

118TH CONGRESS
1ST SESSION

S. 3043

To provide special rules for retirement accounts and personal casualty losses with respect to certain major disasters occurring in 2023.

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2023

Ms. HIRONO (for herself and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide special rules for retirement accounts and personal casualty losses with respect to certain major disasters occurring in 2023.

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 “Natural Disaster Tax
5 Relief Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act—

8 (1) **QUALIFIED DISASTER AREA.**—The term
9 “qualified disaster area” means any area with re-
10 spect to which a major disaster was declared, during

1 calendar year 2023, by the President under section
2 401 of the Robert T. Stafford Disaster Relief and
3 Emergency Assistance Act if the incident period of
4 the disaster with respect to which such declaration
5 is made begins during calendar year 2023.

6 (2) QUALIFIED DISASTER.—The term “quali-
7 fied disaster” means, with respect to any qualified
8 disaster area, the disaster by reason of which a
9 major disaster was declared with respect to such
10 area.

11 (3) INCIDENT PERIOD.—The term “incident pe-
12 riod” means, with respect to any qualified disaster,
13 the period specified by the Federal Emergency Man-
14 agement Agency as the period during which such
15 disaster occurred (except that for purposes of this
16 Act such period shall not be treated as ending after
17 January 31, 2024).

18 **SEC. 3. SPECIAL DISASTER-RELATED RULES FOR USE OF**
19 **RETIREMENT FUNDS.**

20 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
21 MENT PLANS.—

22 (1) IN GENERAL.—Section 72(t) of the Internal
23 Revenue Code of 1986 shall not apply to any quali-
24 fied disaster distribution.

25 (2) AGGREGATE DOLLAR LIMITATION.—

1 (A) IN GENERAL.—For purposes of this
2 subsection, the aggregate amount of distribu-
3 tions received by an individual which may be
4 treated as qualified disaster distributions for
5 any taxable year shall not exceed the excess (if
6 any) of—

7 (i) \$100,000, over

8 (ii) the aggregate amounts treated as
9 qualified disaster distributions received by
10 such individual for all prior taxable years.

11 (B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would
12 (without regard to subparagraph (A)) be a
13 qualified disaster distribution, a plan shall not
14 be treated as violating any requirement of the
15 Internal Revenue Code of 1986 merely because
16 the plan treats such distribution as a qualified
17 disaster distribution, unless the aggregate
18 amount of such distributions from all plans
19 maintained by the employer (and any member
20 of any controlled group which includes the em-
21 ployer) to such individual exceeds \$100,000.

22 (C) CONTROLLED GROUP.—For purposes
23 of subparagraph (B), the term “controlled
24 group” means any group treated as a single
25

1 employer under subsection (b), (c), (m), or (o)
2 of section 414 of the Internal Revenue Code of
3 1986.

4 (D) SPECIAL RULE FOR INDIVIDUALS AF-
5 FECTED BY MORE THAN ONE DISASTER.—The
6 limitation of subparagraph (A) shall be applied
7 separately with respect to distributions made
8 with respect to each qualified disaster.

9 (3) AMOUNT DISTRIBUTED MAY BE REPAID.—

10 (A) IN GENERAL.—Any individual who re-
11 ceives a qualified disaster distribution may, at
12 any time during the 3-year period beginning on
13 the day after the date on which such distribu-
14 tion was received, make 1 or more contributions
15 in an aggregate amount not to exceed the
16 amount of such distribution to an eligible retire-
17 ment plan of which such individual is a bene-
18 ficiary and to which a rollover contribution of
19 such distribution could be made under section
20 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or
21 457(e)(16), of the Internal Revenue Code of
22 1986, as the case may be.

