

117TH CONGRESS
1ST SESSION

H. R. 2927

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve rules relating to retirement plans.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2021

Mr. KIND (for himself, Mr. KELLY of Pennsylvania, and Mr. SMITH of Missouri) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, 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 amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve rules relating to retirement plans.

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 “Savings for All Voca-
5 tions Enhancement Act of 2021” or the “SAVE Act of
6 2021”.

1 **SEC. 2. MULTIPLE EMPLOYER 403(b) PLANS.**

2 (a) IN GENERAL.—Section 403(b) of the Internal
3 Revenue Code of 1986 is amended by adding at the end
4 the following new paragraph:

5 “(15) MULTIPLE EMPLOYER PLANS.—

6 “(A) IN GENERAL.—Except in the case of
7 a church plan, this subsection shall not be
8 treated as failing to apply to an annuity con-
9 tract solely by reason of such contract being
10 purchased under a plan maintained by more
11 than 1 employer.

12 “(B) TREATMENT OF EMPLOYERS FAILING
13 TO MEET REQUIREMENTS OF PLAN.—

14 “(i) IN GENERAL.—In the case of a
15 plan maintained by more than 1 employer,
16 this subsection shall not be treated as fail-
17 ing to apply to an annuity contract held
18 under such plan merely because of one or
19 more employers failing to meet the require-
20 ments of this subsection if such plan satis-
21 fies rules similar to the rules of section
22 413(e)(2) with respect to any such em-
23 ployer failure.

24 “(ii) ADDITIONAL REQUIREMENTS IN
25 CASE OF NON-GOVERNMENTAL PLANS.—A
26 plan shall not be treated as meeting the re-

1 requirements of this subparagraph unless the
 2 plan meets the requirements of subpara-
 3 graph (A) or (B) of section 413(e)(1), ex-
 4 cept in the case of a multiple employer
 5 plan maintained solely by any of the fol-
 6 lowing: A State, a political subdivision of a
 7 State, or an agency or instrumentality of
 8 any one or more of the foregoing.”.

9 (b) ANNUAL REGISTRATION FOR 403(b) MULTIPLE
 10 EMPLOYER PLAN.—Section 6057 of such Code is amend-
 11 ed by redesignating subsection (g) as subsection (h) and
 12 by inserting after subsection (f) the following new sub-
 13 section:

14 “(g) 403(b) MULTIPLE EMPLOYER PLANS TREATED
 15 AS ONE PLAN.—In the case of annuity contracts to which
 16 this section applies and to which section 403(b) applies
 17 by reason of the plan under which such contracts are pur-
 18 chased meeting the requirements of paragraph (15) there-
 19 of, such plan shall be treated as a single plan for purposes
 20 of this section.”.

21 (c) ANNUAL INFORMATION RETURNS FOR 403(b)
 22 MULTIPLE EMPLOYER PLAN.—Section 6058 of the Inter-
 23 nal Revenue Code of 1986 is amended by redesignating
 24 subsection (f) as subsection (g) and by inserting after sub-
 25 section (e) the following new subsection:

1 “(f) 403(b) MULTIPLE EMPLOYER PLANS TREATED
 2 AS ONE PLAN.—In the case of annuity contracts to which
 3 this section applies and to which section 403(b) applies
 4 by reason of the plan under which such contracts are pur-
 5 chased meeting the requirements of paragraph (15) there-
 6 of, such plan shall be treated as a single plan for purposes
 7 of this section.”.

8 (d) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
 9 COME SECURITY ACT OF 1974.—

10 (1) TREATED AS POOLED EMPLOYER PLAN.—

11 (A) IN GENERAL.—Section 3(43)(A) of the
 12 Employee Retirement Income Security Act of
 13 1974 is amended—

14 (i) in clause (ii), by striking “section
 15 501(a) of such Code or” and inserting
 16 “501(a) of such Code, a plan that consists
 17 of contracts described in section 403(b) of
 18 such Code, or”; and

19 (ii) in the flush text at the end, by
 20 striking “the plan.” and inserting “the
 21 plan, but such term shall include any pro-
 22 gram (other than a governmental plan)
 23 maintained for the benefit of the employees
 24 of more than 1 employer that consists of
 25 contracts described in section 403(b) of

1 such Code and that meets the require-
 2 ments of subparagraph (A) or (B) of sec-
 3 tion 413(e)(1) of such Code.”.

4 (B) CONFORMING AMENDMENTS.—Sec-
 5 tions 3(43)(B)(v)(II) and 3(44)(A)(i)(I) of such
 6 Act are each amended by striking “section
 7 401(a) of such Code or” and inserting “401(a)
 8 of such Code, a plan that consists of contracts
 9 described in section 403(b) of such Code, or”.

