

116TH CONGRESS
1ST SESSION

H. R. 536

To provide tax relief for the victims of Hurricane Florence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2019

Mr. HOLDING (for himself, Mr. ROUZER, Mr. MEADOWS, Mr. WALKER, Mr. HUDSON, Mr. BUDD, Ms. FOXX of North Carolina, Mr. RICE of South Carolina, and Mr. JONES) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide tax relief for the victims of Hurricane Florence,
and for other 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 “Hurricane Florence
5 Tax Relief Act”.

6 **SEC. 2. HURRICANE FLORENCE DISASTER ZONE AND DIS-**
7 **ASTER AREA.**

8 (a) HURRICANE FLORENCE DISASTER ZONE.—For
9 purposes of this Act, the term “Hurricane Florence dis-

1 aster zone” means that portion of the Hurricane Florence
 2 disaster area determined by the President to warrant indi-
 3 vidual or individual and public assistance from the Federal
 4 Government under such Act by reason of Hurricane Flor-
 5 ence.

6 (b) HURRICANE FLORENCE DISASTER AREA.—The
 7 term “Hurricane Florence disaster area” means an area
 8 with respect to which a major disaster has been declared
 9 by the President before October 1, 2018, under section
 10 401 of such Act by reason of Hurricane Florence.

11 **SEC. 3. SPECIAL DISASTER-RELATED RULES FOR USE OF**
 12 **RETIREMENT FUNDS.**

13 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
 14 MENT PLANS.—

15 (1) IN GENERAL.—Section 72(t) of the Internal
 16 Revenue Code of 1986 shall not apply to any quali-
 17 fied hurricane distribution.

18 (2) AGGREGATE DOLLAR LIMITATION.—

19 (A) IN GENERAL.—For purposes of this
 20 subsection, the aggregate amount of distribu-
 21 tions received by an individual which may be
 22 treated as qualified hurricane distributions for
 23 any taxable year shall not exceed the excess (if
 24 any) of—

25 (i) \$100,000; over

1 (ii) the aggregate amounts treated as
2 qualified hurricane distributions received
3 by such individual for all prior taxable
4 years.

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

17 (C) CONTROLLED GROUP.—For purposes
18 of subparagraph (B), the term “controlled
19 group” means any group treated as a single
20 employer under subsection (b), (c), (m), or (o)
21 of section 414 of the Internal Revenue Code of
22 1986.

23 (3) AMOUNT DISTRIBUTED MAY BE REPAID.—

24 (A) IN GENERAL.—Any individual who re-
25 ceives a qualified hurricane distribution may, at

any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), of the Internal Revenue Code of 1986, as the case may be.

(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the eligible retirement

plan in a direct trustee to trustee transfer within 60 days of the distribution.

(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(4) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED HURRICANE DISTRIBUTION.—Except as provided in paragraph (2), the term “qualified hurricane distribution” means any distribution from an eligible retirement plan made on or after September 13, 2018, and before January 1, 2020, to an individual whose principal place of abode on Sep-

tember 13, 2018, is located in the Hurricane Florence disaster area and who has sustained an economic loss by reason of Hurricane Florence.

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

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

(A) IN GENERAL.—In the case of any qualified hurricane distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable-year period beginning with such taxable year.

(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of the Internal Revenue Code of 1986 shall apply.

(6) SPECIAL RULES.—

(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITH-

HOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of the Internal Revenue Code of 1986, qualified hurricane distributions shall not be treated as eligible rollover distributions.

(B) QUALIFIED HURRICANE DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes the Internal Revenue Code of 1986, a qualified hurricane distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of such Code.

(b) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

(1) RECONTRIBUTIONS.—

(A) IN GENERAL.—Any individual who received a qualified distribution may, during the period beginning on September 13, 2018, and ending on February 28, 2019, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Internal Revenue Code of 1986) of which such individual is a

beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), of such Code, as the case may be.

