

“(B) as a partner in a partnership carrying on a trade or business.

“(2) RULE FOR APPLICATION OF SUBSECTIONS (b)(1)(C) AND (D).—For purposes of subparagraphs (C) and (D) of subsection (b)(1), an individual who commences work at a new principal place of work as a self-employed individual shall be treated as having obtained employment when he has made substantial arrangements to commence such work.”

Subsec. (g)(3). Pub. L. 103-66, § 13213(a)(2)(C), inserted “and” at end of subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: “for purposes of subsection (b)(3), as if such place of work was within the same general location as the member’s new principal place of work, and”.

Subsec. (h). Pub. L. 103-66, § 13213(a)(2)(D), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out heading and text of former par. (1). Text read as follows: “In the case of a foreign move—

“(A) subsection (b)(1)(D) shall be applied by substituting ‘90 consecutive days’ for ‘30 consecutive days’.

“(B) subsection (b)(3)(A) shall be applied by substituting ‘\$4,500’ for ‘\$1,500’ and by substituting ‘\$6,000’ for ‘\$3,000’, and

“(C) subsection (b)(3)(B) shall be applied as if the last sentence of such subsection read as follows: ‘In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting “\$2,250” for “\$4,500”, and by substituting “\$3,000” for “\$6,000”.’”

1978—Subsecs. (h) to (j). Pub. L. 95-615 added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

1976—Subsec. (b)(3)(A). Pub. L. 94-455, § 506(b)(1), (2), substituted “\$1,500” for “\$1,000” after “(1) shall not exceed” and “\$3,000” for “\$2,500” after “lease expenses shall not exceed”.

Subsec. (b)(3)(B). Pub. L. 94-455, § 506(b)(3), substituted “\$750” for “\$1,500” for “\$500” for “\$1,000” after “applied by substituting” and “\$1,500” for “\$3,000” for “\$1,250” for “\$2,500” after “and by substituting”.

Subsec. (c)(1)(A), (B). Pub. L. 94-455, § 506(a), substituted “35” for “50” after “at least”.

Subsecs. (g), (h). Pub. L. 94-455, §§ 506(c), 1906(b)(13)(A), added subsec. (g), redesignated former subsec. (g) as (h) and struck out “or his delegate” after “Secretary”.

1969—Pub. L. 91-172 substantially reenacted existing provisions and extended the coverage to self-employed persons working at the new location for 78 weeks, made it a requirement that the new principal place of work be located 50 miles from the former residence, and redefined the deduction to include costs of house-hunting trips, temporary living expenses prior to locating a new home, and expenses of selling an old home or buying a new one.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, § 11049(b), Dec. 22, 2017, 131 Stat. 2089, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2017.”

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to expenses incurred after Dec. 31, 1993, see section 13213(e) of Pub. L. 103-66 set out as a note under section 62 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Amendment by Pub. L. 95-615 applicable to taxable years beginning after Dec. 31, 1977, with provision for election of prior law, see section 209 of Pub. L. 95-615, set out as an Effective Date of 1978 Amendment note under section 911 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title V, § 506(d), Oct. 4, 1976, 90 Stat. 1569, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply to taxable years beginning after December 31, 1976.”

#### EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title II, § 231(d), Dec. 30, 1969, 83 Stat. 580, as amended by Pub. L. 91-642, § 2, Dec. 31, 1970, 84 Stat. 1880; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting section 82 of this title and amending this section and sections 1001 and 1016 of this title] shall apply to taxable years beginning after December 31, 1969, except that—

“(1) section 217 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (a)) shall not apply to any item to the extent that the taxpayer received or accrued reimbursement or other expense allowance for such item in a taxable year beginning on or before December 31, 1969, which was not included in his gross income; and

“(2) the amendments made by this section shall not apply (at the election of the taxpayer made at such time and manner as the Secretary of the Treasury or his delegate prescribes) with respect to moving expenses paid or incurred before January 1, 1971, in connection with the commencement of work by the taxpayer as an employee at a new principal place of work of which the taxpayer had been notified by his employer on or before December 19, 1969.”

#### EFFECTIVE DATE

Section applicable to expenses incurred after Dec. 31, 1963, in taxable years ending after such date, see section 213(d) of Pub. L. 88-272, set out as an Effective Date of 1964 Amendment note under section 62 of this title.

#### MOVING EXPENSES OF MEMBERS OF THE UNIFORMED SERVICES

Pub. L. 93-490, § 2, Oct. 26, 1974, 88 Stat. 1466, authorized the Secretary of the Treasury, applicable with respect to taxable years ending before January 1, 1976, to:

(1) enter into an agreement with the Secretary concerned under which the Secretary concerned would not be required to withhold tax on, or to report, moving expense reimbursements made to members of the armed forces;

(2) permit any taxpayer who was a member of the armed forces not to include in adjusted gross income the amount of any reimbursement in kind of moving expenses made by the Secretary concerned; and

(3) permit any taxpayer who was a member of the armed forces to deduct any amount paid by him as moving expenses in connection with any move required by the Secretary concerned, in excess of any reimbursement received for such expenses, without regard to the provisions of subsec. (c) of this section, to the extent it was otherwise deductible under this section.

#### [§ 218. Repealed. Pub. L. 95-600, title I, § 113(a)(1), Nov. 6, 1978, 92 Stat. 2778]

Section, added Pub. L. 92-178, title VII, § 702(a), Dec. 10, 1971, 85 Stat. 561; amended Pub. L. 93-625, §§ 11(d), 12(b), Jan. 3, 1975, 88 Stat. 2120; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to contributions to candidates for public office.

A prior section 218 was renumbered section 224 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective with respect to contributions the payment of which is made after Dec. 31, 1978, in taxable years beginning after such date, see section 113(d) of Pub. L. 95-600, set out as an Effective Date of 1978 Amendment note under section 24 of this title.

#### § 219. Retirement savings

##### (a) Allowance of deduction

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

qualified retirement contributions of the individual for the taxable year.

**(b) Maximum amount of deduction**

**(1) In general**

The amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed the lesser of—

- (A) the deductible amount, or
- (B) an amount equal to the compensation includible in the individual's gross income for such taxable year.

**(2) Special rule for employer contributions under simplified employee pensions**

This section shall not apply with respect to an employer contribution to a simplified employee pension.

**(3) Plans under section 501(c)(18)**

Notwithstanding paragraph (1), the amount allowable as a deduction under subsection (a) with respect to any contributions on behalf of an employee to a plan described in section 501(c)(18) shall not exceed the lesser of—

- (A) \$7,000, or
- (B) an amount equal to 25 percent of the compensation (as defined in section 415(c)(3)) includible in the individual's gross income for such taxable year.

**(4) Special rule for simple retirement accounts**

This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p).

**(5) Deductible amount**

For purposes of paragraph (1)(A)—

**(A) In general**

The deductible amount is \$5,000.

**(B) Catch-up contributions for individuals 50 or older**

**(i) In general**

In the case of an individual who has attained the age of 50 before the close of the taxable year, the deductible amount for such taxable year shall be increased by the applicable amount.

