

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2241

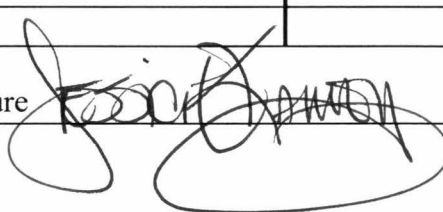
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2241

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 2, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-1090
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on SB2241. All Senators were present.

Senator Flakkol introduced SB2241. His testimony is included. Senator Mutch asked if all this bill did was insulate that money from bankruptcy. Senator Flakkol said yes.

Tom Smith, Domestic Insurance Companies, testified in support of SB2241. He told the committee that the house just passed a bill, (HB1238), that does the same thing. Senator Krebsbach asked him why Section 4 of HB1238 is the exact same thing as section 1 of SB2241. Mr. Smith said that it had a little different wording. Senator Krebsbach said that she would like to check with the Legislative Council as to why they put this language in 2 different bills.

Senator Mutch closed the hearing on SB2241.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb2241

Hearing Date February 2, 1999

Senator Thompson motioned for a do pass committee recommendation on SB2241. Senator

Heitkamp seconded his motion. The motion for a do pass on SB2241 carried with a 7-0-0 vote.

Senator Thompson will carry the bill.

Date: 2/2/99 38221779
 Roll Call Vote #: 2241

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By THOMPSON Seconded By HEITKAMP

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 4 No 0

Absent 0

Floor Assignment THOMPSON

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 3, 1999 11:02 a.m.

Module No: SR-22-1779
Carrier: Thompson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2241: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2241 was placed on the Eleventh order on the calendar.

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2241

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2241

House Industry, Business and Labor

Conference Committee

Hearing Date 2-15-99

Tape Number	Side A	Side B	Meter #
1	x		0.2-2.9
Committee Clerk Signature <i>Lisa Spencer</i>			

Minutes: Chairman Berg opened the hearing, having a quorum.

BILL SUMMARY: Relating to the absolute exemption of Roth individual retirement accounts in process, levy, and sale proceedings.

Tom Smith, Domestic Insurance Company : 0.6 testified in support of the bill. A good bill.

There was no more testimony in favor or against the bill, so the hearing was closed.

Chairman Berg : What are committee wishes? Rep. Froseth made a motion to DO PASS and Rep. Severson seconded the motion.

ROLL CALL VOTE: 13 YES and 0 NO with 2 ABSENT. Passed. Rep. Martinson will carry the bill.

Date: 2-15-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2241

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Froseth Seconded By Severson

Representatives	Yes	No	Representatives	Yes	No
Chairman Berg	/		Rep. Thorpe	/	
Vice Chairman Kempenich	/				
Rep. Brekke	/				
Rep. Ekstrom	/				
Rep. Froseth	/				
Rep. Glasheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux					
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 13 No —

Absent 2

Floor Assignment Martinson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 24, 1999 2:55 p.m.

Module No: HR-33-3492
Carrier: Martinson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2241: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2241 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2241

Senate Bill 2241

>>>> relates to **Roth IRA**

February 2, 1999 -- Senator Tim Flakoll, District 44 of Fargo

Chairman Mutch and members of the IBL Committee. I am Senator Tim Flakoll from District 44 in Fargo.

The best way to understand this bill is to take the underline items on lines 14 and 15 that are proposed to be added and translate them to mean **Roth IRA**.

SB 2241 will update the bankruptcy provisions of the NCC by adding "Roth IRA" to the list of exempt retirement plan assets.

The bill before you is a result of the 1997 addition of the new "tax-free" Roth IRA, named after U.S. Senator William Roth, of Delaware who served as chairman of the Senate Finance Committee. Unlike traditional IRAs, contributions to the Roth IRA are not deductible from one's gross income, nor are proceeds taxable when distributed from the Roth IRA. Translated . . . when you have a Roth IRA you pay taxes before you put the money in and not when you take it out.

Each state has its own bankruptcy provisions, all which need to be updated because Congress created the new Roth IRA. *Current North Dakota law exempts a total of \$200,000 of retirement plan assets from bankruptcy, with as much as \$100,000 from a single account. Some of the exempt current plans include 401k, 403b, SEP, IRAs, Keogh and pensions. This bill would simply add the new Roth IRA to the existing list.*

That concludes my testimony and I would be happy to field any questions.

