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Sec. 25B. Elective Deferrals And IRA Contributions By Certain Individuals

I.R.C. § 25B(a) Allowance Of Credit —

In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of so much of the qualified retirement savings contributions of the eligible individual for the taxable year as do not exceed \$2,000.

I.R.C. § 25B(b) Applicable Percentage —

For purposes of this section—

I.R.C. § 25B(b)(1) Joint Returns —

In the case of a joint return, the applicable percentage is—

I.R.C. § 25B(b)(1)(A) —

if the adjusted gross income of the taxpayer is not over \$30,000, 50 percent,

I.R.C. § 25B(b)(1)(B) —

if the adjusted gross income of the taxpayer is over \$30,000 but not over \$32,500, 20 percent,

I.R.C. § 25B(b)(1)(C) —

if the adjusted gross income of the taxpayer is over \$32,500 but not over \$50,000, 10 percent, and

I.R.C. § 25B(b)(1)(D) —

if the adjusted gross income of the taxpayer is over \$50,000, zero percent.

I.R.C. § 25B(b)(2) Other Returns —

In the case of—

I.R.C. § 25B(b)(2)(A) —

a head of household, the applicable percentage shall be determined under paragraph (1) except that such paragraph shall be applied by substituting for each dollar amount therein (as adjusted under paragraph (3)) a dollar amount equal to 75 percent of such dollar amount, and

I.R.C. § 25B(b)(2)(B) —

any taxpayer not described in paragraph (1) or subparagraph (A), the applicable percentage shall be determined under paragraph (1) except that such paragraph shall be applied by substituting for each dollar amount therein (as adjusted under paragraph (3)) a dollar amount equal to 50 percent of such dollar amount.

I.R.C. § 25B(b)(3) Inflation Adjustment —

In the case of any taxable year beginning in a calendar year after 2006, each of the dollar amounts in paragraph (1) shall be increased by an amount equal to—

I.R.C. § 25B(b)(3)(A) —

such dollar amount, multiplied by

I.R.C. § 25B(b)(3)(B) —

the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 2005” for “calendar year 2016” in subparagraph (A)(ii) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of \$500.

I.R.C. § 25B(c) Eligible Individual —

For purposes of this section—

I.R.C. § 25B(c)(1) In General —

The term “eligible individual” means any individual if such individual has attained the age of 18 as of the close of the taxable year.

I.R.C. § 25B(c)(2) Dependents And Full-Time Students Not Eligible —

The term “eligible individual” shall not include—

I.R.C. § 25B(c)(2)(A) —

any individual with respect to whom a deduction under section 151 is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins, and

I.R.C. § 25B(c)(2)(B) —

any individual who is a student (as defined in section 152(f)(2)).

I.R.C. § 25B(d) Qualified Retirement Savings Contributions —

For purposes of this section—

Editor's Note: Sec. 25B(d)(1), below, before amendment by Pub. L. 117-328, Div. T, Sec. 103(e), is effective for taxable years beginning on or before Dec. 31, 2026.

I.R.C. § 25B(d)(1) In General —

The term “qualified retirement savings contributions” means, with respect to any taxable year, the sum of—

I.R.C. § 25B(d)(1)(A) —

the amount of the qualified retirement contributions (as defined in section 219(e)) made by the eligible individual,

I.R.C. § 25B(d)(1)(B) —

the amount of—

I.R.C. § 25B(d)(1)(B)(i) —

any elective deferrals (as defined in section 402(g)(3)) of such individual, and

I.R.C. § 25B(d)(1)(B)(ii) —

any elective deferral of compensation by such individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A),

I.R.C. § 25B(d)(1)(C) —

the amount of voluntary employee contributions by such individual to any qualified retirement plan (as defined in section 4974(c)), and

I.R.C. § 25B(d)(1)(D) —

the amount of contributions made before January 1, 2026, by such individual to the ABLE account (within the meaning of section 529A) of which such individual is the designated beneficiary.

Editor's Note: Sec. 25B(d)(1), below, after amendment by Pub. L. 117-328, Div. T, Sec. 103(e), is effective for taxable years beginning after Dec. 31, 2026.

I.R.C. § 25B(d)(1) In General —

The term “qualified retirement savings contributions” means, with respect to any taxable year, the amount of contributions made before January 1, 2026, by such individual to the ABLE account (within the meaning of section 529A) of which such individual is the designated beneficiary.

I.R.C. § 25B(d)(2) Reduction For Certain Distributions

I.R.C. § 25B(d)(2)(A) In General —

The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) may be made. The preceding sentence shall not apply to the portion of any distribution which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.