**(ii) Applicable amount**

For purposes of clause (i), the applicable amount is \$1,000.

**(C) Cost-of-living adjustment**

**(i) In general**

In the case of any taxable year beginning in a calendar year after 2008, the \$5,000 amount under subparagraph (A) shall be increased by an amount equal to—

- (I) such dollar amount, multiplied by
- (II) 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 2007” for “calendar year 2016” in subparagraph (A)(ii) thereof.

**(ii) Rounding rules**

If any amount after adjustment under clause (i) is not a multiple of \$500, such amount shall be rounded to the next lower multiple of \$500.

**(c) Kay Bailey Hutchison Spousal IRA**

**(1) In general**

In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

- (A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or
- (B) the sum of—
  - (i) the compensation includible in such individual's gross income for the taxable year, plus
  - (ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year,

(II) the amount of any designated non-deductible contribution (as defined in section 408(o)) on behalf of such spouse for such taxable year, and

(III) the amount of any contribution on behalf of such spouse to a Roth IRA under section 408A for such taxable year.

**(2) Individuals to whom paragraph (1) applies**

Paragraph (1) shall apply to any individual if—

(A) such individual files a joint return for the taxable year, and

(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.

**(d) Other limitations and restrictions**

**(1) Beneficiary must be under age 70½**

No deduction shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

**(2) Recontributed amounts**

No deduction shall be allowed under this section with respect to a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16).

**(3) Amounts contributed under endowment contract**

In the case of an endowment contract described in section 408(b), no deduction shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

**(4) Denial of deduction for amount contributed to inherited annuities or accounts**

No deduction shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).

**(e) Qualified retirement contribution**

For purposes of this section, the term “qualified retirement contribution” means—

(1) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

(2) any amount contributed on behalf of any individual to a plan described in section 501(c)(18).

**(f) Other definitions and special rules**

**(1) Compensation**

For purposes of this section, the term “compensation” includes earned income (as defined in section 401(c)(2)). The term “compensation” does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation. For purposes of this paragraph, section 401(c)(2) shall be applied as if the term trade or business for purposes of section 1402 included service described in subsection (c)(6). The term “compensation” includes any differential wage payment (as defined in section 3401(h)(2)).

**(2) Married individuals**

The maximum deduction under subsection (b) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

**(3) Time when contributions deemed made**

For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

**[(4) Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(39)(A), Dec. 19, 2014, 128 Stat. 4043]**

**(5) Employer payments**

For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a deduction for such payment is allowable under this section to the employee.

**(6) Excess contributions treated as contribution made during subsequent year for which there is an unused limitation**

**(A) In general**

If for the taxable year the maximum amount allowable as a deduction under this section for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

- (i) the amount of such excess, or
- (ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

**(B) Amount contributed**

For purposes of this paragraph, the amount contributed—

- (i) shall be determined without regard to this paragraph, and
- (ii) shall not include any rollover contribution.

**(C) Special rule where excess deduction was allowed for closed year**

Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

**(7) Special rule for compensation earned by members of the Armed Forces for service in a combat zone.**

For purposes of subsections (b)(1)(B) and (c), the amount of compensation includible in an individual's gross income shall be determined without regard to section 112.

**(8) Election not to deduct contributions**

For election not to deduct contributions to individual retirement plans, see section 408(o)(2)(B)(ii).

**(g) Limitation on deduction for active participants in certain pension plans**

**(1) In general**

If (for any part of any plan year ending with or within a taxable year) an individual or the individual's spouse is an active participant, each of the dollar limitations contained in subsections (b)(1)(A) and (c)(1)(A) for such taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

**(2) Amount of reduction**

**(A) In general**

The amount determined under this paragraph with respect to any dollar limitation shall be the amount which bears the same ratio to such limitation as—

- (i) the excess of—
  - (I) the taxpayer's adjusted gross income for such taxable year, over
  - (II) the applicable dollar amount, bears to

- (ii) \$10,000 (\$20,000 in the case of a joint return).

**(B) No reduction below \$200 until complete phase-out**

No dollar limitation shall be reduced below \$200 under paragraph (1) unless (without regard to this subparagraph) such limitation is reduced to zero.

**(C) Rounding**

Any amount determined under this paragraph which is not a multiple of \$10 shall be rounded to the next lowest \$10.

**(3) Adjusted gross income; applicable dollar amount**

For purposes of this subsection—

**(A) Adjusted gross income**

Adjusted gross income of any taxpayer shall be determined—

- (i) after application of sections 86 and 469, and
- (ii) without regard to sections 135, 137, 221, 222, and 911 or the deduction allowable under this section.

**(B) Applicable dollar amount**

The term “applicable dollar amount” means the following:

- (i) In the case of a taxpayer filing a joint return, \$80,000.
- (ii) In the case of any other taxpayer (other than a married individual filing a separate return), \$50,000.
- (iii) In the case of a married individual filing a separate return, zero.

**(4) Special rule for married individuals filing separately and living apart**

A husband and wife who—

- (A) file separate returns for any taxable year, and
- (B) live apart at all times during such taxable year,

shall not be treated as married individuals for purposes of this subsection.

**(5) Active participant**

For purposes of this subsection, the term “active participant” means, with respect to any plan year, an individual—

- (A) who is an active participant in—
  - (i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),
  - (ii) an annuity plan described in section 403(a),
  - (iii) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing,
  - (iv) an annuity contract described in section 403(b),
  - (v) a simplified employee pension (within the meaning of section 408(k)), or
  - (vi) any simple retirement account (within the meaning of section 408(p)), or
- (B) who makes deductible contributions to a trust described in section 501(c)(18).

The determination of whether an individual is an active participant shall be made without regard to whether or not such individual’s rights under a plan, trust, or contract are non-forfeitable. An eligible deferred compensation plan (within the meaning of section 457(b)) shall not be treated as a plan described in subparagraph (A)(iii).

**(6) Certain individuals not treated as active participants**

For purposes of this subsection, any individual described in any of the following subparagraphs shall not be treated as an active participant for any taxable year solely because of any participation so described:

**(A) Members of reserve components**

Participation in a plan described in subparagraph (A)(iii) of paragraph (5) by reason

of service as a member of a reserve component of the Armed Forces (as defined in section 10101 of title 10), unless such individual has served in excess of 90 days on active duty (other than active duty for training) during the year.

**(B) Volunteer firefighters**

A volunteer firefighter—

- (i) who is a participant in a plan described in subparagraph (A)(iii) of paragraph (5) based on his activity as a volunteer firefighter, and
- (ii) whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of \$1,800 (when expressed as a single life annuity commencing at age 65).

**(7) Special rule for spouses who are not active participants**

If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

- (A) the applicable dollar amount under paragraph (3)(B)(i) shall be \$150,000; and
- (B) the amount applicable under paragraph (2)(A)(ii) shall be \$10,000.

**(8) Inflation adjustment**

In the case of any taxable year beginning in a calendar year after 2006, each of the dollar amounts in paragraphs (3)(B)(i), (3)(B)(ii), and (7)(A) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (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 \$1,000.

