

under any qualified employer plan (as defined in section 72(p)(4)) or under any contract referred to in section 72(p)(5)).

Pub. L. 105-206, §6004(b)(1), inserted “by the taxpayer solely” after “incurred” in introductory provisions.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11002(d)(1)(U) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

Amendment by section 13305(b)(1) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13305(c) of Pub. L. 115-97, set out as a note under section 74 of this title.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by Pub. L. 108-357 applicable to taxable years beginning after Dec. 31, 2004, see section 102(e) of Pub. L. 108-357, set out as a note under section 56 of this title.

Amendment by section 207(20) of Pub. L. 108-311 applicable to taxable years beginning after Dec. 31, 2004, see section 208 of Pub. L. 108-311, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 402(b)(2)(B) of Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2001, see section 402(h) of Pub. L. 107-16, set out as a note under section 72 of this title.

Pub. L. 107-16, title IV, §412(a)(3), June 7, 2001, 115 Stat. 64, provided that: “The amendments made by this subsection [amending this section and section 6050S of this title] shall apply with respect to any loan interest paid after December 31, 2001, in taxable years ending after such date.”

Pub. L. 107-16, title IV, §412(b)(3), June 7, 2001, 115 Stat. 64, provided that: “The amendments made by this subsection [amending this section] shall apply to taxable years ending after December 31, 2001.”

Amendment by section 431(c)(2) of Pub. L. 107-16 applicable to payments made in taxable years beginning after Dec. 31, 2001, see section 431(d) of Pub. L. 107-16, set out as a note under section 62 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105-277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 4003(l) of Pub. L. 105-277, set out as a note under section 86 of this title.

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

#### EFFECTIVE DATE

Section applicable to any qualified education loan (as defined in subsec. (e)(1) of this section) incurred on, before, or after Aug. 5, 1997, but only with respect to any loan interest payment due and paid after Dec. 31, 1997, and to the portion of the 60-month period referred to in subsec. (d) of this section after Dec. 31, 1997, see section 202(e) of Pub. L. 105-34, set out as an Effective Date of 1997 Amendment note under section 62 of this title.

## § 222. Qualified tuition and related expenses

### (a) Allowance of deduction

In the case of an individual, there shall be allowed as a deduction an amount equal to the

qualified tuition and related expenses paid by the taxpayer during the taxable year.

### (b) Dollar limitations

#### (1) In general

The amount allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.

#### (2) Applicable dollar limit

##### (A) 2002 and 2003

In the case of a taxable year beginning in 2002 or 2003, the applicable dollar limit shall be equal to—

(i) in the case of a taxpayer whose adjusted gross income for the taxable year does not exceed \$65,000 (\$130,000 in the case of a joint return), \$3,000, and—

(ii) in the case of any other taxpayer, zero.

##### (B) After 2003

In the case of any taxable year beginning after 2003, the applicable dollar amount shall be equal to—

(i) in the case of a taxpayer whose adjusted gross income for the taxable year does not exceed \$65,000 (\$130,000 in the case of a joint return), \$4,000,

(ii) in the case of a taxpayer not described in clause (i) whose adjusted gross income for the taxable year does not exceed \$80,000 (\$160,000 in the case of a joint return), \$2,000, and

(iii) in the case of any other taxpayer, zero.

##### (C) Adjusted gross income

For purposes of this paragraph, adjusted gross income shall be determined—

(i) without regard to this section and sections 911, 931, and 933, and

(ii) after application of sections 86, 135, 137, 219, 221, and 469.

### (c) No double benefit

#### (1) In general

No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowed to the taxpayer under any other provision of this chapter.

#### (2) Coordination with other education incentives

##### (A) Denial of deduction if credit elected

No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses with respect to an individual if the taxpayer or any other person elects to have section 25A apply with respect to such individual for such year.

##### (B) Coordination with exclusions

The total amount of qualified tuition and related expenses shall be reduced by the amount of such expenses taken into account in determining any amount excluded under section 135, 529(c)(1), or 530(d)(2). For purposes of the preceding sentence, the amount taken into account in determining the

amount excluded under section 529(c)(1) shall not include that portion of the distribution which represents a return of any contributions to the plan.

