

104TH CONGRESS
2D SESSION

H. R. 2953

To amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee social security payroll deductions.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 1996

Mr. PORTER (for himself and Mr. INGLIS of South Carolina) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee social security payroll deductions.

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 “Personal Investment
5 Plan Act of 1995”.

1 **SEC. 2. OPTIONAL REDUCTION OF SOCIAL SECURITY TAXES**
2 **ON EMPLOYEES.**

3 (a) TAX ON EMPLOYEES.—Subsection (a) of section
4 3101 of the Internal Revenue Code of 1986 (relating to
5 OASDI tax on employees) is amended—

6 (1) by striking the period at the end of the
7 table and inserting a semicolon; and

8 (2) by adding after and below the table the fol-
9 lowing:

10 “except that, in the case of an eligible employee (as de-
11 fined in section 255(3) of the Social Security Act), the
12 rate of tax under this subsection shall be 4.2 percent with
13 respect to wages paid on or after January 1 of the cal-
14 endar year in which an election is in effect under such
15 section, for pay periods ending after such date.”.

16 (b) SELF-EMPLOYMENT TAX.—Subsection (a) of sec-
17 tion 1401 of such Code (relating to OASDI tax on self-
18 employment income) is amended—

19 (1) by striking the period at the end of the
20 table and inserting a semicolon; and

21 (2) by adding after and below the table the fol-
22 lowing:

23 “except that, in the case of an eligible self-employed indi-
24 vidual (as defined in section 255(4) of the Social Security
25 Act), the rate of tax under this subsection shall be 10.4
26 percent of the amount of the self-employment income in

1 the case of a taxable year in which an election is in effect
2 under such section.”.

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall apply to remuneration paid after
7 December 31, 1995.

8 (2) SELF-EMPLOYMENT TAX.—The amend-
9 ments made by subsection (b) shall apply to taxable
10 years beginning after December 31, 1995.

11 **SEC. 3. PERSONAL INVESTMENT PLANS.**

12 (a) IN GENERAL.—Title II of the Social Security Act
13 is amended—

14 (1) by inserting before section 201 the follow-
15 ing:

16 “PART A—INSURANCE BENEFITS”;

17 and

18 (2) by adding at the end the following new part:

19 “PART B—PERSONAL INVESTMENT PLANS

20 “PERSONAL INVESTMENT PAYROLL DEDUCTION PLANS

21 “SEC. 251. (a) IN GENERAL.—Each person who is
22 a covered employer for a calendar year shall have in effect
23 a personal investment payroll deduction plan for such cal-
24 endar year for such person’s eligible employees.

1 “(b) REQUIREMENTS.—For purposes of this part, the
2 term ‘personal investment payroll deduction plan’ means
3 a written plan of an employer if—

4 “(1) the plan applies only with respect to wages
5 of eligible employees,

6 “(2) under such plan, the personal investment
7 plan contributions will be deducted from the employ-
8 ee’s wages and paid to the Social Security Adminis-
9 tration with respect to a personal investment plan
10 designated in accordance with section 252(a),

11 “(3) under such plan, the employer is required
12 to pay the amount so deducted with respect to the
13 specified personal investment plan within 10 busi-
14 ness days after the payment of the wages from
15 which the amount was deducted,

16 “(4) the employer receives no compensation for
17 the cost of administering such plan, and

18 “(5) the employer does not make any endorse-
19 ment with respect to any plan.

20 “(c) AMOUNTS DEDUCTED MAY BE ACCUMULATED
21 BY EMPLOYER IN CERTAIN CASES.—If, under the terms
22 of a personal investment plan designated under section
23 252(a), contributions below a specified amount will not be
24 accepted, the requirements of subsection (b)(2) shall be
25 treated as met if amounts deducted from the wages of

1 such employee are accumulated by the employer and paid
2 to such plan not later than 10 business days after the first
3 day on which the accumulated amount exceeds such speci-
4 fied amount.