NOTES:

In 1997 approximately \$10 billion was invested in IRAs of various types.
In 1998 approximately \$60 billion went into IRAs mostly the Roth.

HOUSE BILL NO. 1238

Introduced by

Representative Klemin

1 A BILL for an Act to amend and reenact sections 26.1-12-06, 26.1-12-14, 26.1-12-16, and
2 subsection 3 of section 28-22-03.1 of the North Dakota Century Code, relating to mutual
3 insurance company bylaws, domestic mutual insurance company voting, and absolute
4 exemptions of Roth individual retirement accounts in process, levy, and sale proceedings. *5/22/21*

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 26.1-12-06 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **26.1-12-06. Bylaws of mutual company - Meetings - Notice - Quorum.** The bylaws
9 of any mutual insurance company organized under this chapter or chapter 26.1-05 must
10 prescribe the manner of notification to members of all corporation meetings of members and
11 must prescribe what constitutes a quorum of members. A quorum is those members present in
12 person or represented by written proxies. A majority of those voting is sufficient to approve or
13 reject any proposal submitted at any annual or special meeting. Every member of the company
14 is entitled to one vote only. Every member must be notified of the time and place of the holding
15 of the meetings of the company by a written notice or by an imprint on ~~the back of~~ each policy,
16 receipt, or certificate of renewal. In addition, a notice of any annual or special meeting must be
17 published in the official newspaper of the county in which the principal office of the company is
18 located. The notice must be published at least twice, the first publication to be made at least
19 sixty days before the meeting. If a special meeting of members is called, a notice of the time,
20 place, and object of the meeting must be mailed to all members at least sixty days before the
21 meeting.

22 **SECTION 2. AMENDMENT.** Section 26.1-12-14 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **26.1-12-14. Membership in domestic mutual company - Votes of members -**
2 **Notice of meetings.** Every member ~~insured by~~ of a domestic mutual insurance company
3 organized under this chapter is a member of the company while the policy is in force. A
4 member may be an insured or owner of a policy as provided in the bylaws of the company.
5 Every member of the company is entitled to one vote ~~or to a number of votes based upon the~~
6 ~~insurance in force, the number of policies held, or the amount of premiums paid, as may be~~
7 ~~provided in the bylaws of the company.~~ Every member must be notified of the time and place of
8 the holding of the meetings of the company by a written notice or by an imprint on ~~the back of~~
9 each policy, receipt, or certificate of renewal as follows:

10 The ~~assured~~ member is hereby notified that by virtue of this policy ~~the assured is you~~
11 are a member of _____ mutual insurance company, and that the annual
12 meetings of such company are held at its home office on the _____ day of
13 _____ in each year at _____ o'clock.

14 When the blanks in the notice are properly filled, the notice is sufficient.

15 **SECTION 3. AMENDMENT.** Section 26.1-12-16 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **26.1-12-16. Vote by proxy permitted - Manner of voting by proxy.** Members of a
18 mutual insurance company may vote by proxy dated and executed within three months prior to
19 the meeting at which the proxy is to be used when returned and recorded on the books of the
20 company three days or more before the meeting. A person may not as proxy or otherwise cast
21 more than fifty votes, and an officer, personally or by another, may not ask for, receive, procure
22 to be obtained, or use, a proxy vote. This section does not apply to ~~state mutual hail insurance~~
23 ~~companies~~ a proxy committee duly established by the bylaws comprised of no less than three
24 members appointed by the board of directors whose duty is to cast the vote by proxy of
25 members at any duly called annual or special meeting of the mutual insurance company.

26 **SECTION 4. AMENDMENT.** Subsection 3 of section 28-22-03.1 of the 1997
27 Supplement to the North Dakota Century Code is amended and reenacted as follows:

28 3. Pensions, annuity policies or plans, and life insurance policies which, upon the
29 death of the insured, would be payable to the spouse, children, or any relative of
30 the insured dependent, or likely to be dependent, upon the insured for support and
31 which have been in effect for a period of at least one year; individual retirement