23 (B) TREATMENT OF REPAYMENTS OF DIS-
24 TRIBUTIONS FROM ELIGIBLE RETIREMENT
25 PLANS OTHER THAN IRAS.—For purposes of

1 the Internal Revenue Code of 1986, if a con-
2 tribution is made pursuant to subparagraph (A)
3 with respect to a qualified disaster distribution
4 from an eligible retirement plan other than an
5 individual retirement plan, then the taxpayer
6 shall, to the extent of the amount of the con-
7 tribution, be treated as having received the
8 qualified disaster distribution in an eligible roll-
9 over distribution (as defined in section
10 402(c)(4) of such Code) and as having trans-
11 ferred the amount to the eligible retirement
12 plan in a direct trustee to trustee transfer with-
13 in 60 days of the distribution.

14 (C) TREATMENT OF REPAYMENTS OF DIS-
15 TRIBUTIONS FROM IRAS.—For purposes of the
16 Internal Revenue Code of 1986, if a contribu-
17 tion is made pursuant to subparagraph (A)
18 with respect to a qualified disaster distribution
19 from an individual retirement plan (as defined
20 by section 7701(a)(37) of such Code), then, to
21 the extent of the amount of the contribution,
22 the qualified disaster distribution shall be treat-
23 ed as a distribution described in section
24 408(d)(3) of such Code and as having been
25 transferred to the eligible retirement plan in a

1 direct trustee to trustee transfer within 60 days
2 of the distribution.

3 (4) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) QUALIFIED DISASTER DISTRIBUTION.—Except as provided in paragraph (2),
6 the term “qualified disaster distribution” means
7 any distribution from an eligible retirement
8 plan made—
9

10 (i) on or after the first day of the inci-
11 dent period of a qualified disaster and
12 before July 1, 2024, and

13 (ii) to an individual whose principal
14 place of abode at any time during the inci-
15 dent period of such qualified disaster is lo-
16 cated in the qualified disaster area with re-
17 spect to such qualified disaster and who
18 has sustained an economic loss by reason
19 of such qualified disaster.

20 (B) ELIGIBLE RETIREMENT PLAN.—The
21 term “eligible retirement plan” shall have the
22 meaning given such term by section
23 402(c)(8)(B) of the Internal Revenue Code of
24 1986.

1 (5) INCOME INCLUSION SPREAD OVER 3-YEAR
2 PERIOD.—

3 (A) IN GENERAL.—In the case of any
4 qualified disaster distribution, unless the tax-
5 payer elects not to have this paragraph apply
6 for any taxable year, any amount required to be
7 included in gross income for such taxable year
8 shall be so included ratably over the 3-taxable-
9 year period beginning with such taxable year.

10 (B) SPECIAL RULE.—For purposes of sub-
11 paragraph (A), rules similar to the rules of sub-
12 paragraph (E) of section 408A(d)(3) of the In-
13 ternal Revenue Code of 1986 shall apply.

14 (6) SPECIAL RULES.—

15 (A) EXEMPTION OF DISTRIBUTIONS FROM
16 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
17 HOLDING RULES.—For purposes of sections
18 401(a)(31), 402(f), and 3405 of the Internal
19 Revenue Code of 1986, qualified disaster dis-
20 tributions shall not be treated as eligible roll-
21 over distributions.

22 (B) QUALIFIED DISASTER DISTRIBUTIONS
23 TREATED AS MEETING PLAN DISTRIBUTION RE-
24 QUIREMENTS.—For purposes of the Internal
25 Revenue Code of 1986, a qualified disaster dis-

1 tribution shall be treated as meeting the re-
2 quirements of sections 401(k)(2)(B)(i),
3 403(b)(7)(A)(i), 403(b)(11), and 457(d)(1)(A)
4 of such Code and section 8433(h)(1) of title 5,
5 United States Code, and, in the case of a
6 money purchase pension plan, a qualified dis-
7 aster distribution which is an in-service with-
8 drawal shall be treated as meeting the distribu-
9 tion rules of section 401(a) of such Code.