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

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

(A) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F), of the Internal Revenue Code of 1986;

(B) received after February 28, 2018, and before October 1, 2018; and

(C) which was to be used to purchase or construct a principal residence in the Hurricane Florence disaster area, but which was not so purchased or constructed on account of Hurricane Florence.

(c) LOANS FROM QUALIFIED PLANS.—

1 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-
2 ED AS DISTRIBUTIONS.—In the case of any loan
3 from a qualified employer plan (as defined under
4 section 72(p)(4) of the Internal Revenue Code of
5 1986) to a qualified individual made during the pe-
6 riod beginning on the date of the enactment of this
7 Act and ending on December 31, 2019—

8 (A) clause (i) of section 72(p)(2)(A) of
9 such Code shall be applied by substituting
10 “\$100,000” for “\$50,000”; and

11 (B) clause (ii) of such section shall be ap-
12 plied by substituting “the present value of the
13 nonforfeitable accrued benefit of the employee
14 under the plan” for “one-half of the present
15 value of the nonforfeitable accrued benefit of
16 the employee under the plan”.

17 (2) DELAY OF REPAYMENT.—In the case of a
18 qualified individual with an outstanding loan on or
19 after September 13, 2018, from a qualified employer
20 plan (as defined in section 72(p)(4) of the Internal
21 Revenue Code of 1986)—

22 (A) if the due date pursuant to subpara-
23 graph (B) or (C) of section 72(p)(2) of such
24 Code for any repayment with respect to such
25 loan occurs during the period beginning on Sep-

1 tember 13, 2018, and ending on December 31,
2 2019, such due date shall be delayed for 1 year;

3 (B) any subsequent repayments with re-
4 spect to any such loan shall be appropriately
5 adjusted to reflect the delay in the due date
6 under paragraph (1) and any interest accruing
7 during such delay; and

8 (C) in determining the 5-year period and
9 the term of a loan under subparagraph (B) or
10 (C) of section 72(p)(2) of such Code, the period
11 described in subparagraph (A) shall be dis-
12 regarded.

13 (3) QUALIFIED HURRICANE FLORENCE INDIV-
14 VIDUAL.—For purposes of this subsection, the term
15 “qualified Hurricane Florence individual” means an
16 individual whose principal place of abode on Sep-
17 tember 13, 2018, is located in the Hurricane Flor-
18 ence disaster area and who has sustained an eco-
19 nomic loss by reason of Hurricane Florence.

20 (d) PROVISIONS RELATING TO PLAN AMEND-
21 MENTS.—

22 (1) IN GENERAL.—If this subsection applies to
23 any amendment to any plan or annuity contract,
24 such plan or contract shall be treated as being oper-

1 ated in accordance with the terms of the plan during
2 the period described in paragraph (2)(B)(i).

3 (2) AMENDMENTS TO WHICH SUBSECTION AP-
4 PLIES.—

5 (A) IN GENERAL.—This subsection shall
6 apply to any amendment to any plan or annuity
7 contract which is made—

8 (i) pursuant to any provision of this
9 section, or pursuant to any regulation
10 issued by the Secretary or the Secretary of
11 Labor under any provision of this section;
12 and

13 (ii) on or before the last day of the
14 first plan year beginning on or after Janu-
15 ary 1, 2020, or such later date as the Sec-
16 retary may prescribe.

17 In the case of a governmental plan (as defined
18 in section 414(d) of the Internal Revenue Code
19 of 1986), clause (ii) shall be applied by sub-
20 stituting the date which is 2 years after the
21 date otherwise applied under clause (ii).

22 (B) CONDITIONS.—This subsection shall
23 not apply to any amendment unless—

24 (i) during the period—

1 (I) beginning on the date that
 2 this section or the regulation de-
 3 scribed in subparagraph (A)(i) takes
 4 effect (or in the case of a plan or con-
 5 tract amendment not required by this
 6 section or such regulation, the effec-
 7 tive date specified by the plan); and

8 (II) ending on the date described
 9 in subparagraph (A)(ii) (or, if earlier,
 10 the date the plan or contract amend-
 11 ment is adopted),

12 the plan or contract is operated as if such
 13 plan or contract amendment were in effect;
 14 and

15 (ii) such plan or contract amendment
 16 applies retroactively for such period.