1 accounts; Keogh plans, Roth individual retirement accounts under section 408A of
2 the Internal Revenue Code [Pub. L. 105-34; 111 Stat. 825; 26 U.S.C. 408A], and
3 simplified employee pension plans; and all other plans qualified under section 401
4 of the Internal Revenue Code [Pub. L. 83-591; 68A Stat. 134; 26 U.S.C. 401], and
5 section 408 of the Internal Revenue Code [Pub. L. 93-406; 88 Stat. 959; 26 U.S.C.
6 408], and pension or retirement plans sponsored by nonprofit corporations or
7 associations organized and operated exclusively for one or more of the purposes
8 specified in 26 U.S.C. 501(c)(3), and proceeds, surrender values, payments, and
9 withdrawals from such pensions, policies, plans, and accounts, up to one hundred
10 thousand dollars for each pension, policy, plan, and account with an aggregate
11 limitation of two hundred thousand dollars for all pensions, policies, plans, and
12 accounts. The dollar limit does not apply to the extent this property is reasonably
13 necessary for the support of the resident and that resident's dependents, except
14 that the pensions, policies, plans, and accounts or proceeds, surrender values,
15 payments, and withdrawals are not exempt from enforcement of any order to pay
16 spousal support or child support, or a qualified domestic relations order under
17 sections 15-39.1-12.2, 39-03.1-14.2, and 54-52-17.6. As used in this subsection,
18 "reasonably necessary for the support" means required to meet present and future
19 needs, as determined by the court after consideration of the resident's
20 responsibilities and all the present and anticipated property and income of the
21 resident, including that which is exempt.

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CONGRESSIONAL AND
ADMINISTRATIVE NEWS

105th Congress—First Session
1997

Convened January 7, 1997
Adjourned November 13, 1997

Volume 1

PUBLIC LAWS 105-1 to 105-80
[111 Stat. pages 3 to 1536]

WEST GROUP
ST. PAUL, MINN.

“(B) the amount of bonds issued during such year which are designated under subsection (d)(1) with respect to qualified zone academies within such State, the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

“(f) OTHER DEFINITIONS.—For purposes of this section—

“(1) CREDIT ALLOWANCE DATE.—The term ‘credit allowance date’ means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

“(2) BOND.—The term ‘bond’ includes any obligation.

“(3) STATE.—The term ‘State’ includes the District of Columbia and any possession of the United States.

“(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section.”.

(b) CONFORMING AMENDMENTS.—

(1) The table of parts for subchapter U of chapter 1 is amended by striking the last item and inserting the following:

“Part IV. Incentives for education zones.

“Part V. Regulations.”.

(2) The table of sections for part V, as so redesignated, is amended to read as follows:

“Sec. 1397F. Regulations.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1997.

26 USC 1397E
note.

TITLE III—SAVINGS AND INVESTMENT INCENTIVES

Subtitle A—Retirement Savings

SEC. 301. RESTORATION OF IRA DEDUCTION FOR CERTAIN TAXPAYERS.

(a) INCREASE IN INCOME LIMITS APPLICABLE TO ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

“(B) APPLICABLE DOLLAR AMOUNT.—The term ‘applicable dollar amount’ means the following:

“(i) In the case of a taxpayer filing a joint return:

“For taxable years beginning in:	The applicable dollar amount is:
1998	\$50,000
1999	\$51,000
2000	\$52,000
2001	\$53,000
2002	\$54,000
2003	\$55,000
2004	\$56,000
2005	\$57,000
2006	\$58,000
2007 and thereafter	\$59,000

Aug. 5

TAXPAYER RELIEF ACT OF 1997

P.L. 105-34
Sec. 302

"(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

For taxable years beginning in:	The applicable dollar amount is:
1998	\$30,000
1999	\$31,000
2000	\$32,000
2001	\$33,000
2002	\$34,000
2003	\$40,000
2004	\$45,000
2005 and thereafter	\$50,000.

"(iii) In the case of a married individual filing a separate return, zero."

(2) INCREASE IN PHASE-OUT RANGE FOR JOINT RETURNS.— Clause (ii) of section 219(g)(2)(A) is amended by inserting "\$20,000 in the case of a joint return for a taxable year beginning after December 31, 2006)".

(b) LIMITATIONS FOR ACTIVE PARTICIPATION NOT BASED ON SPOUSE'S PARTICIPATION.—Section 219(g) (relating to limitation on deduction for active participants in certain pension plans) is amended—

(1) by striking "or the individual's spouse" in paragraph (1), and

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

"(7) SPECIAL RULE FOR CERTAIN SPOUSES.—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."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997. 26 USC 219 note.

SEC. 302. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. ROTH IRAS.