10 (b) RECONTRIBUTIONS OF WITHDRAWALS FOR
11 HOME PURCHASES.—

12 (1) RECONTRIBUTIONS.—

13 (A) IN GENERAL.—Any individual who re-
14 ceived a qualified distribution may, during the
15 applicable period, make 1 or more contributions
16 in an aggregate amount not to exceed the
17 amount of such qualified distribution to an eli-
18 gible retirement plan (as defined in section
19 402(c)(8)(B) of the Internal Revenue Code of
20 1986) of which such individual is a beneficiary
21 and to which a rollover contribution of such dis-
22 tribution could be made under section 402(c),
23 403(a)(4), 403(b)(8), or 408(d)(3), of such
24 Code, as the case may be.

1 (B) TREATMENT OF REPAYMENTS.—Rules
2 similar to the rules of subparagraphs (B) and
3 (C) of subsection (a)(3) shall apply for purposes
4 of this subsection.

5 (2) QUALIFIED DISTRIBUTION.—For purposes
6 of this subsection, the term “qualified distribution”
7 means any distribution—

8 (A) described in section
9 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(i)(V),
10 403(b)(11)(B), or 72(t)(2)(F), of the Internal
11 Revenue Code of 1986,

12 (B) which was to be used to purchase or
13 construct a principal residence in a qualified
14 disaster area, but which was not so used on ac-
15 count of the qualified disaster with respect to
16 such area, and

17 (C) which was received during the period
18 beginning on the date which is 180 days before
19 the first day of the incident period of such
20 qualified disaster and ending on the date which
21 is 30 days after the last day of such incident
22 period.

23 (3) APPLICABLE PERIOD.—For purposes of this
24 subsection, the term “applicable period” means, in
25 the case of a principal residence in a qualified dis-

1 aster area with respect to any qualified disaster, the
2 period beginning on the first day of the incident pe-
3 riod of such qualified disaster and ending on June
4 30, 2024.

5 (c) LOANS FROM QUALIFIED PLANS.—

6 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-
7 ED AS DISTRIBUTIONS.—In the case of any loan
8 from a qualified employer plan (as defined under
9 section 72(p)(4) of the Internal Revenue Code of
10 1986) to a qualified individual made during the pe-
11 riod beginning on the date of the enactment of this
12 Act and ending on June 30, 2024—

13 (A) clause (i) of section 72(p)(2)(A) of
14 such Code shall be applied by substituting
15 “\$100,000” for “\$50,000”, and

16 (B) clause (ii) of such section shall be ap-
17 plied by substituting “the present value of the
18 nonforfeitable accrued benefit of the employee
19 under the plan” for “one-half of the present
20 value of the nonforfeitable accrued benefit of
21 the employee under the plan”.

22 (2) DELAY OF REPAYMENT.—In the case of a
23 qualified individual (with respect to any qualified
24 disaster) with an outstanding loan (on or after the
25 first day of the incident period of such qualified dis-

1 aster) from a qualified employer plan (as defined in
2 section 72(p)(4) of the Internal Revenue Code of
3 1986)—

4 (A) if the due date pursuant to subpara-
5 graph (B) or (C) of section 72(p)(2) of such
6 Code for any repayment with respect to such
7 loan occurs during the period beginning on the
8 first day of the incident period of such qualified
9 disaster and ending on the date which is 180
10 days after the last day of such incident period,
11 such due date shall be delayed for 1 year (or,
12 if later, until June 30, 2024),

13 (B) any subsequent repayments with re-
14 spect to any such loan shall be appropriately
15 adjusted to reflect the delay in the due date
16 under subparagraph (A) and any interest accru-
17 ing during such delay, and

18 (C) in determining the 5-year period and
19 the term of a loan under subparagraph (B) or
20 (C) of section 72(p)(2) of such Code, the period
21 described in subparagraph (A) of this para-
22 graph shall be disregarded.

23 (3) QUALIFIED INDIVIDUAL.—For purposes of
24 this subsection, the term “qualified individual”
25 means any individual—

1 (A) whose principal place of abode at any
2 time during the incident period of any qualified
3 disaster is located in the qualified disaster area
4 with respect to such qualified disaster, and

5 (B) who has sustained an economic loss by
6 reason of such qualified disaster.