I.R.C. § 25B(d)(2)(B) Testing Period —

For purposes of subparagraph (A), the testing period, with respect to a taxable year, is the period which includes—

I.R.C. § 25B(d)(2)(B)(i) —

such taxable year,

I.R.C. § 25B(d)(2)(B)(ii) —

the 2 preceding taxable years, and

I.R.C. § 25B(d)(2)(B)(iii) —

the period after such taxable year and before the due date (including extensions) for filing the return of tax for such taxable year.

I.R.C. § 25B(d)(2)(C) Excepted Distributions —

There shall not be taken into account under subparagraph (A)—

I.R.C. § 25B(d)(2)(C)(i) —

any distribution referred to in section 72(p), 401(k)(8), 401(m)(6), 402(g)(2), 404(k), or 408(d)(4), and

I.R.C. § 25B(d)(2)(C)(ii) —

any distribution to which section 408A(d)(3) applies.

I.R.C. § 25B(d)(2)(D) Treatment Of Distributions Received By Spouse Of Individual —

For purposes of determining distributions received by an individual under subparagraph (A) for any taxable year, any distribution received by the spouse of such individual shall be treated as received by such individual if such individual and spouse file a joint return for such taxable year and for the taxable year during which the spouse receives the distribution.

I.R.C. § 25B(e) Adjusted Gross Income —

For purposes of this section, adjusted gross income shall be determined without regard to sections 911, 931, and 933.

I.R.C. § 25B(f) Investment In The Contract —

Notwithstanding any other provision of law, a qualified retirement savings contribution shall not fail to be included in determining the investment in the contract for purposes of section 72 by reason of the credit under this section.

(Added by Pub. L. 107-16, title VI, Sec. 618, June 7, 2001, 115 Stat. 38; amended by Pub. L. 107-147, title IV, Mar. 9, 2002, 116 Stat. 21; Pub. L. 108-311, title II, Sec. 207(4), Oct. 4, 2004, 118 Stat. 1166; Pub. L. 109-135, title IV, Sec. 402(i)(3)(D), Dec. 21, 2005, 119 Stat. 2577; Pub. L. 109-280, title VIII, Sec. 812, 833(a), Aug. 17, 2006, 120 Stat. 780; Pub. L. 110-343, Div. B, Sec. 106(e)(2)(C), 205(d)(1)(C), Oct. 3, 2008, 122 Stat. 3765; Pub. L. 111-5, Div. B, title I, Sec. 1004(b)(4), 1142(b)(1)(C), 1144(b)(1)(C), Feb. 17, 2009, 123 Stat. 115; Pub. L. 111-148, Sec. 10909(b)(2)(D), Mar. 23, 2010, 124 Stat. 119; Pub. L. 112-240, title I, Sec. 104(c)(2)(E), Jan. 2, 2013, 126 Stat. 2313; Pub. L. 115-97, title I, Sec. 11002(d)(1)(C), 11024(b), Dec. 22, 2017, 131 Stat. 2054; Pub. L. 117-328, Div. T, title I, Sec. 103(e), Dec. 29, 2022, 136 Stat. 4459.)

BACKGROUND NOTES

AMENDMENTS

2022 —Subsec. (d)(1). Pub. L. 117-328, Div. T, Sec. 103(e), amended subsec. (d)(1) by striking “the sum of—” and all that followed through “the amount of contributions made before January 1, 2026” and inserting “the amount of contributions made before January 1, 2026”. Before amendment, it read as follows:

“(1) In General

“The term “qualified retirement savings contributions” means, with respect to any taxable year, the sum of—

“(A) the amount of the qualified retirement contributions (as defined in section 219(e)) made by the eligible individual,

“(B) the amount of—

“(i) any elective deferrals (as defined in section 402(g)(3)) of such individual, and

“(ii) any elective deferral of compensation by such individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A),

“(C) the amount of voluntary employee contributions by such individual to any qualified retirement plan (as defined in section 4974(c)), and

“(D) the amount of contributions made before January 1, 2026, by such individual to the ABLE account (within the meaning of section 529A) of which such individual is the designated beneficiary.) of which such individual is the designated beneficiary.”

2017 — Subsec. (b)(3)(B). Pub. L. 115-97, Sec. 11002(d)(1)(C), amended subpar. (B) by substituting “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

Subsec. (d)(1). Pub. L. 115-97, Sec. 11024(b), amended par. (1) by striking “and” at the end of subparagraph (B)(ii), by striking the period at the end of subparagraph (C) and inserting “, and”, and by inserting subparagraph (D).

