

116TH CONGRESS
1ST SESSION

H. R. 4120

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of first-time homeowner assistance programs established by States.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2019

Mr. LAWSON of Florida (for himself and Ms. TLAIB) 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 the tax treatment of first-time homeowner assistance programs established by States.

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 “First-Time Home-
5 owners Assistance Act of 2019”.

6 **SEC. 2. QUALIFIED FIRST-TIME HOMEOWNER ASSISTANCE**
7 **PROGRAM.**

8 (a) IN GENERAL.—Part VIII of subchapter F of
9 chapter 1 of the Internal Revenue Code of 1986 is amend-
10 ed by adding at the end the following new section:

1 **“SEC. 530A. QUALIFIED FIRST-TIME HOMEOWNER ASSIST-**
2 **ANCE PROGRAM.**

3 “(a) GENERAL RULE.—A qualified first-time home-
4 owner assistance program shall be exempt from taxation
5 under this subtitle. Notwithstanding the preceding sen-
6 tence, such program shall be subject to the taxes imposed
7 by section 511 (relating to imposition of tax on unrelated
8 business income of charitable organizations).

9 “(b) QUALIFIED FIRST-TIME HOMEOWNER ASSIST-
10 ANCE PROGRAM.—For purposes of this section—

11 “(1) IN GENERAL.—The term ‘qualified first-
12 time homeowner assistance program’ means a pro-
13 gram established and maintained by a State, or
14 agency or instrumentality thereof—

15 “(A) under which a person may make con-
16 tributions to a first-time homeowner assistance
17 account,

18 “(B) under which neither contributors nor
19 beneficiaries are prohibited by reason of resi-
20 dency within the State, and

21 “(C) which meets the other requirements
22 of this subsection.

23 “(2) CASH CONTRIBUTIONS.—A program shall
24 not be treated as a qualified first-time homeowner
25 assistance program unless it provides that contribu-
26 tions—

1 “(A) may only be made in cash,

2 “(B) may not be made after the date on
3 which the account beneficiary attains age 40, or

4 “(C) except in the case of rollover con-
5 tributions, if such contribution would result in
6 aggregate contributions for all taxable years ex-
7 ceeding \$20,000.

8 “(3) SEPARATE ACCOUNTING.—A program shall
9 not be treated as a qualified first-time homeowner
10 assistance program unless it provides separate ac-
11 counting for each designated beneficiary.

12 “(4) LIMITED INVESTMENT DIRECTION.—A
13 program shall not be treated as a qualified first-time
14 homeowner assistance program unless it provides
15 that any contributor to, or designated beneficiary
16 under, such program may, directly or indirectly, di-
17 rect the investment of any contributions to the pro-
18 gram (or any earnings thereon) no more than 2
19 times in any calendar year.

20 “(5) NO PLEDGING OF INTEREST AS SECUR-
21 RITY.—A program shall not be treated as a qualified
22 first-time homeowner assistance program if it allows
23 any interest in the program or any portion thereof
24 to be used as security for a loan.

1 “(6) CERTAIN RESTRICTIONS DISALLOWED.—A
2 program shall not be treated as a qualified first-time
3 homeowner assistance program unless, with respect
4 to each first-time homeowner assistance account, the
5 program does not—

6 “(A) prohibit the designated beneficiary
7 from acquiring or constructing a principal resi-
8 dence outside of the State,

9 “(B) limit any State tax preferences for
10 contributions to these accounts based on the
11 residence of the contributor or the designated
12 beneficiary, or

13 “(C) condition withdrawals, or limit any
14 State tax preferences for withdrawals, from
15 these accounts from being applied only with re-
16 spect to residences located within the State.

17 “(c) FIRST-TIME HOMEOWNER ASSISTANCE AC-
18 COUNT.—For purposes of this section—

19 “(1) IN GENERAL.—The term ‘first-time home-
20 owner assistance account’ means an account estab-
21 lished under a qualified first-time homeowner assist-
22 ance program for the purpose of providing qualified
23 down payment assistance to the designated bene-
24 ficiary of the account.

1 “(2) QUALIFIED DOWN PAYMENT ASSIST-
2 ANCE.—

3 “(A) IN GENERAL.—The term ‘qualified
4 down payment assistance’ means a distribu-
5 tion—

6 “(i) to a designated beneficiary who is
7 a first-time homeowner of a principal resi-
8 dence in the United States,

9 “(ii) under a qualified first-time
10 homeowner assistance program in connec-
11 tion with the acquisition, construction, or
12 substantial improvement of a principal resi-
13 dence at or before the time of such acqui-
14 sition or construction, and

15 “(iii) the amount of which, when
16 added to all prior qualified down payment
17 assistance under this subparagraph during
18 any taxable year, does not exceed 10 per-
19 cent of the cost of acquiring, constructing,
20 or substantially improving the principal
21 residence of the designated beneficiary.