7 (d) PROVISIONS RELATING TO PLAN AMEND-
8 MENTS.—

9 (1) IN GENERAL.—If this subsection applies to
10 any amendment to any plan or annuity contract,
11 such plan or contract shall be treated as being oper-
12 ated in accordance with the terms of the plan during
13 the period described in paragraph (2)(B)(i).

14 (2) AMENDMENTS TO WHICH SUBSECTION AP-
15 PLIES.—

16 (A) IN GENERAL.—This subsection shall
17 apply to any amendment to any plan or annuity
18 contract which is made—

19 (i) pursuant to any provision of this
20 section, or pursuant to any regulation
21 issued by the Secretary or the Secretary of
22 Labor under any provision of this section,
23 and

24 (ii) on or before the last day of the
25 first plan year beginning on or after Janu-

1 ary 1, 2024, or such later date as the Sec-
2 retary may prescribe.

3 In the case of a governmental plan (as defined
4 in section 414(d) of the Internal Revenue Code
5 of 1986), clause (ii) shall be applied by sub-
6 stituting the date which is 2 years after the
7 date otherwise applied under clause (ii).

8 (B) CONDITIONS.—This subsection shall
9 not apply to any amendment unless—

10 (i) during the period—

11 (I) beginning on the date that
12 this section or the regulation de-
13 scribed in subparagraph (A)(i) takes
14 effect (or in the case of a plan or con-
15 tract amendment not required by this
16 section or such regulation, the effec-
17 tive date specified by the plan), and

18 (II) ending on the date described
19 in subparagraph (A)(ii) (or, if earlier,
20 the date the plan or contract amend-
21 ment is adopted),

22 the plan or contract is operated as if such plan
23 or contract amendment were in effect, and

24 (ii) such plan or contract amendment
25 applies retroactively for such period.

1 **SEC. 4. SPECIAL RULES FOR QUALIFIED DISASTER-RE-**
2 **LATED PERSONAL CASUALTY LOSSES.**

3 (a) IN GENERAL.—If an individual has a net disaster
4 loss for any taxable year—

5 (1) the amount determined under section
6 165(h)(2)(A)(ii) of the Internal Revenue Code of
7 1986 shall be equal to the sum of—

8 (A) such net disaster loss, and

9 (B) so much of the excess referred to in
10 the matter preceding clause (i) of section
11 165(h)(2)(A) of such Code (reduced by the
12 amount in clause (i) of this subparagraph) as
13 exceeds 10 percent of the adjusted gross income
14 of the individual,

15 (2) in the case of qualified disaster-related per-
16 sonal casualty losses, section 165(h)(1) of such Code
17 shall be applied to by substituting “\$500” for “\$500
18 (\$100 for taxable years beginning after December
19 31, 2009)”,

20 (3) the standard deduction determined under
21 section 63(c) of such Code shall be increased by the
22 net disaster loss, and

23 (4) section 56(b)(1)(E) of such Code shall not
24 apply to so much of the standard deduction as is at-
25 tributable to the increase under subparagraph (C) of
26 this paragraph.

1 (b) NET DISASTER LOSS.—For purposes of this sub-
2 section, the term “net disaster loss” means the excess of
3 qualified disaster-related personal casualty losses over per-
4 sonal casualty gains (as defined in section 165(h)(3)(A)
5 of the Internal Revenue Code of 1986).

6 (c) QUALIFIED DISASTER-RELATED PERSONAL CAS-
7 UALTY LOSSES.—For purposes of this subsection, the
8 term “qualified disaster-related personal casualty losses”
9 means losses described in section 165(c)(3) of the Internal
10 Revenue Code of 1986 which arise in a qualified disaster
11 area on or after the first day of the incident period of
12 the qualified disaster to which such area relates, and
13 which are attributable to such qualified disaster.

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