5 “DESIGNATION OF PERSONAL INVESTMENT PLANS
6 UNDER PAYROLL DEDUCTION PLAN

7 “SEC. 252. (a) IN GENERAL.—Except as provided in
8 subsection (b), the personal investment plan with respect
9 to which the personal investment plan contributions with
10 respect to any employee are required to be paid under sec-
11 tion 251 shall be a personal investment plan designated
12 by the employee to the employer not later than 10 business
13 days after the date on which the employee becomes an em-
14 ployee of such employer. Any such designation shall be
15 made in such form and manner as may be prescribed in
16 regulations of the Commissioner of Social Security.

17 “(b) DESIGNATION IN ABSENCE OF TIMELY DES-
18 IGNATION BY EMPLOYEE.—In any case in which no timely
19 designation of the personal investment plan is made, the
20 employer shall make the designation of the personal in-
21 vestment plan in accordance with regulations of the Com-
22 missioner of Social Security.

23 “PARTICIPATION BY SELF-EMPLOYED INDIVIDUALS

24 “SEC. 253. (a) IN GENERAL.—Each eligible self-em-
25 ployed individual who receives self-employment income be-
26 ginning on or after January 1 of the taxable year in which

1 “(A) any personal investment retirement
2 plan in the Personal Investment Fund (estab-
3 lished under section 257) which is administered
4 by the Personal Investment Board, or

5 “(B) any individual retirement plan (as de-
6 fined in section 7701(a)(37) of the Internal
7 Revenue Code of 1986) which is administered
8 or issued by a bank (as defined in section
9 408(n) of such Code),

10 under terms which restrict deposits to personal in-
11 vestment plan contributions made to the plan pursu-
12 ant to section 251 or 253 and transfers made to the
13 plan pursuant to section 254, and under which dis-
14 tributions may only be made on or after the date on
15 which the individual attains age 59½, made to a
16 beneficiary (or to the estate of the individual) on or
17 after the death of the individual, or attributable to
18 the individual’s becoming disabled within the mean-
19 ing of section 223(d).

20 “(2) COVERED EMPLOYER.—The term ‘covered
21 employer’ means, for any calendar year, any person
22 on whom an excise tax is imposed under section
23 3111 of the Internal Revenue Code of 1986 with re-
24 spect to having an individual in his employ to whom

1 wages are paid by such person during such calendar
2 year.

3 “(3) ELIGIBLE EMPLOYEE.—

4 “(A) IN GENERAL.—The term ‘eligible em-
5 ployee’ means, in connection with any person
6 who is a covered employer for any calendar year
7 beginning after December 31, 1995, any indi-
8 vidual—

9 “(i) with respect to whose employment
10 by such employer during such calendar
11 year there is imposed an excise tax under
12 section 3111 of the Internal Revenue Code
13 of 1986, and

14 “(ii) who files with the employer and
15 the Commissioner of Social Security, in
16 such form and manner as shall be pre-
17 scribed in regulations of the Commissioner,
18 a written and signed declaration of such
19 individual’s intention to be treated as an
20 eligible employee for purposes of this title
21 and such election meets the requirements
22 of subparagraph (B).

23 “(B) REQUIREMENTS.—Any election under
24 subparagraph (A)(ii) must be so filed not later
25 than December 15 preceding the calendar year

1 in which such election is to take effect, and
2 must designate the personal investment plan to
3 which the personal investment plan contribu-
4 tions with respect to such individual are to be
5 paid.

6 “(C) IRREVOCABILITY.—Any election
7 under subparagraph (A)(ii) shall be irrevocable
8 and shall be effective with respect to wages paid
9 on or after January 1 of the calendar year in
10 which such election is to take effect, for pay pe-
11 riods ending on or after such date.