22 “(B) FIRST-TIME HOMEOWNER.—The
23 term ‘first-time homeowner’ means any indi-
24 vidual if such individual (and if married, such
25 individual’s spouse) had no present ownership

1 interest in a principal residence during the 3-
2 year period ending on the date of the acquisi-
3 tion, construction, or substantial improvement
4 of the principal residence.

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

8 “(D) EXCEPTION.—A residence may be
9 taken into account for purposes of this para-
10 graph only if—

11 “(i) the residence is not acquired from
12 a person related to the person acquiring
13 such residence (or, if married, such indi-
14 vidual’s spouse), and

15 “(ii) the basis of the residence in the
16 hands of the person acquiring such resi-
17 dence is not determined—

18 “(I) in whole or in part by ref-
19 erence to the adjusted basis of such
20 residence in the hands of the person
21 from whom acquired, or

22 “(II) under section 1014(a) (re-
23 lating to property acquired from a de-
24 cedent).

1 “(E) CONSTRUCTION.—A residence which
2 is constructed by the taxpayer shall be treated
3 as purchased by the taxpayer on the date the
4 taxpayer first occupies such residence.

5 “(F) SPECIAL RULES RELATING TO MAR-
6 RIAGE.—

7 “(i) MARRIED COUPLES MUST FILE
8 JOINT RETURN.—If the designated bene-
9 ficiary is married on the date of the dis-
10 tribution, the distribution shall not be
11 treated as qualified down payment assist-
12 ance unless the taxpayer and the tax-
13 payer’s spouse file a joint return for the
14 taxable year.

15 “(ii) MARITAL STATUS.—An indi-
16 vidual legally separated from his spouse
17 under a decree of divorce or of separate
18 maintenance shall not be considered as
19 married.

20 “(3) DESIGNATED BENEFICIARY.—The term
21 ‘designated beneficiary’ with respect to a first-time
22 homeowner assistance account means—

23 “(A) the individual designated at the es-
24 tablishment of the account as the beneficiary of

1 amounts paid (or to be paid) to the account,
2 and

3 “(B) in the case of a change in bene-
4 ficiaries described in subsection (d)(3)(C), the
5 individual who is the new beneficiary of the ac-
6 count.

7 “(4) MEMBER OF FAMILY.—The term ‘member
8 of the family’ means, with respect to any designated
9 beneficiary—

10 “(A) the spouse of such beneficiary,

11 “(B) an individual who bears a relation-
12 ship to such beneficiary which is described in
13 subparagraphs (A) through (G) of section
14 152(d)(2),

15 “(C) the spouse of any individual described
16 in subparagraph (B), and

17 “(D) any first cousin of such beneficiary.

18 “(d) TAX TREATMENT OF DESIGNATED BENE-
19 FICIARIES AND CONTRIBUTORS.—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, no amount shall be includ-
22 ible in gross income of—

23 “(A) a designated beneficiary under a
24 qualified first-time homeowner assistance pro-
25 gram, or

1 “(B) a contributor to such program on be-
2 half of a designated beneficiary, with respect to
3 any distribution or earnings under such pro-
4 gram.

5 “(2) GIFT TAX TREATMENT OF CONTRIBU-
6 TIONS.—For purposes of chapters 12 and 13—

7 “(A) IN GENERAL.—Any contribution to a
8 qualified first-time homeowner assistance pro-
9 gram on behalf of any designated beneficiary—

10 “(i) shall be treated as a completed
11 gift to such beneficiary which is not a fu-
12 ture interest in property, and

13 “(ii) shall not be treated as a qualified
14 transfer under section 2503(e).

15 “(B) TREATMENT OF EXCESS CONTRIBU-
16 TIONS FOR GIFT TAX PURPOSES.—If the aggre-
17 gate amount of contributions described in sub-
18 paragraph (A) during the calendar year by a
19 donor exceeds the limitation for such year
20 under section 2503(b), such aggregate amount
21 shall, at the election of the donor, be taken into
22 account for purposes of such section ratably
23 over the 5-year period beginning with such cal-
24 endar year.

25 “(3) DISTRIBUTIONS.—

1 “(A) IN GENERAL.—Any distribution
2 under a qualified first-time homeowner assist-
3 ance program shall be includible in the gross in-
4 come of the distributee in the manner as pro-
5 vided under section 72 to the extent not ex-
6 cluded from gross income under this paragraph.

