

116TH CONGRESS
1ST SESSION

H. R. 1859

To amend the Internal Revenue Code of 1986 to provide for parent savings accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2019

Mr. KATKO (for himself and Mr. BRINDISI) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide
for parent savings accounts, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Working Parents
5 Flexibility Act of 2019”.

6 **SEC. 2. PARENTAL LEAVE SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Part VII of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by redesignating section 224 as section 225 and by insert-
10 ing after section 223 the following new section:

1 **“SEC. 224. PARENTAL LEAVE SAVINGS ACCOUNTS.**

2 “(a) ALLOWANCE OF DEDUCTION.—

3 “(1) IN GENERAL.—In the case of an individual
4 who is an eligible individual for any month during
5 the taxable year, there shall be allowed as a deduc-
6 tion for the taxable year an amount equal to the ag-
7 gregate amount paid in cash during such taxable
8 year by such individual to a parental leave savings
9 account of such individual.

10 “(b) LIMITATIONS.—

11 “(1) ANNUAL LIMITATION FOR ANY YEAR.—

12 The amount allowable as a deduction under sub-
13 section (a) to an eligible individual for the taxable
14 year shall not exceed \$6,750.

15 “(2) OVERALL LIMITATION.—The aggregate
16 amounts contributed to a parental leave savings ac-
17 count for all taxable years shall not exceed \$24,000.

18 “(3) ADJUSTED GROSS INCOME LIMITATION.—

19 In the case of a taxpayer whose adjusted gross in-
20 come exceeds \$250,000 for the taxable year, the dol-
21 lar limitation under paragraph (1) for such taxable
22 year shall be zero.

23 “(4) DENIAL OF DEDUCTION TO DEPEND-

24 ENTS.—No deduction shall be allowed under this
25 section to any individual with respect to whom a de-
26 duction under section 151 is allowable to another

1 taxpayer for a taxable year beginning in the cal-
 2 endar year in which such individual's taxable year
 3 begins.

4 “(5) COORDINATION WITH EMPLOYER CON-
 5 TRIBUTIONS.—The limitation which would (but for
 6 this paragraph) apply under this subsection to an in-
 7 dividual for any taxable year shall be reduced (but
 8 not below zero) by the aggregate amount contributed
 9 to a parental leave savings account of such indi-
 10 vidual which is excludable from the taxpayer's ad-
 11 justed gross income for such taxable year under sec-
 12 tion 139G (and such amount shall not be allowed as
 13 a deduction under subsection (a)).

14 “(c) ELIGIBLE INDIVIDUAL.—For purposes of this
 15 section, the term ‘eligible individual’ means, with respect
 16 to any month, any individual who has earned income from
 17 employment during the 12 months preceding the month
 18 in which the parental leave savings account is established.

19 “(d) PARENTAL LEAVE SAVINGS ACCOUNT.—For
 20 purposes of this section:

21 “(1) IN GENERAL.—The term ‘parental leave
 22 savings account’ means a trust created or organized
 23 in the United States exclusively for the purpose of
 24 making distributions for the care of a child of the
 25 account owner, but only if the written governing in-

1 strument creating the trust meets the following re-
2 quirements:

3 “(A) Except in the case of a rollover con-
4 tribution described in subsection (e)(3), no con-
5 tribution will be accepted—

6 “(i) unless it is in cash, or

7 “(ii) to the extent such contribution—

8 “(I) when added to previous con-
9 tributions to the trust for the calendar
10 year, exceeds the dollar amount in ef-
11 fect under subsection (b)(1), or

12 “(II) when added to all previous
13 contributions to the trust, exceeds the
14 limit under subsection (b)(2).

15 “(B) The trustee is a bank (as defined in
16 section 408(n)), or another person who dem-
17 onstrates to the satisfaction of the Secretary
18 that the manner in which such person will ad-
19 minister the trust will be consistent with the re-
20 quirements of this section.

21 “(C) No part of the trust assets will be in-
22 vested in life insurance contracts.

23 “(D) The assets of the trust will not be
24 commingled with other property except in a

1 common trust fund or common investment
2 fund.

3 “(E) The interest of an individual in the
4 balance in his account is nonforfeitable.

5 “(2) CERTAIN RULES TO APPLY.—Rules similar
6 to the following rules shall apply for purposes of this
7 section:

8 “(A) Section 219(d)(2) (relating to no de-
9 duction for rollovers).