(Added Pub. L. 93-406, title II, § 2002(a)(1), Sept. 2, 1974, 88 Stat. 958; amended Pub. L. 94-455, title XV, §§ 1501(b)(4), 1503(a), title XIX, §§ 1901(a)(32), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1736, 1738, 1769, 1834; Pub. L. 95-600, title I, §§ 152(c), 156(c)(3), 157(a)(1), (b)(1), title VII, § 703(c)(1), Nov. 6, 1978, 92 Stat. 2798, 2803, 2939; Pub. L. 96-222, title I, § 101(a)(10)(D), (14)(B), Apr. 1, 1980, 94 Stat. 202, 204; Pub. L. 97-34, title III, §§ 311(a), 312(c)(1), 313(b)(2), Aug. 13, 1981, 95 Stat. 274, 284, 286; Pub. L. 97-248, title II, § 243(b)(2), Sept. 3, 1982, 96 Stat. 523; Pub. L. 97-448, title I, § 103(c)(1), (2), (3)(A), (4), (5), (12)(A), Jan. 12, 1983, 96 Stat. 2375-2377; Pub. L. 98-369, div. A, title I, § 147(c), title IV, §§ 422(d)(1), 491(d)(6)-(8), title V, § 529(a), (b), title VII, § 713(d)(2), July 18, 1984, 98 Stat. 687, 798, 849, 877, 957; Pub. L. 99-514, title III, § 301(b)(4), title XI, §§ 1101(a), (b)(1), (2)(A), 1102(f), 1103(a), 1108(g)(2), (3), 1109(b), title XV, § 1501(d)(1)(B), title XVIII, § 1875(c)(4), (6)(B), Oct. 22, 1986, 100 Stat. 2217, 2411, 2413, 2417, 2434, 2435, 2740, 2894, 2895; Pub. L. 100-647, title I, § 1011(a)(1), title VI, § 6009(c)(2), Nov. 10, 1988, 102 Stat. 3456, 3690; Pub. L. 101-239, title VII, §§ 7816(c)(1), 7841(c)(1), Dec.

19, 1989, 103 Stat. 2420, 2428; Pub. L. 102-318, title V, § 521(b)(4), July 3, 1992, 106 Stat. 310; Pub. L. 103-337, div. A, title XVI, § 1677(c), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 104-188, title I, §§ 1421(b)(1), 1427(a)-(b)(2), 1807(c)(3), Aug. 20, 1996, 110 Stat. 1795, 1802, 1902; Pub. L. 105-34, title III, §§ 301(a), (b), 302(c), Aug. 5, 1997, 111 Stat. 824, 825, 829; Pub. L. 105-206, title VI, §§ 6005(a), 6018(f)(2), July 22, 1998, 112 Stat. 796, 823; Pub. L. 105-277, div. J, title IV, § 4003(a)(2)(B), Oct. 21, 1998, 112 Stat. 2681-908; Pub. L. 106-554, § 1(a)(7) [title III, § 316(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-644; Pub. L. 107-16, title IV, § 431(c)(1), title VI, §§ 601(a), 641(e)(2), June 7, 2001, 115 Stat. 68, 94, 120; Pub. L. 108-357, title I, § 102(d)(1), Oct. 22, 2004, 118 Stat. 1428; Pub. L. 109-227, § 2(a), May 29, 2006, 120 Stat. 385; Pub. L. 109-280, title VIII, §§ 831(a), 833(b), Aug. 17, 2006, 120 Stat. 1002, 1004; Pub. L. 110-245, title I, § 105(b)(2), June 17, 2008, 122 Stat. 1629; Pub. L. 113-22, § 1, July 25, 2013, 127 Stat. 492; Pub. L. 113-295, div. A, title II, § 221(a)(38), (39)(A), Dec. 19, 2014, 128 Stat. 4043; Pub. L. 115-97, title I, §§ 11002(d)(1)(S), 11051(b)(3)(C), 13305(b)(1), Dec. 22, 2017, 131 Stat. 2060, 2090, 2126; Pub. L. 115-141, div. U, title IV, § 401(a)(55), (56), Mar. 23, 2018, 132 Stat. 1186.)

#### INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

*For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title and Internal Revenue Notices listed in a table under section 401 of this title.*

#### PRIOR PROVISIONS

A prior section 219 was renumbered section 224 of this title.

#### AMENDMENTS

2018—Subsec. (f)(1). Pub. L. 115-141, § 401(a)(55), substituted “term ‘compensation’ includes” for “term compensation includes”.

Subsec. (g)(8). Pub. L. 115-141, § 401(a)(56), substituted “shall be” for “shall each be” in introductory provisions.

2017—Subsec. (b)(5)(C)(i)(II). Pub. L. 115-97, § 11002(d)(1)(S), substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

Subsec. (f)(1). Pub. L. 115-97, § 11051(b)(3)(C), struck out “The term ‘compensation’ shall include any amount includible in the individual’s gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2).” after “deferred compensation.”

Subsec. (g)(3)(A)(ii). Pub. L. 115-97, § 13305(b)(1), struck out “199,” after “137.”

Subsec. (g)(8)(B). Pub. L. 115-97, § 11002(d)(1)(S), substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2014—Subsec. (b)(5)(A). Pub. L. 113-295, § 221(a)(38)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) listed deductible amounts for taxable years 2002 to 2008 and thereafter.

Subsec. (b)(5)(B)(ii). Pub. L. 113-295, § 221(a)(38)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) listed applicable amounts for taxable years 2002 to 2006 and thereafter.

Subsec. (b)(5)(C), (D). Pub. L. 113-295, § 221(a)(38)(C), redesignated subpar. (D) as (C) and struck out former subpar. (C) which related to catchup contributions for certain individuals for taxable years beginning before Dec. 31, 2009.

Subsec. (f)(4). Pub. L. 113-295, § 221(a)(39)(A), struck out par. (4). Text read as follows: “The Secretary shall

prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.”

Subsec. (g)(2)(A)(ii). Pub. L. 113-295, § 221(a)(38)(D), struck out “for a taxable year beginning after December 31, 2006” after “joint return”.

Subsec. (g)(3)(B)(i), (ii). Pub. L. 113-295, § 221(a)(38)(E), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which related to applicable dollar amounts for a taxpayer filing a joint return for taxable years 1998 to 2007 and thereafter and for any other taxpayer (other than a married individual filing a separate return) for taxable years 1998 to 2005 and thereafter, respectively.

Subsec. (g)(8). Pub. L. 113-295, § 221(a)(38)(F), substituted “each of the dollar amounts in paragraphs (3)(B)(i), (3)(B)(ii), and (7)(A)” for “the dollar amount in the last row of the table contained in paragraph (3)(B)(i), the dollar amount in the last row of the table contained in paragraph (3)(B)(ii), and the dollar amount contained in paragraph (7)(A),” in introductory provisions.

Subsec. (h). Pub. L. 113-295, § 221(a)(39)(A), struck out subsec. (h) which read as follows: “For failure to provide required reports, see section 6652(g).”