17 **SEC. 4. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**
 18 **AFFECTED BY HURRICANE FLORENCE.**

19 (a) IN GENERAL.—For purposes of section 38 of the
 20 Internal Revenue Code of 1986, in the case of an eligible
 21 employer, the Hurricane Florence employee retention
 22 credit shall be treated as a credit listed in subsection (b)
 23 of such section. For purposes of this section, the Hurri-
 24 cane Florence employee retention credit for any taxable
 25 year is an amount equal to 40 percent of the qualified

1 wages with respect to each eligible employee of such em-
2 ployer for such taxable year. For purposes of the pre-
3 ceding sentence, the amount of qualified wages which may
4 be taken into account with respect to any individual shall
5 not exceed \$6,000.

6 (b) DEFINITIONS.—For purposes of this section—

7 (1) ELIGIBLE EMPLOYER.—The term “eligible
8 employer” means any employer—

9 (A) which conducted an active trade or
10 business on September 13, 2018, in the Hurri-
11 cane Florence disaster zone; and

12 (B) with respect to whom the trade or
13 business described in subparagraph (A) is inop-
14 erable on any day after September 13, 2018,
15 and before January 1, 2019, as a result of
16 damage sustained by reason of Hurricane Flor-
17 ence.

18 (2) ELIGIBLE EMPLOYEE.—The term “eligible
19 employee” means with respect to an eligible em-
20 ployer an employee whose principal place of employ-
21 ment on September 13, 2018, with such eligible em-
22 ployer was in the Hurricane Florence disaster zone.

23 (3) QUALIFIED WAGES.—The term “qualified
24 wages” means wages (as defined in section 51(c)(1)
25 of the Internal Revenue Code of 1986, but without

1 regard to section 3306(b)(2)(B) of such Code) paid
2 or incurred by an eligible employer with respect to
3 an eligible employee on any day after September 13,
4 2018, and before January 1, 2019, which occurs
5 during the period—

6 (A) beginning on the date on which the
7 trade or business described in paragraph (1)
8 first became inoperable at the principal place of
9 employment of the employee immediately before
10 Hurricane Florence; and

11 (B) ending on the date on which such
12 trade or business has resumed significant oper-
13 ations at such principal place of employment.

14 Such term shall include wages paid without regard
15 to whether the employee performs no services, per-
16 forms services at a different place of employment
17 than such principal place of employment, or per-
18 forms services at such principal place of employment
19 before significant operations have resumed.

20 (c) CERTAIN RULES TO APPLY.—For purposes of
21 this section, rules similar to the rules of sections 51(i)(1),
22 52, and 280C(a), of the Internal Revenue Code of 1986,
23 shall apply.

24 (d) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE
25 THAN ONCE.—An employee shall not be treated as an eli-

1 gible employee for purposes of this section for any period
 2 with respect to any employer if such employer is allowed
 3 a credit under section 51 of the Internal Revenue Code
 4 of 1986 with respect to such employee for such period.

5 **SEC. 5. ADDITIONAL DISASTER-RELATED TAX RELIEF PRO-**
 6 **VISIONS.**

7 (a) TEMPORARY SUSPENSION OF LIMITATIONS ON
 8 CHARITABLE CONTRIBUTIONS.—

9 (1) IN GENERAL.—Except as otherwise pro-
 10 vided in paragraph (2), subsection (b) of section 170
 11 of the Internal Revenue Code of 1986 shall not
 12 apply to qualified contributions and such contribu-
 13 tions shall not be taken into account for purposes of
 14 applying subsections (b) and (d) of such section to
 15 other contributions.