"(a) GENERAL RULE.—Except as provided in this section, a Roth IRA shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) ROTH IRA.—For purposes of this title, the term 'Roth IRA' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as a Roth IRA. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a Roth IRA.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all Roth IRAs maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (d)(1) or (g) of such section), over

"(B) the aggregate amount of contributions for such taxable year to all other individual retirement plans (other than Roth IRAs) maintained for the benefit of the individual.

"(3) LIMITS BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) DOLLAR LIMIT.—The amount determined under paragraph (2) for any taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to such amount 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) \$15,000 (\$10,000 in the case of a joint return).

The rules of subparagraphs (B) and (C) of section 219(g)(2) shall apply to any reduction under this subparagraph.

"(B) ROLLOVER FROM IRA.—A taxpayer shall not be allowed to make a qualified rollover contribution to a Roth IRA from an individual retirement plan other than a Roth IRA during any taxable year if—

"(i) the taxpayer's adjusted gross income for such taxable year exceeds \$100,000, or

"(ii) the taxpayer is a married individual filing a separate return.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that any amount included in gross income under subsection (d)(3) shall not be taken into account and the deduction under section 219 shall be taken into account, and

"(ii) the applicable dollar amount is—

"(I) in the case of a taxpayer filing a joint return, \$150,000,

"(II) in the case of any other taxpayer (other than a married individual filing a separate return), \$95,000, and

"(III) in the case of a married individual filing a separate return, zero.

"(D) MARITAL STATUS.—Section 219(g)(4) shall apply for purposes of this paragraph.

"(4) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to a Roth IRA may be made even after the individual for whom the account is maintained has attained age 70½.

"(5) MANDATORY DISTRIBUTION RULES NOT TO APPLY BEFORE DEATH.—Notwithstanding subsections (a)(6) and (b)(3) of section 408 (relating to required distributions), the following provisions shall not apply to any Roth IRA:

"(A) Section 401(a)(9)(A).

Aug. 5

TAXPAYER RELIEF ACT OF 1997

P.L. 105-34
Sec. 302

"(B) The incidental death benefit requirements of section 401(a).

"(6) ROLLOVER CONTRIBUTIONS.—

"(A) IN GENERAL.—No rollover contribution may be made to a Roth IRA unless it is a qualified rollover contribution.

"(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

"(7) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(3) shall apply.

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) GENERAL RULES.—

"(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from a Roth IRA shall not be includible in gross income.

"(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from a Roth IRA which is not a qualified distribution, such distribution shall be treated as made from contributions to the Roth IRA to the extent that such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate amount of contributions to the Roth IRA.

"(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified special purpose distribution.

"(B) CERTAIN DISTRIBUTIONS WITHIN 5 YEARS.—A payment or distribution shall not be treated as a qualified distribution under subparagraph (A) if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual, or

"(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution from an individual retirement plan other than a Roth IRA (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

"(3) ROLLOVERS FROM AN IRA OTHER THAN A ROTH IRA.—

"(A) IN GENERAL.—Notwithstanding section 408(d)(3), in the case of any distribution to which this paragraph applies—

"(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

“(ii) section 72(t) shall not apply, and

“(iii) in the case of a distribution before January 1, 1999, any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

“(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—

This paragraph shall apply to a distribution from an individual retirement plan (other than a Roth IRA) maintained for the benefit of an individual which is contributed to a Roth IRA maintained for the benefit of such individual in a qualified rollover contribution.

“(C) CONVERSIONS.—The conversion of an individual retirement plan (other than a Roth IRA) to a Roth IRA shall be treated for purposes of this paragraph as a distribution to which this paragraph applies.

“(D) CONVERSION OF EXCESS CONTRIBUTIONS.—If, no later than the due date for filing the return of tax for any taxable year (without regard to extensions), an individual transfers, from an individual retirement plan (other than a Roth IRA), contributions for such taxable year (and any earnings allocable thereto) to a Roth IRA, no such amount shall be includible in gross income to the extent no deduction was allowed with respect to such amount.

“(E) ADDITIONAL REPORTING REQUIREMENTS.—Trustees of Roth IRAs, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as the Secretary may require to ensure that amounts required to be included in gross income under subparagraph (A) are so included.

“(4) COORDINATION WITH INDIVIDUAL RETIREMENT ACCOUNTS.—Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.

“(5) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term ‘qualified special purpose distribution’ means any distribution to which subparagraph (F) of section 72(t)(2) applies.

“(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term ‘qualified rollover contribution’ means a rollover contribution to a Roth IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.”