2013—Subsec. (c). Pub. L. 113-22 substituted “Kay Bailey Hutchison Spousal IRA” for “Special rules for certain married individuals” in heading.

2008—Subsec. (f)(1). Pub. L. 110-245 inserted at end “The term compensation includes any differential wage payment (as defined in section 3401(h)(2)).”

2006—Subsec. (b)(5)(C), (D). Pub. L. 109-280, § 831(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (f)(7), (8). Pub. L. 109-227 added par. (7) and redesignated former par. (7) as (8).

Subsec. (g)(8). Pub. L. 109-280, § 833(b), added par. (8).

2004—Subsec. (g)(3)(A)(ii). Pub. L. 108-357 inserted “199,” before “221”.

2001—Subsec. (b)(1)(A). Pub. L. 107-16, § 601(a)(1), substituted “the deductible amount” for “\$2,000”.

Subsec. (b)(5). Pub. L. 107-16, § 601(a)(2), added par. (5). Subsec. (d)(2). Pub. L. 107-16, § 641(e)(2), substituted “408(d)(3), or 457(e)(16)” for “or 408(d)(3)”.

Subsec. (g)(3)(A)(ii). Pub. L. 107-16, § 431(c)(1), inserted “222,” after “221.”

2000—Subsec. (c)(1)(B)(ii)(II), (III). Pub. L. 106-554 added subcl. (II) and redesignated former subcl. (II) as (III).

1998—Subsec. (g)(1). Pub. L. 105-206, § 6005(a)(1)(A), inserted “or the individual’s spouse” after “individual”.

Subsec. (g)(2)(A)(ii). Pub. L. 105-206, § 6005(a)(2), made technical amendment to directory language of Pub. L. 105-34, § 301(a)(2). See 1997 Amendment note below.

Subsec. (g)(3)(A)(ii). Pub. L. 105-277 inserted “221,” after “137.”

Pub. L. 105-206, § 6018(f)(2), made technical amendment to directory language of Pub. L. 104-188, § 1807(c)(3). See 1996 Amendment note below.

Subsec. (g)(7). Pub. L. 105-206, § 6005(a)(1)(B), added par. (7) and struck out heading and text of former par. (7). Text read as follows: “In the case of an individual who is an active participant at no time during any plan year ending with or within the taxable year but whose spouse is an active participant for any part of any such plan year—

“(A) the applicable dollar amount under paragraph (3)(B)(i) with respect to the taxpayer shall be \$150,000, and

“(B) the amount applicable under paragraph (2)(A)(ii) shall be \$10,000.”

1997—Subsec. (c)(1)(B)(ii). Pub. L. 105-34, § 302(c), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the compensation includible in the gross income of such individual’s spouse for the taxable year reduced by the amount allowed as a deduction under subsection (a) to such spouse for such taxable year.”

Subsec. (g)(1). Pub. L. 105-34, § 301(b)(1), struck out “or the individual’s spouse” after “an individual”.

Subsec. (g)(2)(A)(ii). Pub. L. 105-34, §301(a)(2), as amended by Pub. L. 105-206, §6005(a)(2), inserted “(\$20,000 in the case of a joint return for a taxable year beginning after December 31, 2006)” after “\$10,000”.

Subsec. (g)(3)(B). Pub. L. 105-34, §301(a)(1), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “The term ‘applicable dollar amount’ means—

“(i) in the case of a taxpayer filing a joint return, \$40,000,

“(ii) in the case of any other taxpayer (other than a married individual filing a separate return), \$25,000, and

“(iii) in the case of a married individual filing a separate return, zero.”

Subsec. (g)(7). Pub. L. 105-34, §301(b)(2), added par. (7). 1996—Subsec. (b)(4). Pub. L. 104-188, §1421(b)(1)(A), added par. (4).

Subsec. (c). Pub. L. 104-188, §1427(a), amended subsec. (c) generally, substituting present provisions for former provisions relating to special rules for certain married individuals which set out general provisions in par. (1) and a limitation in par. (2).

Subsec. (f)(2). Pub. L. 104-188, §1427(b)(1), substituted “subsection (b)” for “subsections (b) and (c)”.

Subsec. (g)(1). Pub. L. 104-188, §1427(b)(2), substituted “(c)(1)(A)” for “(c)(2)”.

Subsec. (g)(3)(A)(ii). Pub. L. 104-188, §1807(c)(3), as amended by Pub. L. 105-206, §6018(f)(2), inserted “, 137,” before “and 911”.

Subsec. (g)(5)(A)(vi). Pub. L. 104-188, §1421(b)(1)(B), added cl. (vi).

1994—Subsec. (g)(6)(A). Pub. L. 103-337 substituted “section 10101 of title 10” for “section 261(a) of title 10”.

1992—Subsec. (d)(2). Pub. L. 102-318 substituted “402(c)” for “402(a)(5), 402(a)(7)”.

1989—Subsec. (f)(1). Pub. L. 101-239, §7841(c)(1), inserted at end “For purposes of this paragraph, section 401(c)(2) shall be applied as if the term trade or business for purposes of section 1402 included service described in subsection (c)(6).”

Subsec. (g)(3)(A)(ii). Pub. L. 101-239, §7816(c)(1), made technical correction to directory language of Pub. L. 100-647, §6009(c)(2), see 1988 Amendment note below.

1988—Subsec. (g)(3)(A)(ii). Pub. L. 100-647, §6009(c)(2), as amended by Pub. L. 101-239, §7816(c)(1), substituted “sections 135 and 911” for “section 911”.

Subsec. (g)(4). Pub. L. 100-647, §1011(a)(1), inserted “and living apart” after “filing separately” in heading and amended text generally. Prior to amendment, text read as follows: “In the case of a married individual filing a separate return for any taxable year, paragraph (1) shall be applied without regard to whether such individual’s spouse is an active participant for any plan year ending with or within such taxable year.”

1986—Subsec. (b)(2). Pub. L. 99-514, §1108(g)(2), amended par. (2) generally, substituting provision that this section shall not apply with respect to an employer contribution to a simplified employee pension for former provisions consisting of subpars. (A), (B), and (C) which set out detailed limits on deductibility of employer contributions.

Subsec. (b)(2)(C). Pub. L. 99-514, §1875(c)(6)(B), substituted “the dollar limitation in effect under section 415(c)(1)(A)” for “the \$15,000 amount specified in subparagraph (A)(ii)”.

Subsec. (b)(3). Pub. L. 99-514, §1109(b), added par. (3). Pub. L. 99-514, §1101(b)(2)(A), struck out par. (3), special rule for individual retirement plans, which read as follows: “If the individual has paid any qualified voluntary employee contributions for the taxable year, the amount of the qualified retirement contributions (other than employer contributions to a simplified employee pension) which are paid for the taxable year to an individual retirement plan and which are allowable as a deduction under subsection (a) for such taxable year shall not exceed—

“(A) the amount determined under paragraph (1) for such taxable year, reduced by

“(B) the amount of the qualified voluntary employee contributions for the taxable year.”

Subsec. (c)(1)(B). Pub. L. 99-514, §1103(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “whose spouse has no compensation (determined without regard to section 911) for such taxable year.”