12 “(4) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—

13 “(A) IN GENERAL.—The term ‘eligible self-
14 employed individual’ means any individual—

15 “(i) on whose self-employment income
16 for a taxable year beginning after Decem-
17 ber 31, 1995, there is imposed a tax under
18 section 1401(a) of the Internal Revenue
19 Code of 1986, and

20 “(ii) who files with the Commissioner
21 of Social Security, in such form and man-
22 ner as shall be prescribed in regulations of
23 the Commissioner, a written and signed
24 declaration of such individual’s intention to
25 be treated as an eligible self-employed indi-

1 vidual for purposes of this title and such
2 election meets the requirements of sub-
3 paragraph (B).

4 “(B) REQUIREMENTS.—Any election under
5 subparagraph (A)(ii) must be so filed not later
6 than December 15 preceding the taxable year in
7 which such election is to take effect, and must
8 designate the personal investment plan to which
9 the personal investment plan contributions with
10 respect to such individual are to be paid.

11 “(C) IRREVOCABILITY.—Any election
12 under subparagraph (A)(ii) shall be irrevocable
13 and shall be effective with respect to self-em-
14 ployment income beginning on or after the first
15 day of the taxable year in which such election
16 is to take effect, for pay periods ending on or
17 after such date.

18 “(5) PERSONAL INVESTMENT PLAN CONTRIBU-
19 TION.—The term ‘personal investment plan con-
20 tribution’ means—

21 “(A) with respect to any eligible employee
22 of a covered employer, an amount equal to 2
23 percent of the wages received by such employee
24 with respect to employment by such employer,
25 and

1 an amount from the wages of an eligible employee in ac-
2 cordance with a personal investment payroll deduction
3 plan shall be subject to a civil penalty of not to exceed
4 \$500 for each such failure.

5 “(c) FAILURE BY EMPLOYER TO MAKE TIMELY PAY-
6 MENTS WITH RESPECT TO PERSONAL INVESTMENT
7 PLAN.—If an amount deducted from the wages of an eligi-
8 ble employee under a social security payroll deduction plan
9 is not paid to the Social Security Administration with re-
10 spect to the specified personal investment plan within the
11 time prescribed by section 251—

12 “(1) the employer shall be subject to a civil
13 penalty of not to exceed 50 percent of the amount
14 so deducted, and

15 “(2) shall be liable to the employee for interest
16 on the amount so deducted at the underpayment
17 rate determined under section 6621 of the Internal
18 Revenue Code of 1986 from the last day by which
19 such amount was required to be so paid to the date
20 on which such amount is paid into the specified per-
21 sonal investment plan.

22 “(d) FAILURE BY ELIGIBLE SELF-EMPLOYED INDI-
23 VIDUAL TO MAKE TIMELY PAYMENTS TO PERSONAL IN-
24 VESTMENT PLAN.—If a personal investment plan con-
25 tribution is not paid by an eligible self-employed individual

1 to the Social Security Administration with respect to a
2 personal investment plan maintained by the individual
3 within the time prescribed by section 253, such individual
4 shall be subject to a civil penalty of not to exceed 50 per-
5 cent of the amount of such contribution.

6 “(e) FAILURE BY TRUSTEE TO MAKE TIMELY
7 TRANSFERS.—If the balance in the personal investment
8 plan of a deceased individual is not transferred by the
9 trustee within the time prescribed by section 254—

10 “(1) the trustee shall be subject to a civil pen-
11 alty of not to exceed 50 percent of the amount of
12 the balance, and

13 “(2) shall be liable—

14 “(A) in the case of a transfer required to
15 be made to another personal investment plan,
16 to the widow or the surviving divorced wife or
17 surviving divorced husband (as the case may
18 be), or

19 “(B) in the case of a transfer required to
20 be made to the Federal Old-Age and Survivors
21 Insurance Trust Fund, to such Trust Fund,
22 for interest on the balance at the underpayment rate
23 determined under section 6621 of the Internal Reve-
24 nue Code of 1986 from the last day by which such
25 balance was required to be so transferred to the date

1 on which such balance is transferred to the des-
2 ignated personal investment plan.