16 (2) TREATMENT OF EXCESS CONTRIBUTIONS.—
 17 For purposes of section 170 of the Internal Revenue
 18 Code of 1986—

19 (A) INDIVIDUALS.—In the case of an indi-
 20 vidual—

21 (i) LIMITATION.—Any qualified con-
 22 tribution shall be allowed only to the ex-
 23 tent that the aggregate of such contribu-
 24 tions does not exceed the excess of the tax-
 25 payer's contribution base (as defined in

1 subparagraph (H) of section 170(b)(1) of
2 such Code) over the amount of all other
3 charitable contributions allowed under sec-
4 tion 170(b)(1) of such Code.

5 (ii) CARRYOVER.—If the aggregate
6 amount of qualified contributions made in
7 the contribution year (within the meaning
8 of section 170(d)(1) of such Code) exceeds
9 the limitation of clause (i), such excess
10 shall be added to the excess described in
11 the portion of subparagraph (A) of such
12 section which precedes clause (i) thereof
13 for purposes of applying such section.

14 (B) CORPORATIONS.—In the case of a cor-
15 poration—

16 (i) LIMITATION.—Any qualified con-
17 tribution shall be allowed only to the ex-
18 tent that the aggregate of such contribu-
19 tions does not exceed the excess of the tax-
20 payer's taxable income (as determined
21 under paragraph (2) of section 170(b) of
22 such Code) over the amount of all other
23 charitable contributions allowed under such
24 paragraph.

1 (ii) CARRYOVER.—Rules similar to the
2 rules of subparagraph (A)(ii) shall apply
3 for purposes of this subparagraph.

4 (3) QUALIFIED CONTRIBUTIONS.—

5 (A) IN GENERAL.—For purposes of this
6 subsection, the term “qualified contribution”
7 means any charitable contribution (as defined
8 in section 170(c) of the Internal Revenue Code
9 of 1986) if—

10 (i) such contribution—

11 (I) is paid during the period be-
12 ginning on September 13, 2018, and
13 ending on December 31, 2018, in cash
14 to an organization described in section
15 170(b)(1)(A) of such Code; and

16 (II) is made for relief efforts in
17 the Hurricane Florence disaster area;

18 (ii) the taxpayer obtains from such or-
19 ganization contemporaneous written ac-
20 knowledgment (within the meaning of sec-
21 tion 170(f)(8) of such Code) that such con-
22 tribution was used (or is to be used) for
23 relief efforts described in clause (i)(II);
24 and

1 (iii) the taxpayer has elected the ap-
 2 plication of this subsection with respect to
 3 such contribution.

4 (B) EXCEPTION.—Such term shall not in-
 5 clude a contribution by a donor if the contribu-
 6 tion is—

7 (i) to an organization described in sec-
 8 tion 509(a)(3) of the Internal Revenue
 9 Code of 1986; or

10 (ii) for the establishment of a new, or
 11 maintenance of an existing, donor advised
 12 fund (as defined in section 4966(d)(2) of
 13 such Code).

14 (C) APPLICATION OF ELECTION TO PART-
 15 NERSHIPS AND S CORPORATIONS.—In the case
 16 of a partnership or S corporation, the election
 17 under subparagraph (A)(iii) shall be made sepa-
 18 rately by each partner or shareholder.

19 (b) SPECIAL RULES FOR QUALIFIED DISASTER-RE-
 20 LATED PERSONAL CASUALTY LOSSES.—

21 (1) IN GENERAL.—If an individual has a net
 22 disaster loss for any taxable year—

23 (A) the amount determined under section
 24 165(h)(2)(A)(ii) of the Internal Revenue Code
 25 of 1986 shall be equal to the sum of—

1 (i) such net disaster loss; and
2 (ii) so much of the excess referred to
3 in the matter preceding clause (i) of sec-
4 tion 165(h)(2)(A) of such Code (reduced
5 by the amount in clause (i) of this sub-
6 paragraph) as exceeds 10 percent of the
7 adjusted gross income of the individual;

