

104TH CONGRESS
2D SESSION

H. R. 4004

To amend the Internal Revenue Code of 1986 to provide that no loan may be made from a qualified employer plan using a credit card or other intermediary and that loans from qualified employer plans shall be taxed as a distribution unless the loan is used to purchase a first home, to pay higher education or financially devastating medical expenses, or during periods of unemployment.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1996

Mr. SCHUMER 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 that no loan may be made from a qualified employer plan using a credit card or other intermediary and that loans from qualified employer plans shall be taxed as a distribution unless the loan is used to purchase a first home, to pay higher education or financially devastating medical expenses, or during periods of unemployment.

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 “401(k) Protection Act
3 of 1996”.

4 **SEC. 2. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
5 **MAKING LOANS THROUGH CREDIT CARDS**
6 **AND OTHER INTERMEDIARIES.**

7 (a) IN GENERAL.—Subsection (a) of section 401 of
8 the Internal Revenue Code of 1986 is amended by adding
9 at the end the following new paragraph:

10 “(35) PROHIBITION OF LOANS THROUGH CRED-
11 IT CARDS AND OTHER INTERMEDIARIES.—A trust
12 shall not constitute a qualified trust under this sec-
13 tion if the plan makes any loan to any beneficiary
14 under the plan through the use of any credit card
15 or any other intermediary.”

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to plan years beginning after
18 the date of the enactment of this Act.

19 **SEC. 3. LOANS FROM QUALIFIED EMPLOYER PLANS TREAT-**
20 **ED AS DISTRIBUTIONS UNLESS USED TO PUR-**
21 **CHASE A FIRST HOME, TO PAY HIGHER EDU-**
22 **CATION OR FINANCIALLY DEVASTATING**
23 **MEDICAL EXPENSES, OR DURING PERIODS**
24 **OF UNEMPLOYMENT.**

25 (a) IN GENERAL.—Subsection (p) of section 72 of the
26 Internal Revenue Code of 1986 (relating to loans treated

1 as distributions) is amended by redesignating paragraphs
 2 (3), (4), and (5) as paragraphs (4), (5), and (6), respec-
 3 tively, and by inserting after paragraph (2) the following
 4 new paragraph:

5 “(3) EXCEPTION ONLY TO APPLY TO CERTAIN
 6 LOANS.—Paragraph (2) shall apply to any loan only
 7 if such loan is—

8 “(A) a qualified first-time homebuyer loan
 9 (as defined in paragraph (7)),

10 “(B) a qualified higher education loan (as
 11 defined in paragraph (8)),

12 “(C) a qualified medical expense loan (as
 13 defined in paragraph (9)), or

14 “(D) a qualified unemployment loan (as
 15 defined in paragraph (10)).”

16 (b) DEFINITIONS.—Subsection (p) of section 72 of
 17 such Code is amended by adding at the end the following
 18 new paragraphs:

19 “(7) QUALIFIED FIRST-TIME HOMEBUYER
 20 LOAN.—

21 “(A) IN GENERAL.—For purposes of para-
 22 graph (3), the term ‘qualified first-time home-
 23 buyer loan’ means any loan received by an indi-
 24 vidual to the extent the amount of the loan is
 25 used within a reasonable period to pay qualified

1 acquisition costs with respect to a principal res-
2 idence of a first-time homebuyer who is such in-
3 dividual, the spouse of such individual, or any
4 child, grandchild, or ancestor of such individual
5 or the individual's spouse.

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

13 “(C) FIRST-TIME HOMEBUYER; OTHER
14 DEFINITIONS.—For purposes of this para-
15 graph—

16 “(i) FIRST-TIME HOMEBUYER.—The
17 term ‘first-time homebuyer’ means any in-
18 dividual if—

19 “(I) such individual (and if mar-
20 ried, such individual's spouse) had no
21 present ownership interest in a prin-
22 cipal residence during the 2-year pe-
23 riod ending on the date of acquisition
24 of the principal residence to which
25 this paragraph applies, and

1 “(II) subsection (h) or (k) of sec-
2 tion 1034 did not suspend the run-
3 ning of any period of time specified in
4 section 1034 with respect to such in-
5 dividual on the day before the date
6 the loan is received.

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

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

12 “(I) on which a binding contract
13 to acquire the principal residence to
14 which subparagraph (A) applies is en-
15 tered into, or

16 “(II) on which construction or re-
17 construction of such a principal resi-
18 dence is commenced.

19 “(8) QUALIFIED HIGHER EDUCATION LOAN.—
20 For purposes of paragraph (3)—

21 “(A) IN GENERAL.—The term ‘qualified
22 higher education loan’ means any loan received
23 by an individual to the extent the amount of the
24 loan is used within a reasonable period to pay
25 expenses for tuition, fees, books, supplies, and

1 equipment required for the enrollment or at-
2 tendance of—

3 “(i) the individual,

4 “(ii) the individual’s spouse, or

5 “(iii) any child (as defined in section
6 151(e)(3)), grandchild, or ancestor of the
7 individual or the individual’s spouse,

8 at an eligible educational institution (as defined
9 in section 135(c)(3)).

10 “(B) COORDINATION WITH SAVINGS BOND
11 PROVISIONS.—The amount of qualified higher
12 education expenses for any taxable year shall be
13 reduced by any amount excludable from gross
14 income under section 135.

15 “(9) QUALIFIED MEDICAL EXPENSE LOAN.—
16 The term ‘qualified medical expense loan’ means any
17 loan received by an individual to the extent the
18 amount of the loan does not exceed the amount al-
19 lowable as a deduction under section 213 to the indi-
20 vidual for amounts paid during the taxable year for
21 medical care (determined without regard to whether
22 the taxpayer itemizes deductions for such taxable
23 year).

24 “(10) QUALIFIED UNEMPLOYMENT LOAN.—The
25 term ‘qualified unemployment loan’ means any loan

1 to an individual after separation from employment,
2 if—

3 “(A) such individual has received unem-
4 ployment compensation for 12 consecutive
5 weeks under any Federal or State unemploy-
6 ment compensation law by reason of such sepa-
7 ration, and

8 “(B) such loan is received during any tax-
9 able year during which such unemployment
10 compensation is paid or the succeeding taxable
11 year.

12 To the extent provided in regulations, a self-em-
13 ployed individual shall be treated as meeting the re-
14 quirements of subparagraph (A) if, under Federal or
15 State law, the individual would have received unem-
16 ployment compensation but for the fact the individ-
17 ual was self-employed.”

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to loans made after the date of
20 the enactment of this Act.

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