2013 — Subsec. (g). Pub. L. 112-240, Sec. 104(c)(2)(E), struck subsec. (g). Before being struck, subsec. (g) read as follows:

“(g) Limitation Based On Amount Of Tax.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

“(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(2) the sum of the credits allowable under this subpart (other than this section and sections 25A(i), 25D, 30, 30B, and 30D) and section 27 for the taxable year.”

2010 — Subsec. (g)(2). Pub. L. 111-148, Sec. 10909(b)(2)(D), amended par. (2) by striking “23,”.

2009 — Subsec. (g)(2). Pub. L. 111-5, Div. B, Sec. 1004(b)(4), amended par. (2) by inserting “25A(i),” after “23,”.

Subsec. (g)(2). Pub. L. 111-5, Div. B, Sec. 1142(b)(1)(C), amended par. (2) by inserting “30,” after “25D,”.

Subsec. (g)(2). Pub. L. 111-5, Div. B, Sec. 1144(b)(1)(C), amended par. (2) by inserting “30B,” after “30,”.

2008 — Subsec. (g)(2). Pub. L. 110-343, Div. B, Sec. 106(e)(2)(C), amended par. (2) by substituting “section 23 and 25D” for “section 23”.

Subsec. (g)(2). Pub. L. 110-343, Div. B, Sec. 205(d)(1)(C), amended par. (2) by substituting “25D, and 30D” for “and 25D”.

2006 — Subsec. (b). Pub. L. 109-280, Sec. 833(a), amended subsec. (b). Before amendment, it read as follows:

“(b) APPLICABLE PERCENTAGE.—

“For purposes of this section, the applicable percentage is the percentage determined in accordance with the following table:

Adjusted Gross Income	-----	Applicable	Joint return	Head of a household	All other
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Subsec. (h). Pub. L. 109-280, Sec. 812, struck subsec. (h). Before being struck, it read as follows:

“(h) TERMINATION.—

“This section shall not apply to taxable years beginning after December 31, 2006.”

2005 — Subsec. (g). Pub. L. 109-135, Sec. 402(i)(3)(D), amended subsec. (g) by substituting “In the case of a taxable year to which section 26(a)(2) does not apply, the credit” for “The credit” in the matter preceding par. (1).

2004 — Subsec. (c)(2)(B). Pub. L. 108-311, Sec. 207(4), amended subpar. (B) by substituting “152(f)(2)” for “151(c)(4)”.

2002 — Subsec. (d)(1)(A). Pub. L. 107-147, Sec. 411(m), amended subpar. (A). Before amendment it read as follows:

“(A) IN GENERAL.—

“The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the sum of--

“(i) any distribution from a qualified retirement plan (as defined in section 4974(c)), or from an eligible deferred compensation plan (as defined in section 457(b)), received by the individual during the testing period which is includible in gross income, and

“(ii) any distribution from a Roth IRA or a Roth account received by the individual during the testing period which is not a qualified rollover contribution (as defined in section 408A(e)) to a Roth IRA or a rollover under section 402(c)(8)(B) to a Roth account.”

Subsec. (g)-(h). Pub. L. 107-147, Sec. 417(1), redesignated subsec. (g) (that relates to termination) as subsec. (h).

2001 — Subsec. (g). Pub. L. 107-16, Sec. 618(b)(1), added a new subsec. (g) after subsec. (f). [Editor's Note: Pub. L. 107-16, Sec. 618(b), added Sec. 25B, which already included a subsec. (g).]

EFFECTIVE DATE OF 2022 AMENDMENTS

Amendment by Pub. L. 117-328, Div. T, Sec. 103(e), effective for taxable years beginning after December 31, 2026.

EFFECTIVE DATE OF 2017 AMENDMENTS

Amendment by Pub. L. 115-97, Sec. 11002(d)(1)(C), effective for taxable years beginning after December 31, 2017.