Subsec. (c)(2)(B). Pub. L. 99-514, §1108(g)(3), struck out “(determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b))” after “for the taxable year”.

Subsec. (e). Pub. L. 99-514, §1101(b)(1), amended subsec. (e) generally, revising the definition of “qualified retirement contribution”.

Subsec. (f)(1). Pub. L. 99-514, §301(b)(4), which directed that par. (1) be amended by substituting “paragraph (6)” for “paragraph (7)”, could not be executed because prior amendment by Pub. L. 99-514, §1875(c)(4), see below, struck out language which included phrase “paragraph (7)”.

Pub. L. 99-514, §1875(c)(4), struck out “reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62” after “(as defined in section 401(c)(2))”.

Subsec. (f)(3). Pub. L. 99-514, §1101(a)(2), in amending par. (3) generally, reenacted existing provision without its subpar. “(A) Individual retirement plans” designation, and struck out subpar. (B) relating to time when contributions deemed made with respect to qualified employer or government plans.

Subsec. (f)(7). Pub. L. 99-514, §1102(f), added par. (7).

Subsec. (g). Pub. L. 99-514, §1101(a)(1), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 99-514, §1501(d)(1)(B), which directed that subsec. (g) be amended by substituting “6652(g)” for “6652(h)”, was executed by making the substitution in subsec. (h) to reflect the probable intent of Congress and the prior redesignation of former subsec. (g) as (h) by Pub. L. 99-514, §1101(a)(1).

Pub. L. 99-514, §1101(a)(1), redesignated former subsec. (g) as (h).

1984—Subsec. (b)(2)(A)(ii). Pub. L. 98-369, §713(d)(2), substituted “not in excess of the limitation in effect under section 415(c)(1)(A)” for “not in excess of \$15,000”.

Subsec. (b)(4). Pub. L. 98-369, §529(b), struck out par. (4) which related to a deduction for qualified retirement savings of certain divorced individuals.

Subsec. (b)(4)(B). Pub. L. 98-369, §422(d)(1), substituted “gross income under section 71 (relating to alimony and separate maintenance payments) by reason of a payment under a decree of divorce or separate maintenance or a written agreement incident to such a decree” for “gross income under paragraph (1) of section 71(a) (relating to decree of divorce or separate maintenance)”.

Subsec. (d)(2). Pub. L. 98-369, §491(d)(6), substituted “or 408(d)(3)” for “405(d)(3), 408(d)(3), or 409(b)(3)(C)”.

Subsec. (e)(1). Pub. L. 98-369, §491(d)(7), struck out concluding provision that for the purposes of the preceding sentence, the term “individual retirement plan” includes retirement bonds described in section 409 only if the bond was not redeemed within 12 months of its issuance.

Subsec. (e)(3). Pub. L. 98-369, §491(d)(8), struck out subpar. (C) which included a qualified bond purchase plan described in section 405(a) within term “qualified employer plan”, and redesignated subpar. (D) as (C).

Subsec. (f)(1). Pub. L. 98-369, §529(a), inserted provision that “compensation” shall include any amount includible in the individual’s gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2).

Subsec. (f)(3)(A). Pub. L. 98-369, §147(c), substituted “not including” for “including”.

1983—Subsec. (b)(2)(A). Pub. L. 97-448, §103(c)(12)(A), inserted a close parenthesis after “allowable under paragraph (1)” in introductory provisions.

Subsec. (c)(2)(B). Pub. L. 97-448, §103(c)(1), substituted “the amount allowable as a deduction under subsection (a) for the taxable year (determined without regard to so much of the employer contributions to a simplified

employee pension as is allowable by reason of paragraph (2) of subsection (b))” for “the amount allowed as a deduction under subsection (a) for the taxable year”.

Subsec. (d)(1). Pub. L. 97-448, §103(c)(2), substituted “Beneficiary must be under age 70½” for “Individuals who have attained age 70½” as par. (1) heading and, in text, substituted “qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual’s taxable year for which the contribution was made” for “qualified retirement contribution which is made for a taxable year of an individual if such individual has attained age 70½ before the close of such taxable year”.

Subsec. (e)(3)(D), (E). Pub. L. 97-448, §103(c)(3)(A), redesignated subpar. (E) as (D). Former subpar. (D), which related to simplified employee pension (within the meaning of section 408(k)), was struck out.

Subsec. (f)(1). Pub. L. 97-448, §103(c)(4), substituted “earned income (as defined in section 401(c)(2)) reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62” for “earned income as defined in section 401(c)(2)” and inserted provision that “compensation” does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation.

Subsec. (f)(3)(B). Pub. L. 97-448, §103(c)(5), substituted “if the contribution is made on account of the taxable year which includes such last day and by April 15 of the calendar year” for “if the contribution is made by April 15 of the calendar year”.

1982—Subsec. (d)(4). Pub. L. 97-248 added par. (4).

1981—Subsec. (a). Pub. L. 97-34, §311(a), amended subsec. (a) generally, substituting in heading “Allowance of deduction” for “Deduction allowed” and in text “shall be allowed” for “is allowed”, allowed as a deduction an amount equal to the qualified retirement contributions of the individual for the taxable year, eliminated part of first sentence for allowance as a deduction amounts paid in cash for the taxable year by or on behalf of the individual for his benefit—(1) to an individual retirement annuity described in section 408(a), (2) for an individual retirement annuity described in section 408(b), or (3) for a retirement bond described in section 409 (but only if the bond is not redeemed within 12 months of the date of its issuance), covered in subsec. (e)(1) and (5) of this section, and eliminated second sentence respecting employer payments, covered in subsec. (f)(5) of this section.

Subsec. (b). Pub. L. 97-34, §311(a), in heading substituted “Maximum amount of deduction” for “Limitations and restrictions”.

Subsec. (b)(1). Pub. L. 97-34, §311(a), amended par. (1) generally, substituting “In general” for “Maximum deduction” in heading and in text provision for allowance of a deduction not to exceed the lesser of (A) \$2,000, or (B) an amount equal to the compensation includible in the individual’s gross income for such taxable year, for provision for an amount not to exceed amount equal to 15 percent of the compensation includible in gross income for the taxable year, or \$1,500, whichever is less.

Subsec. (b)(2)(A)(ii), (C). Pub. L. 97-34, §312(c)(1), substituted “\$15,000” for “\$7,500”.

Pub. L. 97-34, §311(a), redesignated par. (7) as (2), substituted in heading “rules for employer contributions under” for “rules in case of”, substituted in subpar. (A) introductory text “an employee shall be allowed as a deduction under subsection (a) (in addition to the amount allowable under paragraph (1) an amount equal to the lesser of” for “the limitation under paragraph (1) shall be the lesser of”, inserted in subpar. (A)(i) “from such employer” before “includible” and substituted therein “without regard” for “with regard”, substituted in subpar. (A)(ii) “the amount contributed by such employer to the simplified employee pension and included in gross income (but not in excess of \$7,500)” for “the sum of—(I) the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of \$7,500), and (II) \$1,500, reduced (but not below zero) by the amount de-

scribed in subclause (I)”, and substituted in subpar. (B) “Paragraph (1) of this subsection and paragraph (1) of subsection (d)” for “Paragraphs (2) and (3)”. Former subsec. (b)(2) provisions which disallowed any deduction under subsec. (a) for an individual for the taxable year if for any part of such year (A) he was an active participant in (i) a plan described in section 401(a), (ii) an annuity plan described in section 403(a), (iii) a qualified bond purchase plan described in section 405(a), or (iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or (B) amounts were contributed by his employer for an annuity contract described in section 403(b), are now covered by subsec. (e)(3) and (4) of this section.