10 (2) FIDUCIARIES.—Section 3(43)(B)(ii) of such
 11 Act is amended—

12 (A) by striking “trustees meeting the re-
 13 quirements of section 408(a)(2) of the Internal
 14 Revenue Code of 1986” and inserting “trustees
 15 (or other fiduciaries in the case of a plan that
 16 consists of contracts described in section 403(b)
 17 of the Internal Revenue Code of 1986) meeting
 18 the requirements of section 408(a)(2) of such
 19 Code”, and

20 (B) by striking “holding” and inserting
 21 “holding (or causing to be held under the terms
 22 of a plan consisting of such contracts)”.

23 (e) REGULATIONS RELATING TO PLAN TERMI-
 24 NATION.—The Secretary of the Treasury (or the Sec-
 25 retary’s designee) shall prescribe such regulations as may

1 be necessary to clarify the treatment of a plan termination
2 by an employer in the case of plans to which section
3 403(b)(15) of such Code applies.

4 (f) MODIFICATION OF MODEL PLAN LANGUAGE,
5 ETC.—

6 (1) PLAN NOTIFICATIONS.—The Secretary of
7 the Treasury (or the Secretary's designee) shall
8 modify the model plan language published under sec-
9 tion 413(e)(5) of the Internal Revenue Code of 1986
10 to include language which notifies participating em-
11 ployers which are exempt from tax under section
12 501(a) of such Code that the plan is subject to the
13 Employee Retirement Income Security Act of 1974
14 and that such employer is a plan sponsor with re-
15 spect to its employees participating in the multiple
16 employer plan and, as such, has certain fiduciary
17 duties with respect to the plan and to its employees.

18 (2) MODEL PLANS FOR MULTIPLE EMPLOYER
19 403(b) NON-GOVERNMENTAL PLANS.—For plans to
20 which section 403(b)(15)(A) of the Internal Revenue
21 Code of 1986 applies (other than a plan maintained
22 for its employees by a State, a political subdivision
23 of a State, or an agency or instrumentality of any
24 one or more of the foregoing) the Secretary shall
25 publish model plan language similar to model plan

1 language published under section 413(e)(5) of such
2 Code.

3 (3) EDUCATIONAL OUTREACH TO EMPLOYERS
4 EXEMPT FROM TAX.—The Secretary shall provide
5 education and outreach to increase awareness to em-
6 ployers which are exempt from tax under section
7 501(a) of such Code that multiple employer plans
8 are subject to the Employee Retirement Income Se-
9 curity Act of 1974 and that such employer is a plan
10 sponsor with respect to its employees participating
11 in the multiple employer plan and, as such, has cer-
12 tain fiduciary duties with respect to the plan and to
13 its employees.

14 (g) NO INFERENCE WITH RESPECT TO CHURCH
15 PLANS.—Regarding any application of section 403(b) of
16 the Internal Revenue Code of 1986 to an annuity contract
17 purchased under a church plan (as defined in section
18 414(e) of such Code) maintained by more than 1 em-
19 ployer, or to any application of rules similar to section
20 413(e) of such Code to such a plan, no inference shall
21 be made from section 403(b)(15)(A) of such Code (as
22 added by this Act) not applying to such plans.

23 (h) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
 2 this section shall apply to plan years beginning after
 3 December 31, 2021.

4 (2) RULE OF CONSTRUCTION.—Nothing in the
 5 amendments made by subsection (a) shall be con-
 6 strued as limiting the authority of the Secretary of
 7 the Treasury or the Secretary’s delegate (determined
 8 without regard to such amendment) to provide for
 9 the proper treatment of a failure to meet any re-
 10 quirement applicable under such Code with respect
 11 to one employer (and its employees) in the case of
 12 a plan to which section 403(b)(15) applies.

13 **SEC. 3. APPLICATION OF CREDIT FOR SMALL EMPLOYER**
 14 **PENSION PLAN STARTUP COSTS TO EMPLOY-**
 15 **ERS WHICH JOIN AN EXISTING PLAN.**

16 (a) IN GENERAL.—Section 45E(d)(3)(A) of the In-
 17 ternal Revenue Code of 1986 is amended by striking “ef-
 18 fective” and inserting “effective with respect to the eligible
 19 employer”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 this section shall apply to eligible employer plans which
 22 become effective with respect to the eligible employer after
 23 the date of the enactment of this Act.