10 “(B) Section 219(f)(3) (relating to time
11 when contributions deemed made).

12 “(C) Except as provided in section 106(d),
13 section 219(f)(5) (relating to employer pay-
14 ments).

15 “(D) Section 408(g) (relating to commu-
16 nity property laws).

17 “(e) TAX TREATMENT OF DISTRIBUTIONS.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), any distribution from a parental leave
20 savings account shall be included in the gross in-
21 come of the account owner.

22 “(2) EARLY PARENTHOOD PAYMENTS OR IMME-
23 DIATE RETURN OF CONTRIBUTIONS.—

1 “(A) IN GENERAL.—Any amount paid or
2 distributed out of a parental leave savings ac-
3 count which—

4 “(i) is made pursuant to a request by
5 the account owner and not later than 1
6 year after the birth or adoption of a child
7 of the account owner, or

8 “(ii) is not more than the amount of
9 contributions made to the account during
10 the 30-day period ending on the date of
11 such distribution,

12 shall not be included in gross income. Clause
13 (ii) shall not apply if a deduction is allowed
14 with respect to such contribution.

15 “(B) RETURN OF CONTRIBUTION NOT
16 TAKEN INTO ACCOUNT IN DETERMINING DE-
17 DUCTION.—The amount allowed as a deduction
18 under subsection (a) for the taxable year (deter-
19 mined without regard to this subparagraph)
20 shall be reduced by the amount of distributions
21 made during the taxable year under subpara-
22 graph (A)(ii).

23 “(C) COORDINATION WITH DEPENDENT
24 CARE TAX CREDIT.—The employment-related
25 expenses (as defined in section 21(b)(2)) taken

1 into account with respect to any child of the
2 taxpayer in determining the credit under sec-
3 tion 21 for the taxable year (determined with-
4 out regard to this subparagraph) shall be re-
5 duced by any amounts excluded from gross in-
6 come for the taxable year under subparagraph
7 (A)(i) with respect to such child.

8 “(3) ROLLOVER CONTRIBUTIONS.—An amount
9 is described in this paragraph as a rollover contribu-
10 tion if it meets the requirements of subparagraphs
11 (A) and (B).

12 “(A) IN GENERAL.—Paragraph (1) shall
13 not apply to any amount paid or distributed
14 from a parental leave savings account to the ac-
15 count owner if—

16 “(i) the entire amount received is paid
17 into an individual retirement account or in-
18 dividual retirement annuity (other than an
19 endowment contract) for the benefit of
20 such individual not later than the 60th day
21 after the day on which he receives the pay-
22 ment or distribution, or

23 “(ii) the entire amount received is
24 paid into an eligible retirement plan for
25 the benefit of such individual not later

1 than the 60th day after the date on which
2 the payment or distribution is received, ex-
3 cept the maximum amount which may be
4 paid into such plan may not exceed the
5 portion of the amount received which is in-
6 cludible in gross income (determined with-
7 out regard to this paragraph).

8 For purposes of clause (ii), the term ‘eligible re-
9 tirement plan’ means an eligible retirement plan
10 described in clause (iii), (iv), (v), or (vi) of sec-
11 tion 402(c)(8)(B).

12 “(B) LIMITATION.—This paragraph does
13 not apply to any amount described in subpara-
14 graph (A)(i) received by an individual from a
15 parental leave savings account if at any time
16 during the 1-year period ending on the day of
17 such receipt such individual received any other
18 amount described in that subparagraph from a
19 parental leave savings account which was not
20 includible in his gross income because of the ap-
21 plication of this paragraph.

22 “(C) SPECIAL RULE FOR 529 AND 529A
23 FUNDING DISTRIBUTIONS.—

24 “(i) IN GENERAL.—A plan shall not
25 fail to be treated as a parental leave sav-

1 ings account under this section solely be-
2 cause the account provides for distribu-
3 tions from a parental leave savings account
4 to a qualified tuition program (as defined
5 in section 529(b)) or a qualified ABLE
6 program (as defined in section 529A(b)) of
7 the taxpayer or a child of the taxpayer (as
8 defined in section 529(e)).

9 “(ii) TAX TREATMENT.—Paragraph
10 (1) shall not apply to so much of any such
11 distribution as is allocable to earnings on
12 the amounts contributed by the taxpayer to
13 the parental leave savings account.

