

103^D CONGRESS
1ST SESSION

H. R. 504

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from an individual's individual retirement account for use by such individual or the children of such individual in acquiring a first home, and to provide that a parent's guarantee of a loan to his child shall not be a gift for gift tax purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 1993

Mr. DARDEN 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 allow penalty-free withdrawals from an individual's individual retirement account for use by such individual or the children of such individual in acquiring a first home, and to provide that a parent's guarantee of a loan to his child shall not be a gift for gift tax 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 "American Dream As-
5 sistance Act of 1992".

1 **SEC. 2. PENALTY-FREE WITHDRAWALS FOR FIRST-TIME**
2 **HOMEBUYERS.**

3 (a) IN GENERAL.—Paragraph (2) of section 72(t) of
4 the Internal Revenue Code of 1986 (relating to exceptions
5 to 10-percent additional tax on early distributions from
6 qualified retirement plans) is amended by adding at the
7 end thereof the following new subparagraph:

8 “(D) DISTRIBUTIONS FROM INDIVIDUAL
9 RETIREMENT PLANS FOR FIRST HOME PUR-
10 CHASES.—Distributions to an individual from
11 an individual retirement plan which are quali-
12 fied first-time homebuyer distributions (as de-
13 fined in paragraph (6)).”

14 (b) FIRST-TIME HOMEBUYER DISTRIBUTIONS.—Sec-
15 tion 72(t) of such Code is amended by adding at the end
16 thereof the following new paragraph:

17 “(6) QUALIFIED FIRST-TIME HOMEBUYER DIS-
18 TRIBUTIONS.—For purposes of paragraph (2)(D)—

19 “(A) IN GENERAL.—The term ‘qualified
20 first-time homebuyer distribution’ means any
21 payment or distribution received by an individ-
22 ual to the extent such payment or distribution
23 is used by the individual before the close of the
24 60th day after the day on which such payment
25 or distribution is received to pay qualified ac-
26 quisition costs with respect to a principal resi-

1 dence of a first-time homebuyer who is such in-
2 dividual or the child of such individual.

3 “(B) QUALIFIED ACQUISITION COSTS.—
4 For purposes of this paragraph, the term
5 ‘qualified acquisition costs’ means the costs of
6 acquiring, constructing, or reconstructing a res-
7 idence. Such term includes any usual or reason-
8 able settlement, financing, or other closing
9 costs.

10 “(C) FIRST-TIME HOMEBUYER; OTHER
11 DEFINITIONS.—For purposes of this para-
12 graph—

13 “(i) FIRST-TIME HOMEBUYER.—The
14 term ‘first-time homebuyer’ means any in-
15 dividual if such individual (and if married,
16 such individual’s spouse) had no present
17 ownership interest in a principal residence
18 during the 3-year period ending on the
19 date of acquisition of the principal resi-
20 dence to which this paragraph applies.

21 “(ii) PRINCIPAL RESIDENCE.—The
22 term ‘principal residence’ has the same
23 meaning as when used in section 1034.

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

1 “(I) on which a binding contract
2 to acquire the principal residence to
3 which subparagraph (A) applies is en-
4 tered into, or

5 “(II) on which construction or re-
6 construction of such a principal resi-
7 dence is commenced.

8 “(D) SPECIAL RULE WHERE DELAY IN AC-
9 QUISITION.—If—

10 “(i) any amount is paid or distributed
11 from an individual retirement plan to an
12 individual for purposes of being used as
13 provided in subparagraph (A), and

14 “(ii) by reason of a delay in the acqui-
15 sition of the residence, the requirements of
16 subparagraph (A) cannot be met,

17 the amount so paid or distributed may be paid
18 into an individual retirement plan as provided
19 in section 408(d)(3)(A)(i) without regard to
20 section 408(d)(3)(B), and, if so paid into such
21 other plan, such amount shall not be taken into
22 account in determining whether section
23 408(d)(3)(A)(i) applies to any other amount.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to payments and distributions after
3 the date of the enactment of this Act.

4 **SEC. 3. PARENT'S GUARANTEE OF CHILD'S LOAN NOT GIFT**
5 **FOR GIFT TAX PURPOSES.**

6 (a) IN GENERAL.—Section 2503 of the Internal Rev-
7 enue Code of 1986 (defining taxable gifts) is amended by
8 adding at the end thereof the following new subsection:

9 “(h) EXCLUSION FOR GUARANTEE BY PARENT OF
10 LOAN TO CHILD OR CHILD’S BUSINESS, ETC.—

11 “(1) IN GENERAL.—The mere making of a
12 qualified guarantee shall not be treated as a transfer
13 of property by gift for purposes of this chapter.

14 “(2) QUALIFIED GUARANTEE.—For purposes of
15 this subsection, the term ‘qualified guarantee’ means
16 any guarantee by an individual of a loan to—

17 “(A) any lineal descendent of such individ-
18 ual or any spouse of such a lineal descendent,
19 or

20 “(B) any business enterprise all of the in-
21 terests in which (other than any interest as a
22 creditor) are owned by individuals described in
23 subparagraph (A).”

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to guarantees made before, on,
3 or after the date of the enactment of this Act.

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