Amendment by Pub. L. 115-97, Sec. 11024(b), effective for taxable years beginning after the date of enactment. [Enacted: Dec. 22, 2017].
EFFECTIVE DATE OF 2013 AMENDMENT
Amendment by Sec. 104(c)(2)(E) of Pub. L. 112-240 effective for taxable years beginning after December 31, 2011.
EFFECTIVE DATE OF 2010 AMENDMENT
Amendment by Sec. 10909(b) of Pub. L. 111-148 effective for taxable years beginning after December 31, 2009. Pub. L. 111-148, Sec. 10909(c), as amended by Pub. L. 111-312, Sec. 101(b), provided that:
“(c) SUNSET PROVISION.—Each provision of law amended by this section is amended to read as such provision would read if this section had never been enacted. The amendments made by the preceding sentence shall apply to taxable years beginning after December 31, 2011.”
EFFECTIVE DATE OF 2009 AMENDMENTS
Amendments by Pub. L. 111-5, Div. B, Sec. 1004(b)(4) and 1144(b)(1)(C), effective for taxable years beginning after December 31, 2008.
Amendment by Pub. L. 111-5, Div. B, Sec. 1142(b)(1)(C), effective for vehicles acquired after the date of the enactment of this Act [Enacted: Feb. 17, 2009].
EFFECTIVE DATE OF 2008 AMENDMENTS
Amendment by Pub. L. 110-343, Div. B, Sec. 106(e)(2)(C), effective for taxable years beginning after December 31, 2007.
Amendment by Pub. L. 110-343, Div. B, Sec. 205(d)(1)(C), effective for taxable years beginning after December 31, 2008.
EFFECTIVE DATE OF 2006 AMENDMENTS
Amendment by Pub. L. 109-280, Sec. 812, effective on the date of the enactment of this Act [Enacted: Aug. 17, 2006].
Amendment by Pub. L. 109-280, Sec. 833(a), effective for taxable years beginning after 2006.
EFFECTIVE DATE OF 2005 AMENDMENTS
Amendment by Pub. L. 109-135, Sec. 402(i)(3)(D), effective for taxable years beginning after December 31, 2005.
EFFECTIVE DATE OF 2004 AMENDMENTS
Amendment by Pub. L. 108-311, Sec. 207(4), effective for taxable years beginning after December 31, 2004.
EFFECTIVE DATE OF 2002 AMENDMENTS
Amendment by Pub. L. 107-147, Sec. 411(m), effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 [Pub. L. 107-16, Sec. 618] to which they relate.
Amendment by Pub. L. 107-147, Sec. 417(1), effective as of the date of the enactment of this Act [Enacted: Mar. 9, 2002].
EFFECTIVE DATE OF 2001 AMENDMENT
Amendment by Pub. L. 107-16, Sec. 618(b)(1), effective for taxable years beginning after December 31, 2001. However, Pub. L. 107-147, Sec. 601(b)(2), provided that the amendment made by Sec. 618(b) of Pub. L. 107-16 shall not apply to taxable years beginning during 2002 and 2003, and Pub. L. 108-311, Sec. 312(b)(2), provided that the amendment made by Sec. 618(b) of Pub. L. 107-16 shall not apply to taxable years beginning during 2004 and 2005.
Section 901 (Sunset of Provisions of Act) of Pub. L. 107-16, as amended by Pub. L. 107-358 and Pub. L. 111-312, Sec. 101(a), and struck by Pub. L. 112-240, Sec. 101(a)(1) (effective for taxable, plan, or limitation years beginning after Dec. 31, 2012, and estates of decedents dying, gifts made, or generation skipping transfers after Dec. 31, 2012), provided that:
“(a) IN GENERAL.—All provisions of, and amendments made by, this Act shall not apply—
“(1) to taxable, plan, or limitation years beginning after December 31, 2012, or
“(2) in the case of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2012.
“(b) APPLICATION OF CERTAIN LAWS.—The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a) as if the provisions and amendments described in subsection (a) had never been enacted.
“(c) EXCEPTION.—Subsection (a) shall not apply to section 803 (relating to no federal income tax on restitution received by victims of the Nazi regime or their heirs or estates).”
NOTE: Section 10909(c) of Pub. L. 111-148, as amended by Pub. L. 111-312, Sec. 101(b), provided:
“(c) SUNSET PROVISION.—Each provision of law amended by this section is amended to read as such provision would read if this section had never been enacted. The amendments made by the preceding sentence shall apply to taxable years beginning after December 31, 2011.”
EFFECTIVE DATE
Effective for taxable years beginning after December 31, 2001.
PENSIONS AND INDIVIDUAL RETIREMENT ARRANGEMENT PROVISIONS OF ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 MADE PERMANENT
Section 811 of Pub. L. 109-280 provided that:
“Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 [Pub. L. 107-16] shall not apply to the provisions of, and amendments made by, subtitles A through F [Sections 601-666] of title VI of such Act (relating to pension and individual retirement arrangement provisions).”

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