Subsec. (b)(3) to (5). Pub. L. 97-34, §311(a), added pars. (3) and (4). Former pars. (3) to (5) redesignated subsec. (d)(1) to (3).

Subsec. (b)(6). Pub. L. 97-34, §311(a), struck out par. (6) which set forth alternative deduction provisions which disallowed a deduction for the taxable year if the individual claimed the deduction allowed by section 220 for the taxable year.

Subsec. (b)(7). Pub. L. 97-34, §311(a), redesignated par. (7) as (2).

Subsec. (c). Pub. L. 97-34, §311(a), added subsec. (c). Former subsec. (c)(1) to (3) and (5) redesignated subsec. (f)(1), (2), (3)(A), and (6). Former subsec. (c)(4), which provided for participation in governmental plans by certain individuals, with subpars. (A) and (B) covering members of reserve components and volunteer firefighters, was struck out.

Subsec. (d). Pub. L. 97-34, §311(a), in heading redesignated former subsec. (b) heading as subsec. (d) heading and inserted “Other” before “limitations”.

Subsec. (d)(1). Pub. L. 97-34, §311(a), redesignated former subsec. (b)(3) as par. (1), substituted as heading “Individuals who have attained age 70½” for “Contributions after age 70½” and in text “shall be allowed under this section” for “is allowed under subsection (a)”, “qualified retirement contribution” for “payment described in subsection (a)”, and “made for a taxable year of an individual if such individual has attained” for “made during the taxable year of an individual who has attained”.

Subsec. (d)(2). Pub. L. 97-34, §313(b)(2), inserted reference to section 405(d)(3).

Pub. L. 97-34, §311(a), redesignated former subsec. (b)(4) as par. (2) and substituted “shall be allowed” for “is allowed”.

Subsec. (d)(3). Pub. L. 97-34, §311(a), redesignated former subsec. (b)(5) as par. (3) and, as so redesignated, substituted “shall be allowed under this section” for “is allowed under subsection (a)” and “year which is properly allocable” for “year properly allocable”.

Subsec. (e). Pub. L. 97-34, §311(a), added subsec. (e) incorporating former provisions of subsecs. (a) and (b)(2) as pars. (1), and (3) and (4) and, among other changes, inserted provisions relating to a qualified employee pension.

Subsec. (f)(1). Pub. L. 97-34, §311(a), redesignated former subsec. (c)(1) as par. (1).

Subsec. (f)(2). Pub. L. 97-34, §311(a), redesignated former subsec. (c)(2) as par. (2) and, as so redesignated, substituted “deduction under subsections (b) and (c)” for “deduction under subsection (b)(1)”, and struck out provision that for purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a).

Subsec. (f)(3). Pub. L. 97-34, §311(a), redesignated former subsec. (c)(3) as subpar. (A) and, as so redesignated, added subpar. (A) heading “Individual retirement plans”, and “to an individual retirement plan” before “on the last day” in text, and added subpar. (B).

Subsec. (f)(4). Pub. L. 97-34, §311(a), added par. (4).

Subsec. (f)(5). Pub. L. 97-34, §311(a), redesignated former provisions of subsec. (a) as par. (5), added par. (5) heading “Employer payments”, substituted “to an individual retirement plan shall be treated as payment

of compensation to the employee” for “to such a retirement account, or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee”, and “in the taxable year for which the amount was contributed” after “gross income”, and struck out “after the application of subsection (b)” after “under this section to the employee”.

Subsec. (f)(6). Pub. L. 97-34, §311(a), redesignated former subsec. (c)(5) as par. (6), inserted “for contributions to an individual retirement plan” after “under this section” in subpar. (A), and struck out in subpar. (C) “or section 220” after “under this section”.

Subsec. (g). Pub. L. 97-34, §311(a), added subsec. (g).

1980—Subsec. (b)(4). Pub. L. 96-222, §101(a)(14)(B), inserted “402(a)(7),” after “section 402(a)(5)”.

Subsec. (b)(7). Pub. L. 96-222, §101(a)(10)(D), amended par. (7) generally, including provision requiring that paragraph (3) not apply with respect to employer contribution to a simplified employee pension.

1978—Subsec. (b)(4). Pub. L. 95-600, §156(c)(3), inserted “403(b)(8)” after “403(a)(4)”.

Subsec. (b)(7). Pub. L. 95-600, §152(c), added par. (7).

Subsec. (c)(3). Pub. L. 95-600, §157(a)(1), substituted “not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)” for “not later than 45 days after the end of such taxable year”.

Subsec. (c)(4). Pub. L. 95-600, §703(c)(1), substituted “subsection (b)(2)(A)(iv)” for “subsection (b)(3)(A)(iv)” wherever appearing.

Subsec. (c)(5). Pub. L. 95-600, §157(b)(1), added par. (5).

1976—Subsec. (a). Pub. L. 94-455, §1501(b)(4)(B), substituted “for” for “during” after “paid in cash”.

Subsec. (b)(2)(A)(iv). Pub. L. 94-455, §1901(a)(32), substituted “subdivision” for “division” after “State or political”.

Subsec. (b)(5). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b)(6). Pub. L. 94-455, §1501(b)(4)(B), added par. (6).

Subsec. (c)(2). Pub. L. 94-455, §1501(b)(4)(C), inserted “For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a)” after “community property laws”.

Subsec. (c)(3). Pub. L. 94-455, §1501(b)(4)(D), added par. (3).

Subsec. (c)(4). Pub. L. 94-455, §1503(a), added par. (4).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11002(d)(1)(S) 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 11051(b)(3)(C) of Pub. L. 115-97 applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such modification, see section 11051(c) of Pub. L. 115-97, set out as a note under section 61 of this title.

Amendment by section 13305(b)(1) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, except as provided by transition rule, 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 2008 AMENDMENT

Pub. L. 110-245, title I, §105(b)(3), June 17, 2008, 122 Stat. 1629, provided that: “The amendments made by this subsection [amending this section and section 414

of this title] shall apply to years beginning after December 31, 2008.”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title VIII, §831(b), Aug. 17, 2006, 120 Stat. 1003, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.”

Amendment by section 833(b) of Pub. L. 109-280 applicable to taxable years beginning after 2006, see section 833(d) of Pub. L. 109-280, set out as a note under section 25B of this title.

Pub. L. 109-227, §2(b), May 29, 2006, 120 Stat. 385, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2003.”

#### 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 OF 2001 AMENDMENT

Amendment by section 431(c)(1) 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.