**(3) Dependents**

No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

**(d) Definitions and special rules**

For purposes of this section—

**(1) Qualified tuition and related expenses**

The term “qualified tuition and related expenses” has the meaning given such term by section 25A(f). Such expenses shall be reduced in the same manner as under section 25A(g)(2).

**(2) Identification requirement**

No deduction shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of the individual on the return of tax for the taxable year.

**(3) Limitation on taxable year of deduction**

**(A) In general**

A deduction shall be allowed under subsection (a) for qualified tuition and related expenses for any taxable year only to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.

**(B) Certain prepayments allowed**

Subparagraph (A) shall not apply to qualified tuition and related expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

**(4) No deduction for married individuals filing separate returns**

If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

**(5) Nonresident aliens**

If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

**(6) Payee statement requirement**

**(A) In general**

Except as otherwise provided by the Secretary, no deduction shall be allowed under subsection (a) unless the taxpayer receives a statement furnished under section 6050S(d) which contains all of the information required by paragraph (2) thereof.

**(B) Statement received by dependent**

The receipt of the statement referred to in subparagraph (A) by an individual described in subsection (c)(3) shall be treated for purposes of subparagraph (A) as received by the taxpayer.

**(7) Regulations**

The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.

**(e) Termination**

This section shall not apply to taxable years beginning after December 31, 2016.

(Added Pub. L. 107-16, title IV, §431(a), June 7, 2001, 115 Stat. 66; amended Pub. L. 108-357, title I, §102(d)(3), Oct. 22, 2004, 118 Stat. 1429; Pub. L. 109-432, div. A, title I, §101(a), (b), Dec. 20, 2006, 120 Stat. 2933; Pub. L. 110-343, div. C, title II, §202(a), Oct. 3, 2008, 122 Stat. 3864; Pub. L. 111-312, title VII, §724(a), Dec. 17, 2010, 124 Stat. 3316; Pub. L. 112-240, title II, §207(a), Jan. 2, 2013, 126 Stat. 2324; Pub. L. 113-295, div. A, title I, §107(a), Dec. 19, 2014, 128 Stat. 4013; Pub. L. 114-27, title VIII, §804(b), June 29, 2015, 129 Stat. 415; Pub. L. 114-113, div. Q, title I, §153(a), Dec. 18, 2015, 129 Stat. 3066; Pub. L. 115-97, title I, §13305(b)(1), Dec. 22, 2017, 131 Stat. 2126.)

PRIOR PROVISIONS

A prior section 222 was renumbered section 224 of this title.

Another prior section 222, added Pub. L. 97-34, title I, §125(a), Aug. 13, 1981, 95 Stat. 201; amended Pub. L. 97-448, title I, §101(f), Jan. 12, 1983, 96 Stat. 2367, related to deduction of adoption expenses, prior to repeal by Pub. L. 99-514, title I, §§135(a), 151(a), Oct. 22, 1986, 100 Stat. 2116, 2121, applicable to taxable years beginning after Dec. 31, 1986.

AMENDMENTS

2017—Subsec. (b)(2)(C)(i). Pub. L. 115-97 struck out “199,” after “and sections”.

2015—Subsec. (d)(6), (7). Pub. L. 114-27 added par. (6) and redesignated former par. (6) as (7).

Subsec. (e). Pub. L. 114-113 substituted “December 31, 2016” for “December 31, 2014”.

2014—Subsec. (e). Pub. L. 113-295 substituted “December 31, 2014” for “December 31, 2013”.

2013—Subsec. (e). Pub. L. 112-240 substituted “December 31, 2013” for “December 31, 2011”.

2010—Subsec. (e). Pub. L. 111-312 substituted “December 31, 2011” for “December 31, 2009”.

2008—Subsec. (e). Pub. L. 110-343 substituted “December 31, 2009” for “December 31, 2007”.