7 “(B) DISTRIBUTIONS FOR QUALIFIED
8 DOWN PAYMENT ASSISTANCE.—For purposes of
9 this paragraph, if—

10 “(i) distributions under a qualified
11 first-time homeowner assistance program
12 do not exceed the qualified down payment
13 assistance, no amount shall be includible in
14 gross income, and

15 “(ii) in any other case, the amount
16 otherwise includible in gross income shall
17 be reduced by an amount which bears the
18 same ratio to such amount as such assist-
19 ance bear to such distributions.

20 “(C) CHANGE IN BENEFICIARIES OR PRO-
21 GRAMS.—

22 “(i) ROLLOVERS.—Subparagraph (A)
23 shall not apply to that portion of any dis-
24 tribution which, within 60 days of such
25 distribution, is transferred—

1 “(I) to another qualified distribu-
2 tion under a qualified first-time home-
3 owner assistance program or the ben-
4 efit of the designated beneficiary, or

5 “(II) to the credit of another des-
6 ignated beneficiary under a qualified
7 distribution under a qualified first-
8 time homeowner assistance program
9 who is a member of the family of the
10 designated beneficiary with respect to
11 which the distribution was made.

12 “(ii) CHANGE IN DESIGNATED BENE-
13 FICIARIES.—Any change in the designated
14 beneficiary of an interest in a qualified dis-
15 tribution under a qualified first-time home-
16 owner assistance program shall not be
17 treated as a distribution for purposes of
18 subparagraph (A) if the new beneficiary is
19 a member of the family of the old bene-
20 ficiary.

21 “(iii) LIMITATION ON CERTAIN ROLL-
22 OVERS.—Clause (i)(I) shall not apply to
23 any transfer if such transfer occurs within
24 12 months from the date of a previous
25 transfer to any qualified distribution under

1 a qualified first-time homeowner assistance
2 program for the benefit of the designated
3 beneficiary.

4 “(4) ESTATE TAX TREATMENT.—

5 “(A) IN GENERAL.—No amount shall be
6 includible in the gross estate of any individual
7 for purposes of chapter 11 by reason of an in-
8 terest in a qualified distribution under a quali-
9 fied first-time homeowner assistance program.

10 “(B) AMOUNTS INCLUDIBLE IN ESTATE OF
11 DESIGNATED BENEFICIARY IN CERTAIN
12 CASES.—Subparagraph (A) shall not apply to
13 amounts distributed on account of the death of
14 a beneficiary.

15 “(C) AMOUNTS INCLUDIBLE IN ESTATE OF
16 DONOR MAKING EXCESS CONTRIBUTIONS.—In
17 the case of a donor who makes the election de-
18 scribed in paragraph (2)(B) and who dies be-
19 fore the close of the 5-year period referred to
20 in such paragraph, notwithstanding subpara-
21 graph (A), the gross estate of the donor shall
22 include the portion of such contributions prop-
23 erly allocable to periods after the date of death
24 of the donor.

1 “(5) OTHER GIFT TAX RULES.—For purposes
2 of chapters 12 and 13—

3 “(A) TREATMENT OF DISTRIBUTIONS.—

4 Except as provided in subparagraph (B), in no
5 event shall a distribution from a qualified dis-
6 tribution under a qualified first-time home-
7 owner assistance program be treated as a tax-
8 able gift.

9 “(B) TREATMENT OF DESIGNATION OF

10 NEW BENEFICIARY.—The taxes imposed by
11 chapters 12 and 13 shall apply to a transfer by
12 reason of a change in the designated beneficiary
13 under the program (or a rollover to the account
14 of a new beneficiary) unless the new beneficiary
15 is—

16 “(i) assigned to the same generation
17 as (or a higher generation than) the old
18 beneficiary (determined in accordance with
19 section 2651), and

20 “(ii) a member of the family of the
21 old beneficiary.

22 “(6) ADDITIONAL TAX FOR DISTRIBUTIONS NOT
23 USED FOR QUALIFIED DOWNPAYMENT ASSIST-
24 ANCE.—

1 “(A) IN GENERAL.—The tax imposed by
2 this chapter for any taxable year on any tax-
3 payer who receives a payment or distribution
4 from a qualified first-time homeowner assist-
5 ance program which is includible in gross in-
6 come shall be increased by 10 percent of the
7 amount which is so includible.

8 “(B) EXCEPTIONS.—Subparagraph (A)
9 shall not apply if the payment or distribution
10 is—

11 “(i) made to a beneficiary (or to the
12 estate of the designated beneficiary) on or
13 after the death of the designated bene-
14 ficiary,

15 “(ii) attributable to the designated
16 beneficiary’s being disabled (within the
17 meaning of section 72(m)(7)), or

18 “(iii) an amount which is includible in
19 gross income solely by application of para-
20 graph (2)(C)(i)(II) for the taxable year.