Pub. L. 107-16, title VI, §601(c), June 7, 2001, 115 Stat. 95, provided that: “The amendments made by this section [amending this section and section 408 of this title] shall apply to taxable years beginning after December 31, 2001.”

Amendment by section 641(e)(2) of Pub. L. 107-16 applicable to distributions after Dec. 31, 2001, see section 641(f)(1) of Pub. L. 107-16, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-554 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which such amendment relates, see section §1(a)(7) [title III, §316(e)] of Pub. L. 106-554, set out as a note under section 51 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(f) of Pub. L. 105-277, set out as a note under section 86 of this title.

Amendment by section 6018(f)(2) of Pub. L. 105-206 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which such amendment relates, see section 6018(h) of Pub. L. 105-206, set out as a note under section 23 of this title.

Amendment by section 6005(a) of 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 OF 1997 AMENDMENT

Pub. L. 105-34, title III, §301(c), Aug. 5, 1997, 111 Stat. 825, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.”

Pub. L. 105-34, title III, §302(f), Aug. 5, 1997, 111 Stat. 829, provided that: “The amendments made by this section [enacting section 408A of this title and amending this section and sections 408 and 4973 of this title] shall apply to taxable years beginning after December 31, 1997.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1421(b)(1) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996,



see section 1421(e) of Pub. L. 104-188, set out as a note under section 72 of this title.

Pub. L. 104-188, title I, § 1427(c), Aug. 20, 1996, 110 Stat. 1802, provided that: "The amendments made by this section [amending this section and section 408 of this title] shall apply to taxable years beginning after December 31, 1996."

Amendment by section 1807(c)(3) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1807(e) of Pub. L. 104-188, set out as an Effective Date note under section 23 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102-318, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7816(c)(1) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

Pub. L. 101-239, title VII, § 7841(c)(2), Dec. 19, 1989, 103 Stat. 2428, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to contributions after the date of the enactment of this Act [Dec. 19, 1989] in taxable years ending after such date."

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, § 1011(a)(2), Nov. 10, 1988, 102 Stat. 3456, provided that:

"(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall apply to taxable years beginning after December 31, 1987.

"(B) A taxpayer may elect to have the amendment made by paragraph (1) apply to any taxable year beginning in 1987."

Amendment by section 6009(c)(2) of Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1989, see section 6009(d) of Pub. L. 100-647, set out as a note under section 86 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 301(b)(4) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 301(c) of Pub. L. 99-514, set out as a note under section 62 of this title.

Amendment by section 1101(a), (b)(1), (2)(A) of Pub. L. 99-514 applicable to contributions for taxable years beginning after Dec. 31, 1986, see section 1101(c) of Pub. L. 99-514, set out as a note under section 72 of this title.

Pub. L. 99-514, title XI, § 1102(g), Oct. 22, 1986, 100 Stat. 2417, provided that: "The amendments made by this section [amending this section and sections 408, 3405, 4973, and 6693 of this title] shall apply to contributions and distributions for taxable years beginning after December 31, 1986."

Pub. L. 99-514, title XI, § 1103(b), Oct. 22, 1986, 100 Stat. 2417, provided that: "The amendment made by this section [amending this section] shall apply to taxable years beginning before, on, or after December 31, 1985."

Pub. L. 99-514, title XI, § 1108(h), Oct. 22, 1986, 100 Stat. 2435, as amended by Pub. L. 100-647, title I, § 1011(f)(7), Nov. 10, 1988, 102 Stat. 3463, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 402, 404, 408, 415, 3121, and 3306 of this title] shall apply to years beginning after December 31, 1986.

"(2) INTEGRATION RULES.—Subparagraphs (D) and (E) of section 408(k)(3) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) shall continue to apply for years beginning after December 31, 1986, and before January 1, 1989, except that employer contributions under an arrangement under section 408(k)(6) of the Internal Revenue Code of 1986 (as added by this section) may not be integrated under such subparagraphs."

Pub. L. 99-514, title XI, § 1109(c), Oct. 22, 1986, 100 Stat. 2435, provided that: "The amendments made by this section [amending this section and section 501 of this title] shall apply to taxable years beginning after December 31, 1986."

Amendment by section 1501(d)(1)(B) of Pub. L. 99-514, applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1875(c)(4), (6)(B) of Pub. L. 99-514 effective as if included in the amendments made by section 238 of Pub. L. 97-248, which amended sections 401, 404, 408, 415, and 1379 of this title, see section 1875(c)(12) of Pub. L. 99-514, set out as a note under section 62 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, § 147(d), July 18, 1984, 98 Stat. 687, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 408 of this title] shall apply to contributions made after December 31, 1984.

"(2) SUBSECTION (b).—The amendment made by subsection (b) [amending section 6693 of this title] shall apply to failures occurring after the date of the enactment of this Act [July 18, 1984]."

Pub. L. 98-369, div. A, title IV, § 422(e), July 18, 1984, 98 Stat. 798, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 71, 215, 682, 6676, and 7701 of this title] shall apply with respect to divorce or separation instruments (as defined in section 71(b)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this section) executed after December 31, 1984.

"(2) MODIFICATIONS OF INSTRUMENTS EXECUTED BEFORE JANUARY 1, 1985.—The amendments made by this section shall also apply to any divorce or separation instrument (as so defined) executed before January 1, 1985, but modified on or after such date if the modification expressly provides that the amendments made by this section shall apply to such modification.

"(3) REQUIREMENT OF IDENTIFICATION NUMBER.—[Former] Section 215(c) of the Internal Revenue Code of 1986 (as amended by subsection (b)) and the amendments made by subsection (c) [amending section 6676 of this title] shall apply to payments made after December 31, 1984."

Amendment by section 491(d)(6)–(8) of Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

Pub. L. 98-369, div. A, title V, § 529(c), July 18, 1984, 98 Stat. 877, provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1984."

Amendment by section 713(d)(2) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981,

Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to with respect to individuals dying after Dec. 31, 1983, see section 243(c) of Pub. L. 97-248, as amended, set out as a note under section 408 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title III, §311(i), Aug. 13, 1981, 95 Stat. 282, as amended by Pub. L. 97-448, title I, §103(c)(11), Jan. 12, 1983, 96 Stat. 2377; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section [amending this section and sections 62, 72, 402, 403, 408, 409, 415, 2039, 2503, 2517, 3401, 4973, 6047, and 6652 of this title and repealing section 220 of this title] shall apply to taxable years beginning after December 31, 1981.

“(2) TRANSITIONAL RULE.—For purposes of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], any amount allowed as a deduction under section 220 of such Code (as in effect before its repeal by this Act) shall be treated as if it were allowed by section 219 of such Code.

“(3) CERTAIN BOND ROLLOVER PROVISIONS.—The amendment made by subsection (g)(3) [amending section 409 of this title] shall apply to taxable years beginning after December 31, 1974.

“(4) SECTION 415 AMENDMENTS.—The amendments made by subsections (g)(4) and (h)(3) [amending section 415 of this title] shall apply to years after December 31, 1981.