3 “(f) RULES FOR APPLICATION OF SECTION.—

4 “(1) PENALTIES ASSESSED BY COMMIS-
5 SIONER.—Any civil penalty assessed by this section
6 shall be imposed by the Commissioner of Social Se-
7 curity and collected in a civil action.

8 “(2) COMPROMISES.—The Commissioner may
9 compromise the amount of any civil penalty imposed
10 by this section.

11 “(3) AUTHORITY TO WAIVE PENALTY IN CER-
12 TAIN CASES.—The Commissioner may waive the ap-
13 plication of this section with respect to any failure
14 if the Commissioner determines that such failure is
15 due to reasonable cause and not to intentional dis-
16 regard of rules and regulations.

17 “PERSONAL INVESTMENT FUND

18 “SEC. 257. (a) ESTABLISHMENT.—There is hereby
19 established and maintained in the Treasury of the United
20 States a Personal Investment Fund in the same manner
21 as the Thrift Savings Fund under sections 8437, 8438,
22 and 8439 of title 5, United States Code.

23 “(b) PERSONAL INVESTMENT FUND BOARD.—

24 “(1) IN GENERAL.—There is established and
25 operated in the Social Security Administration a
26 Personal Investment Fund Board in the same man-

1 ner as the Federal Retirement Thrift Investment
2 Board under subchapter VII of chapter 84 of title
3 5, United States Code.

4 “(2) SPECIFIC INVESTMENT DUTIES.—The Per-
5 sonal Investment Fund shall be managed by the
6 Personal Investment Fund Board in the same man-
7 ner as the Thrift Savings Fund is managed under
8 subchapter VIII of chapter 84 of title 5, United
9 States Code.”.

10 (b) AMOUNTS DEDUCTED TO BE SHOWN ON W-2
11 STATEMENTS.—Subsection (a) of section 6051 of the In-
12 ternal Revenue Code of 1986 (relating to receipts for em-
13 ployees) is amended—

14 (1) by striking “and” at the end of paragraph
15 (9);

16 (2) by striking the period at the end of para-
17 graph (10) and inserting “, and”; and

18 (3) by adding at the end the following new
19 paragraph:

20 “(11) the total amount deducted from the em-
21 ployee’s wages under a personal investment payroll
22 deduction plan established under part B of title II
23 of the Social Security Act.”.

24 (c) EXEMPTION FROM ERISA REQUIREMENTS.—
25 Subsection (b) of section 4 of the Employee Retirement

1 Income Security Act of 1974 (29 U.S.C. 1003(b)) is
2 amended—

3 (1) by striking “or” at the end of paragraph
4 (4);

5 (2) by striking the period at the end of para-
6 graph (5) and inserting “; or”; and

7 (3) by adding at the end the following new
8 paragraph:

9 “(6) such plan is a personal investment payroll
10 deduction plan established under part B of title II
11 of the Social Security Act and does not provide for
12 employer contributions.”.

13 (d) EFFECTIVE DATE AND NOTICE REQUIRE-
14 MENTS.—

15 (1) EFFECTIVE DATE.—The amendments made
16 by subsection (a) (and any personal investment pay-
17 roll deduction plan required thereunder) shall apply
18 with respect to wages paid after December 31, 1995,
19 for pay periods ending after such date and self-em-
20 ployment income for taxable years beginning after
21 such date.

22 (2) NOTICE REQUIREMENTS.—

23 (A) IN GENERAL.—Not later than October
24 1, 1995, the Commissioner of Social Security
25 shall—

1 (i) send to the last known address of
2 each eligible individual a description of the
3 program established by the amendments
4 made by this section, which shall be writ-
5 ten in the form of a pamphlet in language
6 which may be readily understood by the
7 average worker,

8 (ii) provide for toll-free access by tele-
9 phone from all localities in the United
10 States to the Social Security Administra-
11 tion through which individuals may obtain
12 information and answers to questions re-
13 garding such program, and

14 (iii) provide information to the media
15 in all localities of the United States about
16 such program and such toll-free access by
17 telephone.