14 “(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT
15 USED FOR EARLY PARENTHOOD PAYMENTS.—The
16 tax imposed by this chapter on the account owner
17 for any taxable year in which there is a payment or
18 distribution from a parental leave savings account of
19 such account owner which is includible in gross in-
20 come under subparagraph (1) shall be increased by
21 20 percent of the amount which is so includible. The
22 preceding sentence shall not apply to the portion of
23 a distribution described in subparagraph (C)(i) that
24 is so includible.

1 “(5) EXCESS CONTRIBUTIONS RETURNED BE-
2 FORE DUE DATE OF RETURN.—

3 “(A) IN GENERAL.—If any excess con-
4 tribution is contributed for a taxable year to
5 any parental leave savings account of an indi-
6 vidual, paragraph (1) shall not apply to dis-
7 tributions from the parental leave savings ac-
8 count of such individual (to the extent such dis-
9 tributions do not exceed the aggregate excess
10 contributions to the account of such individual
11 for such year) if—

12 “(i) such distribution is received by
13 the individual on or before the last day
14 prescribed by law (including extensions of
15 time) for filing such individual’s return for
16 such taxable year, and

17 “(ii) such distribution is accompanied
18 by the amount of net income attributable
19 to such excess contribution.

20 Any net income described in clause (ii) shall be
21 included in the gross income of the individual
22 for the taxable year in which it is received.

23 “(B) EXCESS CONTRIBUTION.—For pur-
24 poses of subparagraph (A), the term ‘excess
25 contribution’ means any contribution (other

1 than a rollover contribution described in para-
2 graph (3)) which is neither excludable from
3 gross income under section 139G nor deductible
4 under this section.

5 “(6) TRANSFER OF ACCOUNT INCIDENT TO DI-
6 VORCE.—The transfer of an individual’s interest in
7 a parental leave savings account to an individual’s
8 spouse or former spouse under a divorce or separa-
9 tion instrument described in subparagraph (A) of
10 section 71(b)(2) shall not be considered a taxable
11 transfer made by such individual notwithstanding
12 any other provision of this subtitle, and such interest
13 shall, after such transfer, be treated as a parental
14 leave savings account with respect to which such
15 spouse is the account owner.

16 “(7) TREATMENT AFTER DEATH OF ACCOUNT
17 OWNER.—

18 “(A) TREATMENT IF DESIGNATED BENE-
19 FICIARY IS SPOUSE.—

20 “(i) IN GENERAL.—If a qualified indi-
21 vidual acquires such owner’s interest in a
22 parental leave savings account by reason of
23 being the designated beneficiary of such
24 account at the death of the account owner,
25 such parental leave savings account shall

1 be treated as if the qualified individual
2 were the account owner.

3 “(ii) QUALIFIED INDIVIDUAL.—For
4 purposes of clause (i), the term ‘qualified
5 individual’ means, with respect to any ac-
6 count owner—

7 “(I) the account owner’s sur-
8 viving spouse, or

9 “(II) any other person with cus-
10 tody of any child of the deceased ac-
11 count owner, but only if such death
12 occurred not later than 1 year after
13 the birth or adoption of such child by
14 the deceased account owner.

15 “(B) OTHER CASES.—

16 “(i) IN GENERAL.—If, by reason of
17 the death of the account owner, any person
18 acquires the account owner’s interest in a
19 parental leave savings account in a case to
20 which subparagraph (A) does not apply—

21 “(I) such account shall cease to
22 be a parental leave savings account as
23 of the date of death, and

24 “(II) an amount equal to the fair
25 market value of the assets in such ac-

1 count on such date shall be includible
2 if such person is not the estate of
3 such owner, in such person's gross in-
4 come for the taxable year which in-
5 cludes such date, or if such person is
6 the estate of such owner, in such own-
7 er's gross income for the last taxable
8 year of such owner.

9 “(ii) SPECIAL RULES.—An appro-
10 priate deduction shall be allowed under
11 section 691(c) to any person (other than
12 the decedent or the decedent's spouse) with
13 respect to amounts included in gross in-
14 come under clause (i) by such person.

15 “(f) TAX TREATMENT OF ACCOUNT.—

16 “(1) IN GENERAL.—A parental leave savings
17 account shall be exempt from taxation under this
18 subtitle. Notwithstanding the preceding sentence,
19 the parental leave savings account shall be subject to
20 the taxes imposed by section 511 (relating to imposi-
21 tion of tax on unrelated business income of chari-
22 table, etc. organizations).

