1), in the case of
18 a joint return for an applicable taxable year—

19 (i) such paragraph shall apply if ei-
20 ther spouse is a qualified individual, and

21 (ii) the earned income of the taxpayer
22 for the preceding taxable year shall be the
23 sum of the earned income of each spouse
24 for such preceding taxable year.

1 (B) UNIFORM APPLICATION OF ELEC-
2 TION.—Any election made under paragraph (1)
3 shall apply with respect to both sections 24(d)
4 and 32 of the Internal Revenue Code of 1986.

5 (C) ERRORS TREATED AS MATHEMATICAL
6 ERROR.—For purposes of section 6213 of the
7 Internal Revenue Code of 1986, an incorrect
8 use on a return of earned income pursuant to
9 paragraph (1) shall be treated as a mathe-
10 matical or clerical error.

11 (D) NO EFFECT ON DETERMINATION OF
12 GROSS INCOME, ETC.—Except as otherwise pro-
13 vided in this subsection, the Internal Revenue
14 Code of 1986 shall be applied without regard to
15 any substitution under paragraph (1).

16 **SEC. 6. TREATMENT OF CERTAIN POSSESSIONS.**

17 (a) PAYMENTS TO POSSESSIONS WITH MIRROR
18 CODE TAX SYSTEMS.—The Secretary of the Treasury
19 shall pay to each possession of the United States which
20 has a mirror code tax system amounts equal to the loss
21 (if any) to that possession by reason of the application
22 of the provisions of this Act. Such amounts shall be deter-
23 mined by the Secretary of the Treasury based on informa-
24 tion provided by the government of the respective posses-
25 sion.

1 (b) PAYMENTS TO OTHER POSSESSIONS.—The Sec-
2 retary of the Treasury shall pay to each possession of the
3 United States which does not have a mirror code tax sys-
4 tem amounts estimated by the Secretary of the Treasury
5 as being equal to the aggregate benefits (if any) that
6 would have been provided to residents of such possession
7 by reason of the provisions of this Act if a mirror code
8 tax system had been in effect in such possession. The pre-
9 ceding sentence shall not apply unless the respective pos-
10 session has a plan, which has been approved by the Sec-
11 retary of the Treasury, under which such possession will
12 promptly distribute such payments to its residents.

13 (c) MIRROR CODE TAX SYSTEM.—For purposes of
14 this section, the term “mirror code tax system” means,
15 with respect to any possession of the United States, the
16 income tax system of such possession if the income tax
17 liability of the residents of such possession under such sys-
18 tem is determined by reference to the income tax laws of
19 the United States as if such possession were the United
20 States.

21 (d) TREATMENT OF PAYMENTS.—For purposes of
22 section 1324 of title 31, United States Code, the payments
23 under this section shall be treated in the same manner

- 1 as a refund due from a credit provision referred to in sub-
- 2 section (b)(2) of such section.

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