2006—Subsec. (b)(2)(B). Pub. L. 109-432, §101(b), substituted “After 2003” for “2004 and 2005” in heading and “any taxable year beginning after 2003” for “a taxable year beginning in 2004 or 2005” in introductory provisions.

Subsec. (e). Pub. L. 109-432, §101(a), substituted “2007” for “2005”.

2004—Subsec. (b)(2)(C)(i). Pub. L. 108-357 inserted “199,” before “911”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13305(c) of Pub. L. 115-97, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title I, §153(b), Dec. 18, 2015, 129 Stat. 3066, provided that: “The amendment made by

this section [amending this section] shall apply to taxable years beginning after December 31, 2014.”

Amendment by Pub. L. 114-27 applicable to taxable years beginning after June 29, 2015, see section 804(d) of Pub. L. 114-27, set out as a note under section 25A of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title I, §107(b), Dec. 19, 2014, 128 Stat. 4013, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2013.”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-240, title II, §207(b), Jan. 2, 2013, 126 Stat. 2324, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title VII, §724(b), Dec. 17, 2010, 124 Stat. 3316, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title II, §202(b), Oct. 3, 2008, 122 Stat. 3864, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2007.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title I, §101(c), Dec. 20, 2006, 120 Stat. 2933, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2005.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years beginning after Dec. 31, 2004, see section 102(e) of Pub. L. 108-357, set out as a note under section 56 of this title.

EFFECTIVE DATE

Section applicable to payments made in taxable years beginning after Dec. 31, 2001, see section 431(d) of Pub. L. 107-16, set out as an Effective Date of 2001 Amendment note under section 62 of this title.

**§ 223. Health savings accounts**

**(a) Deduction allowed**

In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by or on behalf of such individual to a health savings account of such individual.

**(b) Limitations**

**(1) In general**

The amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed the sum of the monthly limitations for months during such taxable year that the individual is an eligible individual.

**(2) Monthly limitation**

The monthly limitation for any month is 1/12 of—

(A) in the case of an eligible individual who has self-only coverage under a high deductible health plan as of the first day of such month, \$2,250.

(B) in the case of an eligible individual who has family coverage under a high deductible health plan as of the first day of such month, \$4,500.

**(3) Additional contributions for individuals 55 or older**

**(A) In general**

In the case of an individual who has attained age 55 before the close of the taxable year, the applicable limitation under subparagraphs (A) and (B) of paragraph (2) shall be increased by the additional contribution amount.

**(B) Additional contribution amount**

For purposes of this section, the additional contribution amount is the amount determined in accordance with the following table:

For taxable years beginning in:	The additional contribution amount is:
2004 .....	\$500
2005 .....	\$600
2006 .....	\$700
2007 .....	\$800
2008 .....	\$900
2009 and thereafter .....	\$1,000.

**(4) Coordination with other contributions**

The limitation which would (but for this paragraph) apply under this subsection to an individual for any taxable year shall be reduced (but not below zero) by the sum of—

(A) the aggregate amount paid for such taxable year to Archer MSAs of such individual,

(B) the aggregate amount contributed to health savings accounts of such individual which is excludable from the taxpayer's gross income for such taxable year under section 106(d) (and such amount shall not be allowed as a deduction under subsection (a)), and

(C) the aggregate amount contributed to health savings accounts of such individual for such taxable year under section 408(d)(9) (and such amount shall not be allowed as a deduction under subsection (a)).

Subparagraph (A) shall not apply with respect to any individual to whom paragraph (5) applies.

**(5) Special rule for married individuals**

In the case of individuals who are married to each other, if either spouse has family coverage—

(A) both spouses shall be treated as having only such family coverage (and if such spouses each have family coverage under different plans, as having the family coverage with the lowest annual deductible), and

(B) the limitation under paragraph (1) (after the application of subparagraph (A) and without regard to any additional contribution amount under paragraph (3))—

(i) shall be reduced by the aggregate amount paid to Archer MSAs of such spouses for the taxable year, and

(ii) after such reduction, shall be divided equally between them unless they agree on a different division.