

116TH CONGRESS  
1ST SESSION

# H. R. 4117

To reduce the disadvantages of individual retirement plans with respect to employer-sponsored retirement plans by helping taxpayers comply with laws affecting individual retirement plans, by providing for reduced penalties under the Internal Revenue Code of 1986 for certain self-corrections with respect to such laws, and by expanding the Employee Plans Compliance Resolution System to cover certain errors under individual retirement plans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2019

Mr. KIND (for himself and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To reduce the disadvantages of individual retirement plans with respect to employer-sponsored retirement plans by helping taxpayers comply with laws affecting individual retirement plans, by providing for reduced penalties under the Internal Revenue Code of 1986 for certain self-corrections with respect to such laws, and by expanding the Employee Plans Compliance Resolution System to cover certain errors under individual retirement plans, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “IRA Preservation Act  
3 of 2019”.

4 **SEC. 2. EDUCATION WITH RESPECT TO IRAS.**

5 The Secretary of the Treasury shall make available  
6 to the public the following information:

7 (1) An overview of the laws and regulations re-  
8 lated to individual retirement plans (as defined in  
9 section 7701(a)(37) of the Internal Revenue Code of  
10 1986), including—

11 (A) limits on contributions;

12 (B) limits on deductions for contributions;

13 (C) rollovers;

14 (D) minimum required distributions;

15 (E) nonexempt prohibited transactions;

16 and

17 (F) tax consequences for early distribu-  
18 tions.

19 (2) Examples of common errors by taxpayers  
20 with respect to the laws and regulations described in  
21 paragraph (1) and instructions on how to avoid such  
22 errors.

23 **SEC. 3. REDUCTION OF EXCISE TAXES FOR VOLUNTARY**  
24 **CORRECTION OF COMMON IRA ERRORS.**

25 (a) REDUCTION IN EXCISE TAX ON EXCESS CON-  
26 TRIBUTIONS.—Section 4973 of the Internal Revenue Code

1 of 1986 is amended by adding at the end the following  
2 new subsection:

3 “(i) REDUCTION OF TAX IN CERTAIN CASES.—

4 “(1) REDUCTION.—In the case of a taxpayer  
5 who—

6 “(A) corrects, during the correction win-  
7 dow, an excess contribution which was made to  
8 an individual retirement plan and which re-  
9 sulted in imposition of a tax under paragraph  
10 (1) or (3) of subsection (a), and

11 “(B) submits a return, during the correc-  
12 tion window, reflecting such tax (as modified by  
13 this subsection),

14 the first and second sentences of subsection (a) shall  
15 be applied by substituting ‘3 percent’ for ‘6 percent’  
16 each place it appears.

17 “(2) CORRECTION WINDOW.—For purposes of  
18 this subsection, the term ‘correction window’ means  
19 the period beginning on the date on which the tax  
20 under subsection (a) is imposed with respect to an  
21 excess contribution, and ending on the earlier of—

22 “(A) the date on which the Secretary initi-  
23 ates an audit, or otherwise demands payment,  
24 with respect to the excess contribution, or

1           “(B) the last day of the second taxable  
 2           year that begins after the end of the taxable  
 3           year in which the tax under subsection (a) is  
 4           imposed.”.

5           (b) REDUCTION IN EXCISE TAX ON FAILURES TO  
 6 TAKE REQUIRED MINIMUM DISTRIBUTIONS.—

7           (1) IN GENERAL.—Section 4974 of the Internal  
 8           Revenue Code of 1986 is amended by adding at the  
 9           end the following new subsection:

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

11           “(1) REDUCTION.—In the case of a taxpayer  
 12          who—

13           “(A) corrects, during the correction win-  
 14          dow, a shortfall of distributions from an indi-  
 15          vidual retirement plan which resulted in imposi-  
 16          tion of a tax under subsection (a), and

17           “(B) submits a return, during the correc-  
 18          tion window, reflecting such tax (modified by  
 19          this subsection),

20          the first sentence of subsection (a) shall be applied  
 21          by substituting ‘10 percent’ for ‘50 percent’.