23 “(2) ACCOUNT TERMINATIONS.—Rules similar
24 to the rules of paragraphs (2) and (4) of section

1 408(e) shall apply to any parental leave savings ac-
2 count.

3 “(g) ONE ACCOUNT PER INDIVIDUAL.—An indi-
4 vidual may not own more than one parental leave savings
5 account. The Secretary shall prescribe such rules as are
6 necessary to provide for liquidating an individual’s paren-
7 tal leave savings account for transfer to a new parental
8 leave savings account of the individual and for treating
9 such amounts as a rollover distribution described in sub-
10 section (e)(3).

11 “(h) REPORTS.—The owner of a parental leave sav-
12 ings account shall make such reports regarding such ac-
13 count to the Secretary with respect to contributions, dis-
14 tributions, the return of excess contributions, and such
15 other matters as the Secretary may require. The reports
16 required by this subsection shall be filed at such time and
17 in such manner and furnished to such individuals at such
18 time and in such manner as may be required by the Sec-
19 retary.

20 “(i) COST-OF-LIVING ADJUSTMENT.—

21 “(1) IN GENERAL.—In the case of taxable years
22 beginning in a calendar year after 2020, each dollar
23 amount in subsections (b)(1) and (b)(2) shall be in-
24 creased by an amount equal to—

25 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
 2 mined under section 1(f)(3) for the calendar
 3 year in which such taxable year begins deter-
 4 mined by substituting ‘calendar year 2019’ for
 5 ‘calendar year 2016’ in subparagraph (A)(ii)
 6 thereof.

7 “(2) ROUNDING.—If any increase under para-
 8 graph (1) is not a multiple of \$50, such increase
 9 shall be rounded to the nearest multiple of \$50.”.

10 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIV-
 11 IDUAL ITEMIZES OTHER DEDUCTIONS.—Section 62(a)
 12 of such Code is amended by inserting after paragraph (21)
 13 the following new paragraph:

14 “(22) PARENTAL LEAVE SAVINGS ACCOUNTS.—
 15 The deduction allowed under section 224.”.

16 (c) EXCLUSION FOR EMPLOYER CONTRIBUTIONS TO
 17 PARENTAL LEAVE SAVINGS ACCOUNTS.—

18 (1) IN GENERAL.—Part III of subchapter B of
 19 chapter 1 of such Code is amended by inserting
 20 after section 139F the following new section:

21 **“SEC. 139G. CONTRIBUTIONS BY EMPLOYER TO PARENTAL**
 22 **LEAVE SAVINGS ACCOUNTS.**

23 “(a) IN GENERAL.—Gross income of an employee
 24 does not include contributions by the employer to the pa-
 25 rental leave savings account of the employee to the extent

1 such amounts do not exceed the limitation under section
2 224(b)(1) (determined without regard to this section)
3 which is applicable to such employee for such taxable year.

4 “(b) PARENTAL LEAVE SAVINGS ACCOUNT.—For
5 purposes of this section, the term ‘parental leave savings
6 account’ shall have the meaning given to such term by
7 section 224.

8 “(c) EXCLUSION NOT TO EXCEED COMPENSA-
9 TION.—

10 “(1) EMPLOYEES.—The amount excluded from
11 gross income by subsection (a) with respect to an
12 employee shall not exceed such employee’s wages,
13 salaries, tips, and other employee compensation
14 which are attributable to such employee’s employ-
15 ment by the employer referred to in such subsection.

16 “(2) SELF-EMPLOYED INDIVIDUALS.—The
17 amount excluded from gross income by subsection
18 (a) for contributions with respect to an individual
19 who is self-employed shall not exceed such individ-
20 ual’s earned income (as defined in section 401(c)(2))
21 derived by the taxpayer from the trade or business
22 with respect to which the individual is self-employed.

23 “(3) COMMUNITY PROPERTY LAWS NOT TO
24 APPLY.—The limitations under this subsection shall

1 be determined without regard to community prop-
2 erty laws.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 3121(a) of such Code is
5 amended by striking “or” at the end of para-
6 graph (22), by striking the period at the end of
7 paragraph (23) and inserting “; or”, and by in-
8 serting after paragraph (23) the following new
9 paragraph:

10 “(24) any payment made to a parental leave
11 savings account (as defined in section 224) or an
12 employee.”.