“(5) ESTATE AND GIFT TAX PROVISIONS.—

“(A) ESTATE TAX.—The amendments made by subsections (d)(1) and (h)(4) [amending section 2039 of this title] shall apply to the estates of decedents dying after December 31, 1981.

“(B) GIFT TAX.—The amendments made by subsections (d)(2) and (h)(5) [amending sections 2503 and 2517 of this title] shall apply to transfers after December 31, 1981.”

Amendment by section 312(c)(1) of Pub. L. 97-34 applicable to plans which include employees within the meaning of section 401(c)(1) of this title with respect to taxable years beginning after Dec. 31, 1981, see section 312(f)(1) of Pub. L. 97-34, set out as a note under section 72 of this title.

Pub. L. 97-34, title III, §313(c), Aug. 13, 1981, 95 Stat. 286, provided that: “The amendments made by this section [amending this section and sections 405, 408, 2039, and 4973 of this title] shall apply to redemptions after the date of the enactment of this Act [Aug. 13, 1981] in taxable years ending after such date.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600 to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 152(c) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 152(h) of Pub. L. 95-600, set out as a note under section 408 of this title.

Amendment by section 156(c)(3) of Pub. L. 95-600 applicable to distributions or transfers made after Dec. 31, 1977, in taxable years beginning after such date, see section 156(d) of Pub. L. 95-600 set out as a note under section 403 of this title.

Pub. L. 95-600, title I, §157(a)(3), Nov. 6, 1978, 92 Stat. 2803, provided that: “The amendments made by this subsection [amending this section and section 220 of this title] shall apply to taxable years beginning after December 31, 1977.”

Pub. L. 95-600, title I, §157(b)(4)(A), Nov. 6, 1978, 92 Stat. 2805, provided that: “The amendments made by this subsection [amending this section and sections 220 and 4973 of this title] shall apply to the determination of deductions for taxable years beginning after December 31, 1975.”

Pub. L. 95-600, title VII, §703(c)(5), Nov. 6, 1978, 92 Stat. 2939, provided that: “The amendments made by this subsection [amending this section and sections 220 and 408 of this title] shall apply to taxable years beginning after December 31, 1976.”

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1501(b)(4) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1976, see section 1501(d) of Pub. L. 94-455, set out as an Effective Date note under section 62 of this title.

Pub. L. 94-455, title XV, §1503(b), Oct. 4, 1976, 90 Stat. 1738, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1975.”

Amendment by section 1901(a)(32) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

#### EFFECTIVE DATE

Pub. L. 93-406, title II, §2002(i)(1), Sept. 2, 1974, 88 Stat. 971, provided that: “The amendments made by subsections (a), (b), and (c) [of section 2002 of Pub. L. 93-406, enacting this section and sections 408 and 409 of this title and amending section 62 of this title] apply to taxable years beginning after December 31, 1974.”

#### CONTRIBUTIONS FOR TAXABLE YEARS ENDING BEFORE MAY 29, 2006

Pub. L. 109-227, §2(c), May 29, 2006, 120 Stat. 385, provided that:

“(1) IN GENERAL.—In the case of any taxpayer with respect to whom compensation was excluded from gross income under section 112 of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 2003, and ending before the date of the enactment of this Act [May 29, 2006], any contribution to an individual retirement plan made on account of such taxable year and not later than the last day of the 3-year period beginning on the date of the enactment of this Act shall be treated, for purposes of such Code, as having been made on the last day of such taxable year.

“(2) WAIVER OF LIMITATIONS.—

“(A) CREDIT OR REFUND.—If the credit or refund of any overpayment of tax resulting from a contribution to which paragraph (1) applies is prevented at any time by the operation of any law or rule of law (including *res judicata*), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date that such contribution is made (determined without regard to paragraph (1)).

“(B) ASSESSMENT OF DEFICIENCY.—The period for assessing a deficiency attributable to a contribution to which paragraph (1) applies shall not expire before the close of the 3-year period beginning on the date that such contribution is made. Such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(3) INDIVIDUAL RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term ‘individual retirement plan’ has the meaning given such term by section 7701(a)(37) of such Code.”

#### CLARIFICATION OF TREATMENT OF FEDERAL JUDGES

Pub. L. 100-203, title X, §10103, Dec. 22, 1987, 101 Stat. 1330-386, as amended by Pub. L. 100-647, title II, §2004(c), Nov. 10, 1988, 102 Stat. 3599, provided that:

“(a) GENERAL RULE.—A Federal judge—

“(1) shall be treated as an active participant in a plan established for its employees by the United States for purposes of section 219(g) of the Internal Revenue Code of 1986, and

“(2) shall be treated as an employee for purposes of chapter 1 of such Code.

“(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning after December 31, 1987.”

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521–523] of title V of Pub. L. 102–318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102–318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] or title XVIII [§§1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

TRANSITIONAL RULES FOR ALLOWABLE DEDUCTIONS FOR  
FIRST TAXABLE YEAR BEGINNING IN 1978

Pub. L. 95–600, title I, §157(b)(4)(B), Nov. 6, 1978, 92 Stat. 2805, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “If, but for this subparagraph, an amount would be allowable as a deduction by reason of section 219(c)(5) or 220(c)(6) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for a taxable year beginning before January 1, 1978, such amount shall be allowable only for the taxpayer’s first taxable year beginning in 1978.”

## § 220. Archer MSAs

### (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 such individual to an Archer MSA 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 the amount equal to 1/2 of—

(A) in the case of an individual who has self-only coverage under the high deductible

health plan as of the first day of such month, 65 percent of the annual deductible under such coverage, and

(B) in the case of an individual who has family coverage under the high deductible health plan as of the first day of such month, 75 percent of the annual deductible under such coverage.

### (3) 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) of this paragraph) shall be divided equally between them unless they agree on a different division.

### (4) Deduction not to exceed compensation

#### (A) Employees

The deduction allowed under subsection (a) for contributions as an eligible individual described in subclause (I) of subsection (c)(1)(A)(iii) shall not exceed such individual’s wages, salaries, tips, and other employee compensation which are attributable to such individual’s employment by the employer referred to in such subclause.

#### (B) Self-employed individuals

The deduction allowed under subsection (a) for contributions as an eligible individual described in subclause (II) of subsection (c)(1)(A)(iii) shall not exceed such individual’s earned income (as defined in section 401(c)(1)) derived by the taxpayer from the trade or business with respect to which the high deductible health plan is established.

#### (C) Community property laws not to apply

The limitations under this paragraph shall be determined without regard to community property laws.

### (5) Coordination with exclusion for employer contributions

No deduction shall be allowed under this section for any amount paid for any taxable year to an Archer MSA of an individual if—

(A) any amount is contributed to any Archer MSA of such individual for such year which is excludable from gross income under section 106(b), or

(B) if such individual’s spouse is covered under the high deductible health plan covering such individual, any amount is contributed for such year to any Archer MSA of such spouse which is so excludable.

### (6) Denial of deduction to dependents

No deduction shall be allowed under this section 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.

### (7) Medicare eligible individuals

The limitation under this subsection for any month with respect to an individual shall be