22          “(2) CORRECTION WINDOW.—For purposes of  
 23          this subsection, the term ‘correction window’ means  
 24          the period of time beginning on the date on which  
 25          the tax under subsection (a) is imposed with respect

to a shortfall of distributions from an individual retirement plan, and ending on the earlier of—

“(A) the date on which the Secretary initiates an audit, or otherwise demands payment, with respect to the shortfall of distributions, or

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

**SEC. 4. HARMONIZATION OF TREATMENT OF IRAS WITH EMPLOYER PLANS.**

(a) ELIMINATION OF ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS.—Section 72(t)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking “or” at the end of clause (vii);

(2) by striking the period at the end of clause (viii) and inserting “, or”; and

(3) by inserting after clause (viii) the following new clause:

“(ix) attributable to withdrawal of interest or other income earned on excess contributions (as defined in section 4973(b) (without regard to the second to last sentence thereof)) to an individual retirement plan.”.

1 (b) REPEAL OF TAX DISQUALIFICATION PENALTY.—

2 (1) IN GENERAL.—Paragraph (2) of section  
3 408(e) of the Internal Revenue Code of 1986 is re-  
4 pealed.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Section 408(e)(1) of the Internal Rev-  
7 enue Code of 1986 is amended by striking “(2)  
8 or”.

9 (B) Sections 220(e)(2), 223(e)(2), and  
10 530(e) of the Internal Revenue Code of 1986  
11 are each amended by striking “paragraphs (2)  
12 and (4) of section 408(e)” and inserting “sec-  
13 tion 408(e)(4)”.

14 (C) Section 4975(c)(3) of the Internal  
15 Revenue Code of 1986 is amended by striking  
16 “the account ceases to be an individual retire-  
17 ment account by reason of the application of  
18 section 408(e)(2)(A) or if”.

19 (c) STATUTE OF LIMITATIONS.—Section 6501(l) of  
20 the Internal Revenue Code of 1986 is amended—

21 (1) in paragraph (1), by inserting “(other than  
22 with respect to an individual retirement plan)” after  
23 “section 4975”; and

24 (2) by adding at the end the following new  
25 paragraph:

1           “(4) INDIVIDUAL RETIREMENT PLANS.—For  
2           purposes of any tax imposed by section 4973, 4974,  
3           or 4975 in connection with an individual retirement  
4           plan, the return referred to in this section shall be  
5           the income tax return filed by the person on whom  
6           the tax under such section is imposed for the year  
7           in which the act (or failure to act) giving rise to the  
8           liability for such tax occurred. In the case of a per-  
9           son who is not required to file an income tax return  
10          for such year—

11                 “(A) the return referred to in this section  
12                 shall be the income tax return that such person  
13                 would have been required to file but for the fact  
14                 that such person was not required to file such  
15                 return, and

16                 “(B) the 3-year period referred to in sub-  
17                 section (a) with respect to the return shall be  
18                 deemed to begin on the date by which the re-  
19                 turn would have been required to be filed (ex-  
20                 cluding any extension thereof).”.

21 **SEC. 5. EXPANSION OF EMPLOYEE PLANS COMPLIANCE**  
22 **RESOLUTION SYSTEM.**

23           (a) EPCRS FOR IRAS.—The Secretary shall expand  
24 the Employee Plans Compliance Resolution System to  
25 allow trustees, custodians, and issuers of individual retire-

1 ment plans (as defined in section 7701(a)(37) of the Inter-  
 2 nal Revenue Code of 1986) to address inadvertent failures  
 3 for which the owner of an individual retirement plan was  
 4 not at fault, including (but not limited to)—

5 (1) waivers of the excise tax which would other-  
 6 wise apply under section 4974 of the Internal Rev-  
 7 enue Code of 1986;