24 **SEC. 4. FINDINGS RELATING TO S CORPORATION ESOPs.**

25 Congress finds the following:

1 (1) On January 1, 1998, nearly 25 years after
2 the Employee Retirement Income Security Act of
3 1974 was enacted and the employee stock ownership
4 plan (hereafter in this section referred to as an
5 “ESOP”) was created, employees were first per-
6 mitted to be owners of subchapter S corporations
7 pursuant to the Small Business Job Protection Act
8 of 1996 (Public Law 104–188).

9 (2) With the passage of the Taxpayer Relief
10 Act of 1997 (Public Law 105–34), Congress de-
11 signed incentives to encourage businesses to become
12 ESOP-owned S corporations.

13 (3) Since that time, several thousand companies
14 have become ESOP-owned S corporations, creating
15 an ownership interest for several million Americans
16 in companies in every State in the country, in indus-
17 tries ranging from heavy manufacturing to construc-
18 tion and contracting to services.

19 (4) Every United States worker who is an em-
20 ployee-owner of an S corporation company through
21 an ESOP has a valuable qualified retirement savings
22 account.

23 (5) Recent studies have shown that employees
24 of ESOP-owned S corporations enjoy greater job
25 stability, wages and benefits than employees of com-

1 parable companies; and ESOP companies are better
2 able to weather economic downturns.

3 (6) Studies also show that employee-owners of
4 S corporation ESOP companies have amassed mean-
5 ingful retirement savings through their ESOP ac-
6 counts that will give them the means to retire with
7 dignity.

8 (7) It is the goal of Congress to preserve and
9 foster employee ownership of S corporations through
10 ESOPs.

11 **SEC. 5. REDUCTION IN EXCISE TAX ON CERTAIN ACCUMU-**
12 **LATIONS IN QUALIFIED RETIREMENT PLANS.**

13 (a) IN GENERAL.—Section 4974(a) of the Internal
14 Revenue Code of 1986 is amended by striking “50 per-
15 cent” and inserting “25 percent”.

16 (b) REDUCTION IN EXCISE TAX ON FAILURES TO
17 TAKE REQUIRED MINIMUM DISTRIBUTIONS.—Section
18 4974 of such Code is amended by adding at the end the
19 following new subsection:

20 “(e) REDUCTION OF TAX IN CERTAIN CASES.—

21 “(1) REDUCTION.—In the case of a taxpayer
22 who—

23 “(A) corrects, during the correction win-
24 dow, a shortfall of distributions from an indi-

1 vidual retirement plan which resulted in imposi-
2 tion of a tax under subsection (a), and

3 “(B) submits a return, during the correc-
4 tion window, reflecting such tax (as modified by
5 this subsection),

6 the first sentence of subsection (a) shall be applied
7 by substituting ‘10 percent’ for ‘25 percent’.

8 “(2) CORRECTION WINDOW.—For purposes of
9 this subsection, the term ‘correction window’ means
10 the period of time beginning on the date on which
11 the tax under subsection (a) is imposed with respect
12 to a shortfall of distributions from an individual re-
13 tirement plan, and ending on the earlier of—

14 “(A) the date on which the Secretary initi-
15 ates an audit, or otherwise demands payment,
16 with respect to the shortfall of distributions, or

17 “(B) the last day of the second taxable
18 year that begins after the end of the taxable
19 year in which the tax under subsection (a) is
20 imposed.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2021.

1 **SEC. 6. INDIVIDUAL RETIREMENT PLAN STATUTE OF LIMITATIONS FOR EXCISE TAX ON EXCESS CONTRIBUTIONS AND CERTAIN ACCUMULATIONS.**

2
3
4 Section 6501(l) of the Internal Revenue Code of 1986
5 is amended by adding at the end the following new paragraph:
6

7 “(4) INDIVIDUAL RETIREMENT PLANS.—

8 “(A) IN GENERAL.—For purposes of any
9 tax imposed by section 4973 or 4974 in connection with an individual retirement plan, the return referred to in this section shall be the income tax return filed by the person on whom
10 the tax under such section is imposed for the
11 year in which the act (or failure to act) giving
12 rise to the liability for such tax occurred.
13

14 “(B) RULE IN CASE OF INDIVIDUALS NOT
15 REQUIRED TO FILE RETURN.—In the case of a
16 person who is not required to file an income tax
17 return for such year—
18

19 “(i) the return referred to in this section shall be the income tax return that
20 such person would have been required to
21 file but for the fact that such person was
22 not required to file such return, and
23

24 “(ii) the 3-year period referred to in
25 subsection (a) with respect to the return
26

1 shall be deemed to begin on the date by
2 which the return would have been required
3 to be filed (excluding any extension there-
4 of).”.

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