18 (B) ELIGIBLE INDIVIDUAL.—For purposes
19 of this paragraph, the term “eligible individual”
20 means an individual who, as of the date of the
21 pamphlet sent pursuant to subparagraph (A), is
22 indicated within the records of the Social Secu-
23 rity Administration as being credited with one
24 or more quarters of coverage under section 213
25 of the Social Security Act.

1 (C) MATTERS TO BE INCLUDED.—The
2 Commissioner shall include with the pamphlet
3 sent to each eligible individual pursuant to sub-
4 paragraph (A)—

5 (i) a statement of the number of quar-
6 ters of coverage indicated in the records of
7 the Social Security Administration as of
8 the date of the description as credited to
9 such individual under section 213 of the
10 Social Security Act and the date as of
11 which such records may be considered ac-
12 curate, and

13 (ii) the number for toll-free access by
14 telephone established by the Commissioner
15 pursuant to subparagraph (A).

16 **SEC. 4. ADJUSTMENTS TO PRIMARY INSURANCE AMOUNTS**
17 **UNDER PART A OF TITLE II OF THE SOCIAL**
18 **SECURITY ACT.**

19 (a) IN GENERAL.—Section 215 of the Social Security
20 Act (42 U.S.C. 415) is amended by adding at the end the
21 following new subsection:

1 “Adjustment of Primary Insurance Amount of Eligible
 2 Employees and Eligible Self-Employed Individuals
 3 Under Part B

4 “(j)(1) Except as provided in paragraph (2), in the
 5 case of an individual who is—

6 “(A) an eligible employee, as defined under
 7 paragraph (3) of section 255, or

8 “(B) an eligible self-employed individual, as de-
 9 fined under paragraph (4) of section 255,

10 such individual’s primary insurance amount shall be deter-
 11 mined under subsection (a)(1)(A) (before subsequent ad-
 12 justments made under subsection (i)), by substituting the
 13 first, second, and third primary insurance amount factors
 14 determined in the following table for the primary insur-
 15 ance amount factors ‘90’, ‘32’, and ‘15’ in clauses (i), (ii),
 16 and (iii), respectively:

“If individual’s age in 1996 is:	The PIA factors for such individual are:		
	First:	Second:	Third:
25 and under	90	14	2
26 to 35	90	21	8
35 to 45	90	26	12
45 and over	90	29	14.”

17 “(2)(A) In the case of an individual who is an eligible
 18 employee as defined in paragraph (3) of section 255 or
 19 an eligible self-employed individual as defined in para-
 20 graph (4) of section 255 becomes entitled to disability in-

1 surance benefits under section 223, such individual's pri-
2 mary insurance amount shall be determined without re-
3 gard to paragraph (1).

4 “(B) Effective upon the attainment by an individual
5 described in subparagraph (A) of retirement age (as de-
6 fined in section 216(l)(1)), such individual's primary in-
7 surance amount as determined in accordance with this sec-
8 tion (before subsequent adjustments made under sub-
9 section (i)) shall be determined under paragraph (1).”.

10 (b) CONFORMING AMENDMENT TO RAILROAD RE-
11 TIREMENT ACT OF 1974.—Section 1 of the Railroad Re-
12 tirement Act of 1974 (45 U.S.C. 231) is amended by add-
13 ing at the end the following:

14 “(s) In applying applicable provisions of the Social
15 Security Act for purposes of determining the amount of
16 the annuity to which an individual is entitled under this
17 Act, such individual shall not be treated as an ‘eligible
18 individual’ as defined in section 253(4) of the Social Secu-
19 rity Act.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to months after De-
22 cember 1995.

○