21 “(C) CONTRIBUTIONS RETURNED BEFORE
22 CERTAIN DATE.—Subparagraph (A) shall not
23 apply to the distribution of any contribution
24 made during a taxable year on behalf of the
25 designated beneficiary if—

1 “(i) such distribution is made before
2 the first day of the sixth month of the tax-
3 able year following the taxable year, and

4 “(ii) such distribution is accompanied
5 by the amount of net income attributable
6 to such excess contribution.

7 Any net income described in clause (ii) shall be
8 included in gross income for the taxable year in
9 which such excess contribution was made.

10 “(e) REPORTS.—Each officer or employee having
11 control of the qualified distribution under a qualified first-
12 time homeowner assistance program or their designee
13 shall make such reports regarding such program to the
14 Secretary and to designated beneficiaries with respect to
15 contributions, distributions, and such other matters as the
16 Secretary may require. The reports required by this sub-
17 section shall be filed at such time and in such manner
18 and furnished to such individuals at such time and in such
19 manner as may be required by the Secretary.

20 “(f) REGULATIONS.—Notwithstanding any other pro-
21 vision of this section, the Secretary shall prescribe such
22 regulations as may be necessary or appropriate to carry
23 out the purposes of this section and to prevent abuse of
24 such purposes, including regulations under chapters 11,
25 12, and 13 of this title.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) TAX ON EXCESS CONTRIBUTIONS.—

3 (A) IN GENERAL.—Subsection (a) of sec-
4 tion 4973 of such Code is amended by striking
5 “or” at the end of paragraph (5), by inserting
6 “or” at the end of paragraph (6), and by in-
7 serting after paragraph (6) the following new
8 paragraph:

9 “(7) a first-time homeowner assistance account
10 (as defined in section 530A),”.

11 (B) EXCESS CONTRIBUTION.—Section
12 4973 of such Code is amended by adding at the
13 end the following new subsection:

14 “(i) EXCESS CONTRIBUTIONS TO FIRST-TIME HOME-
15 OWNER ASSISTANCE ACCOUNT.—For purposes of this sec-
16 tion—

17 “(1) IN GENERAL.—In the case of a first-time
18 homeowner assistance account (as defined in section
19 530A) (within the meaning of section 529A), the
20 term ‘excess contributions’ means the amount by
21 which the amount contributed for the taxable year to
22 such account (other than contributions under section
23 530A(d)(3)(C)) exceeds the contribution limit under
24 section 530A(b)(2)(C).

1 “(2) SPECIAL RULE.—For purposes of this sub-
2 section, any contribution which is distributed out of
3 the first-time homeowner assistance account (as so
4 defined) in a distribution to which the last sentence
5 of section 530A(d)(6)(C) applies shall be treated as
6 an amount not contributed.”.

7 (2) Section 26(b)(2) is amended by striking
8 “and” at the end of subparagraph (X), by striking
9 the period at the end of subparagraph (Y) and in-
10 serting “, and”, and by inserting after subparagraph
11 (Y) the following:

12 “(Z) section 530A(d)(3)(A) (relating to ad-
13 ditional tax on first-time homeowner assistance
14 account distributions not used for qualified
15 homeowner assistance).”.

16 (3) PENALTY FOR FAILURE TO FILE RE-
17 PORTS.—Section 6693(a)(2) of such Code is amend-
18 ed by striking “and” at the end of subparagraph
19 (E), by striking the period at the end of subpara-
20 graph (F) and inserting “, and”, and by inserting
21 after subparagraph (F) the following:

22 “(G) section 530A(e) (relating to qualified
23 first-time homeowner assistance program),
24 and”.

25 (4) Section 877A of such Code is amended—

1 (A) in subsection (e)(2) by inserting “a
2 qualified first-time homeowner assistance pro-
3 gram (as defined in section 530A),” after
4 “530),”, and

5 (B) in subsection (g)(6) by inserting
6 “530A(c)(3),” after “529(c)(3),”.

7 (5) Section 4965(c) of such Code is amended by
8 striking “or” at the end of paragraph (7), by strik-
9 ing the period at the end of paragraph (8) and in-
10 serting “, or”, and by inserting after paragraph (8)
11 the following new paragraph:

12 “(9) a program described in section 530A.”.

13 (c) CLERICAL AMENDMENT.—The table of sections
14 for part VIII of subchapter F of chapter 1 of such Code
15 is amended by adding at the end the following new item:

 “Sec. 530A. Qualified first-time homeowner assistance program.”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

○