8 (B) section 165(h)(1) of such Code shall
9 be applied by substituting “\$500” for “\$500
10 (\$100 for taxable years beginning after Decem-
11 ber 31, 2009)”;

12 (C) the standard deduction determined
13 under section 63(c) of such Code shall be in-
14 creased by the net disaster loss; and

15 (D) section 56(b)(1)(E) of such Code shall
16 not apply to so much of the standard deduction
17 as is attributable to the increase under sub-
18 paragraph (C) of this paragraph.

19 (2) NET DISASTER LOSS.—For purposes of this
20 subsection, the term “net disaster loss” means the
21 excess of qualified disaster-related personal casualty
22 losses over personal casualty gains (as defined in
23 section 165(h)(3)(A) of the Internal Revenue Code
24 of 1986).

1 (3) QUALIFIED DISASTER-RELATED PERSONAL
2 CASUALTY LOSSES.—For purposes of this sub-
3 section, the term “qualified disaster-related personal
4 casualty losses” means losses described in section
5 165(c)(3) of the Internal Revenue Code of 1986
6 which arise in the Hurricane Florence disaster area
7 on or after September 13, 2018, and which are at-
8 tributable to Hurricane Florence.

9 (c) SPECIAL RULE FOR DETERMINING EARNED IN-
10 COME.—

11 (1) IN GENERAL.—In the case of a qualified
12 Hurricane Florence individual, if the earned income
13 of the taxpayer for the taxable year which includes
14 September 13, 2018, is less than the earned income
15 of the taxpayer for the preceding taxable year, the
16 credits allowed under sections 24(d) and 32 of the
17 Internal Revenue Code of 1986 may, at the election
18 of the taxpayer, be determined by substituting—

19 (A) such earned income for the preceding
20 taxable year; for

21 (B) such earned income for the taxable
22 year which includes September 13, 2018.

23 (2) QUALIFIED HURRICANE FLORENCE INDIV-
24 IDUAL.—For purposes of this subsection, the term
25 “qualified Hurricane Florence individual” means

1 any individual whose principal place of abode on
2 September 13, 2018, was located—

3 (A) in the Hurricane Florence disaster
4 zone; or

5 (B) in the Hurricane Florence disaster
6 area (but outside the Hurricane Florence dis-
7 aster zone) and such individual was displaced
8 from such principal place of abode by reason of
9 Hurricane Florence.

10 (3) EARNED INCOME.—For purposes of this
11 subsection, the term “earned income” has the mean-
12 ing given such term under section 32(c) of the Inter-
13 nal Revenue Code of 1986.

14 (4) SPECIAL RULES.—

15 (A) APPLICATION TO JOINT RETURNS.—

16 For purposes of paragraph (1), in the case of
17 a joint return for a taxable year which includes
18 September 13, 2018—

19 (i) such paragraph shall apply if ei-
20 ther spouse is a qualified individual; and

21 (ii) the earned income of the taxpayer
22 for the preceding taxable year shall be the
23 sum of the earned income of each spouse
24 for such preceding taxable year.

1 (B) UNIFORM APPLICATION OF ELEC-
2 TION.—Any election made under paragraph (1)
3 shall apply with respect to both sections 24(d)
4 and 32, of the Internal Revenue Code of 1986.

5 (C) ERRORS TREATED AS MATHEMATICAL
6 ERROR.—For purposes of section 6213 of the
7 Internal Revenue Code of 1986, an incorrect
8 use on a return of earned income pursuant to
9 paragraph (1) shall be treated as a mathe-
10 matical or clerical error.

11 (D) NO EFFECT ON DETERMINATION OF
12 GROSS INCOME, ETC.—Except as otherwise pro-
13 vided in this subsection, the Internal Revenue
14 Code of 1986 shall be applied without regard to
15 any substitution under paragraph (1).

○