13 (B) Section 3231(e) of such Code is
14 amended by adding at the end the following
15 new paragraph:

16 “(13) PARENTAL LEAVE SAVINGS ACCOUNT
17 CONTRIBUTIONS.—The term ‘compensation’ shall
18 not include any payment made to a parental leave
19 savings account (as defined in section 224) of an
20 employee.”.

21 (C) Section 3306(b) of such Code is
22 amended by striking “or” at the end of para-
23 graph (19), by striking the period at the end of
24 paragraph (20) and inserting “; or”, and by in-

1 serting after paragraph (20) the following new
2 paragraph:

3 “(21) any payment made to a parental leave
4 savings account (as defined in section 224) of an
5 employee.”.

6 (D) Section 3401(a) of such Code is
7 amended by striking “or” at the end of para-
8 graph (21), by striking the period at the end of
9 paragraph (22) and inserting “; or”, and by in-
10 serting after paragraph (22) the following new
11 paragraph:

12 “(23) any payment made to a parental leave
13 savings account (as defined in section 224) of an
14 employee.”.

15 (E) Section 6051(a) of such Code is
16 amended by striking “and” at the end of para-
17 graph (13), by striking the period at the end of
18 paragraph (14) and inserting “, and”, and by
19 inserting after paragraph (14) the following
20 new paragraph:

21 “(15) the amount contributed to any parental
22 leave savings account (as defined in section 224) of
23 such employee.”.

24 (d) PROHIBITED TRANSACTIONS.—

1 (1) EXCEPTION FOR TAXABLE DISTRIBUTIONS
 2 FROM PARENTAL LEAVE SAVINGS ACCOUNTS.—Sub-
 3 section (c) of section 4975 of such Code (defining
 4 prohibited transaction) is amended by adding at the
 5 end the following new paragraph:

6 “(7) SPECIAL RULE FOR PARENTAL LEAVE SAV-
 7 INGS ACCOUNTS.—An individual for whose benefit a
 8 parental leave savings account (with the meaning of
 9 section 224) is established and any contributor to
 10 such account shall be exempt from the tax imposed
 11 by this section with respect to any transaction con-
 12 cerning such account (which would otherwise be tax-
 13 able under this section) if, with respect to such
 14 transaction, the account ceases to be a parental
 15 leave savings account by reason of the application of
 16 section 224(f)(2) to such account.”.

17 (2) PLAN DEFINED.—Section 4975(e)(1) of
 18 such Code is amended by striking “or” at the end
 19 of subparagraph (F), by redesignating subparagraph
 20 (G) as subparagraph (H), and by inserting after
 21 subparagraph (F) the following new subparagraph:

22 “(G) a parental leave savings account de-
 23 scribed in section 224, or”.

24 (e) PENALTY ON FAILURE TO REPORT.—Section
 25 6693(a)(2) of such Code is amended by striking “and”

1 at the end of subparagraph (D), by striking the period
 2 at the end of subparagraph (E) and inserting “, and”,
 3 and by inserting after subparagraph (E) the following new
 4 subparagraph:

5 “(F) section 224(g) (relating to parental
 6 leave savings accounts).”.

7 (f) CONFORMING AMENDMENT.—Section 26(b)(2) of
 8 such Code is amended by striking “and” at the end of
 9 subparagraph (X), by striking the period at the end of
 10 subparagraph (Y) and inserting “, and”, and by adding
 11 at the end the following new subparagraph:

12 “(Z) section 224(e)(4) (relating to addi-
 13 tional tax with respect to distributions not used
 14 for early parenthood payment purposes).”.

15 (g) CLERICAL AMENDMENTS.—

16 (1) The table of sections for part VII of sub-
 17 chapter B of chapter 1 of such Code is amended by
 18 redesignating the item relating to section 224 as an
 19 item relating to section 225 and by inserting after
 20 the item relating to section 223 the following new
 21 item:

“Sec. 224. Parental leave savings accounts.”.

22 (2) The table of sections for part III of sub-
 23 chapter B of chapter 1 of such Code is amended by

1 inserting after the item relating to section 139F the
2 following new item:

 “Sec. 139G. Contributions by employer to parental leave savings accounts.”.

3 (h) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2019.

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