(b) EXCESS CONTRIBUTIONS.—Section 4973(b), as amended by title II, is amended by adding at the end the following new subsection:

“(f) EXCESS CONTRIBUTIONS TO ROTH IRAS.—For purposes of this section, in the case of contributions to a Roth IRA (within the meaning of section 408A(b)), the term ‘excess contributions’ means the sum of—

“(1) the excess (if any) of—

Aug. 5

TAXPAYER RELIEF ACT OF 1997

P.L. 105-34
Sec. 303

"(A) the amount contributed for the taxable year to such accounts (other than a qualified rollover contribution described in section 408A(e)), over

"(B) the amount allowable as a contribution under sections 408A (c)(2) and (c)(3), and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the accounts for the taxable year, and

"(B) the excess (if any) of the maximum amount allowable as a contribution under sections 408A (c)(2) and (c)(3) for the taxable year over the amount contributed to the accounts for the taxable year.

For purposes of this subsection, any contribution which is distributed from a Roth IRA in a distribution described in section 408(d)(4) shall be treated as an amount not contributed."

(c) SPOUSAL IRA.—Clause (ii) of section 219(c)(1)(B) is amended to read as follows:

"(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, and

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

(d) AUTHORITY TO PRESCRIBE NECESSARY REPORTING.—Section 408(i) is amended—

(1) by striking "under regulations", and

(2) by striking "in such regulations" each place it appears.

(e) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Roth IRAs."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

26 USC 219 note.

SEC. 303. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 203, is amended by adding at the end the following new subparagraph:

"(F) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES.—Distributions to an individual from an individual retirement plan which are qualified first-time homebuyer distributions (as defined in paragraph (8)). Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A), (C), (D), or (E) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B)."

(b) DEFINITIONS.—Section 72(t), as amended by section 203, is amended by adding at the end the following new paragraphs:

"(8) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—

For purposes of paragraph (2)(F)—

n
c
a
c
a

“(A) IN GENERAL.—The term ‘qualified first-time homebuyer distribution’ means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 120th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual’s spouse.

“(B) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

“(i) \$10,000, over

“(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

“(C) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term ‘qualified acquisition costs’ means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

“(D) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

“(i) FIRST-TIME HOMEBUYER.—The term ‘first-time homebuyer’ means any individual if—

“(I) such individual (and if married, such individual’s spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

“(II) subsection (h) or (k) of section 1034 (as in effect on the day before the date of the enactment of this paragraph) did not suspend the running of any period of time specified in section 1034 (as so in effect) with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

“(ii) PRINCIPAL RESIDENCE.—The term ‘principal residence’ has the same meaning as when used in section 121.

“(iii) DATE OF ACQUISITION.—The term ‘date of acquisition’ means the date—

“(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

“(II) on which construction or reconstruction of such a principal residence is commenced.

“(E) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as

Aug. 5

TAXPAYER RELIEF ACT OF 1997

P.L. 105-34
Sec. 311

provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(B) applies to any other amount."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments and distributions in taxable years beginning after December 31, 1997. 26 USC 72 note.

SEC. 304. CERTAIN BULLION NOT TREATED AS COLLECTIBLES.

(a) **IN GENERAL.**—Paragraph (3) of section 408(m) (relating to exception for certain coins) is amended to read as follows:

"(3) **EXCEPTION FOR CERTAIN COINS AND BULLION.**—For purposes of this subsection, the term 'collectible' shall not include—

"(A) any coin which is—

"(i) a gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31, United States Code,

"(ii) a silver coin described in section 5112(e) of title 31, United States Code,

"(iii) a platinum coin described in section 5112(k) of title 31, United States Code, or

"(iv) a coin issued under the laws of any State,

or

"(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness that a contract market (as described in section 7 of the Commodity Exchange Act, 7 U.S.C. 7) requires for metals which may be delivered in satisfaction of a regulated futures contract,

if such bullion is in the physical possession of a trustee described under subsection (a) of this section."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1997. 26 USC 408 note.

Subtitle B—Capital Gains

SEC. 311. MAXIMUM CAPITAL GAINS RATES FOR INDIVIDUALS.

(a) **IN GENERAL.**—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) **MAXIMUM CAPITAL GAINS RATE.**—

"(1) **IN GENERAL.**—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the net capital gain,

or

"(ii) the lesser of—

"(I) the amount of taxable income taxed at a rate below 28 percent, or

"(II) taxable income reduced by the adjusted net capital gain, plus