8 (2) under the self-correction component of the  
 9 Employee Plans Compliance Resolution System,  
 10 waivers of the 60-day deadline for a rollover where  
 11 the deadline is missed for reasons beyond the rea-  
 12 sonable control of the account owner; and

13 (3) rules permitting a nonspouse beneficiary to  
 14 return distributions to an inherited individual retire-  
 15 ment plan described in section 408(d)(3)(C) of the  
 16 Internal Revenue Code of 1986 in a case where, due  
 17 to an inadvertent error by a service provider, the  
 18 beneficiary had reason to believe that the distribu-  
 19 tion could be rolled over without inclusion in income  
 20 of any part of the distributed amount.

21 (b) REQUIRED MINIMUM DISTRIBUTION CORREC-  
 22 TIONS.—The Secretary shall expand the Employee Plans  
 23 Compliance Resolution System to allow plans to which  
 24 such system applies and trustees, custodians, issuers, and  
 25 owners of individual retirement plans to self-correct, with-



1 out an excise tax, any inadvertent failures pursuant to  
2 which a distribution is made no more than 180 days after  
3 it was required to be made.

4 (c) INADVERTENT FAILURE.—For purposes of this  
5 section—

6 (1) IN GENERAL.—Except as provided in para-  
7 graph (2), the term “inadvertent failure” means a  
8 failure that occurs despite the existence of practices  
9 and procedures which—

10 (A) satisfy the standards set forth in sec-  
11 tion 4.04 of Revenue Procedure 2018–52 (or  
12 any successor provision); or

13 (B) satisfy similar standards in the case of  
14 an individual retirement plan.

15 (2) CORRECTION BY OWNER OF INDIVIDUAL  
16 RETIREMENT PLAN.—In the case of a correction by  
17 an owner of an individual retirement plan under  
18 subsection (b), the term “inadvertent failure” means  
19 a failure due to reasonable cause.

20 **SEC. 6. EFFECTIVE DATE.**

21 (a) IN GENERAL.—Subject to subsections (b) and (c),  
22 this Act and the amendments made by this Act shall take  
23 effect on the date of the enactment of this Act.

24 (b) TRANSITION PROVISIONS.—

1           (1) IN GENERAL.—The amendments made by  
2       this Act shall apply to any determination of or af-  
3       fecting liability for taxes, interest, or penalties which  
4       is made on or after the date of the enactment of this  
5       Act, without regard to whether the conduct upon  
6       which the determination is based occurred before  
7       such date of enactment. Notwithstanding the pre-  
8       ceding sentence, nothing in the amendments made  
9       by section 4(a) shall be construed to create an infer-  
10      ence with respect to the law in effect prior to the ef-  
11      fective date of such amendments.

12           (2) CALCULATION OF CORRECTION WINDOW IN  
13      CERTAIN CASES.—In the case of an error that would  
14      have been eligible for correction under section  
15      4973(i) or 4974(e) (as added by this section) of the  
16      Internal Revenue Code of 1986 if tax had not been  
17      imposed under 4973(a) or 4974(a), as the case may  
18      be, of such Code before the date of the enactment  
19      of this Act, the correction window referred to in sec-  
20      tions 4973(i) and 4974(e) of such Code shall be the  
21      period beginning on the date on which such tax was  
22      imposed and ending on the earlier of—

23           (A) the date on which the Secretary of the  
24      Treasury initiates an audit or otherwise de-  
25      mands payment with respect to the conduct de-

1           scribed in section 4973(a) or 4974(a), as the  
2           case may be, of such Code; or

3                   (B) the last day of the second taxable year  
4           that begins after the taxable year in which the  
5           date of the enactment of this Act occurs.

6       (c) IMPLEMENTATION.—Section 2 shall be imple-  
7       mented as soon as reasonably practicable after the enact-  
8       ment of this Act but in no case later than the date that  
9       is 1 year after the date of the enactment of this Act.

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