

117TH CONGRESS
2D SESSION

S. 4722

To amend the Internal Revenue Code of 1986 to establish qualified down payment savings programs.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2022

Mr. WARNOCK introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to establish qualified down payment savings programs.

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 “American Dream
5 Down Payment Act of 2022”.

6 **SEC. 2. QUALIFIED DOWN PAYMENT SAVINGS PROGRAMS.**

7 (a) IN GENERAL.—Part VIII of subchapter F of
8 chapter 1 of the Internal Revenue Code of 1986 is amend-
9 ed by inserting after section 529A the following new sec-
10 tion:

1 **“SEC. 529B. QUALIFIED DOWN PAYMENT SAVINGS PRO-**
 2 **GRAMS.**

3 “(a) IN GENERAL.—A qualified down payment sav-
 4 ings program shall be exempt from taxation under this
 5 subtitle. Notwithstanding the preceding sentence, such
 6 program shall be subject to the taxes imposed by section
 7 511 (relating to imposition of tax on unrelated business
 8 income of charitable organizations).

9 “(b) QUALIFIED DOWN PAYMENT SAVINGS PRO-
 10 GRAM.—For purposes of this section—

11 “(1) IN GENERAL.—The term ‘qualified down
 12 payment savings program’ means a program estab-
 13 lished and maintained by a State or agency or in-
 14 strumentality thereof—

15 “(A) under which a person may make con-
 16 tributions to a qualified down payment savings
 17 account which is established for the purpose of
 18 meeting qualified down payment expenses of the
 19 designated beneficiary of the account, and

20 “(B) which meets the other requirements
 21 of this subsection.

22 “(2) CASH CONTRIBUTIONS.—

23 “(A) IN GENERAL.—A program shall not
 24 be treated as a qualified down payment savings
 25 program unless it provides that no contribution
 26 will be accepted—

1 “(i) unless it is in cash, and

2 “(ii) except in the case of contribu-
3 tions under subsection (c)(3)(C), if such
4 contribution to a qualified down payment
5 savings account would result in the balance
6 of such account exceeding \$129,440.

7 “(B) INFLATION ADJUSTMENT.—

8 “(i) IN GENERAL.—In the case of any
9 calendar year beginning after 2022, the
10 \$129,440 amount in subparagraph (A)(ii)
11 shall be increased by an amount equal to—

12 “(I) such dollar amount, multi-
13 plied by

14 “(II) the cost-of-living adjust-
15 ment determined under clause (ii).

16 “(ii) COST-OF-LIVING ADJUSTMENT.—
17 For purposes of clause (i), the cost-of-liv-
18 ing adjustment for any calendar year is the
19 percentage (if any) by which—

20 “(I) the CPI for the preceding
21 calendar year, exceeds

22 “(II) the CPI for calendar year
23 2021.

24 For purposes of this clause, the CPI for
25 any calendar year shall be determined in

1 the same manner as it is determined under
2 section 1(f)(4).

3 “(iii) ROUNDING.—If any increase de-
4 termined under clause (i) is not a multiple
5 of \$10, such increase shall be rounded to
6 the nearest multiple of \$10.

7 “(3) SEPARATE ACCOUNTING.—A program shall
8 not be treated as a qualified down payment savings
9 program unless it provides separate accounting for
10 each designated beneficiary.

11 “(4) INVESTMENT DIRECTION.—A program
12 shall not be treated as a qualified down payment
13 savings program unless it provides that—

14 “(A) except as provided in subparagraph
15 (B), any contributor to, or designated bene-
16 ficiary under, such program may, directly or in-
17 directly, direct the investment of any contribu-
18 tions to the program (or any earnings thereon)
19 no more than 2 times in any calendar year and
20 subject to the regulations established pursuant
21 to this section, and

22 “(B) in the event that an account’s hold-
23 ings meet the value established under para-
24 graph (2)(B), the account funds will be trans-

1 ferred to investments in United States Treasury
2 securities.

3 “(5) NO PLEDGING OF INTEREST AS A SECUR-
4 RITY.—A program shall not be treated as a qualified
5 down payment savings program if it allows any in-
6 terest in the program or any portion thereof to be
7 used as security for a loan.

8 “(6) COMPLIANCE WITH REGULATIONS.—A
9 program shall not be treated as a qualified down
10 payment savings program unless it complies with all
11 regulations issued pursuant to subsection (f).

12 “(c) TAX TREATMENT OF DESIGNATED BENE-
13 FICIARIES AND CONTRIBUTORS.—

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

17 “(A) a designated beneficiary under a
18 qualified down payment savings program, or

19 “(B) a contributor to such program on be-
20 half of a designated beneficiary,

21 with respect to any distribution or earnings under
22 such program.

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

“(A) IN GENERAL.—Any contribution to a qualified down payment savings program on behalf of any designated beneficiary shall be treated as a completed gift to such beneficiary which is not a future interest in property.

“(B) TREATMENT OF EXCESS CONTRIBUTIONS.—If the aggregate amount of contributions described in subparagraph (A) during the calendar year by a donor exceeds the limitation for such year under section 2503(b), such aggregate amount shall, at the election of the donor, be taken into account for purposes of such section ratably over the 5-year period beginning with such calendar year.

“(3) DISTRIBUTIONS.—

“(A) IN GENERAL.—Any distribution under a qualified down payment savings program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

“(B) DISTRIBUTIONS FOR QUALIFIED DOWN PAYMENT EXPENSES.—For purposes of

1 this paragraph, if distributions from a qualified
2 down payment savings program—

3 “(i) do not exceed the qualified down
4 payment expenses, no amount shall be in-
5 cludible in gross income, and

6 “(ii) in any other case, the amount
7 otherwise includible in gross income shall
8 be reduced by an amount which bears the
9 same ratio to such amount as such ex-
10 penses bear to such distributions.

11 “(C) ROLLOVERS.—

12 “(i) IN GENERAL.—Subparagraph (A)
13 shall not apply to that portion of any dis-
14 tribution which, within 60 days of such
15 distribution, is transferred to another
16 qualified down payment savings account
17 for the benefit of the designated bene-
18 ficiary.

19 “(ii) LIMITATION ON CERTAIN ROLL-
20 OVERS.—Clause (i) shall not apply to any
21 transfer if such transfer occurs within 12
22 months from the date of a previous trans-
23 fer to any qualified down payment savings
24 account for the benefit of the designated
25 beneficiary.

1 “(4) ESTATE TAX TREATMENT.—

2 “(A) IN GENERAL.—No amount shall be
3 includible in the gross estate of any individual
4 for purposes of chapter 11 by reason of an in-
5 terest in a qualified down payment savings pro-
6 gram.

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

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

22 “(5) OTHER GIFT TAX RULES.—For purposes
23 of chapters 12 and 13, in no event shall a distribu-
24 tion from a qualified down payment savings account
25 be treated as a taxable gift.

1 “(6) ADDITIONAL TAX.—

2 “(A) IN GENERAL.—The tax imposed by
3 this chapter for any taxable year on any tax-
4 payer who receives a distribution from a quali-
5 fied down payment savings program which is
6 includible in gross income shall be increased by
7 10 percent of the 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, or

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

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

23 “(i) such distribution is received on or
24 before the day prescribed by law (including
25 extensions of time) for filing such des-

1 ignated beneficiary's return for such tax-
2 able year, and

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

6 “(d) REPORTS.—Each officer or employee having
7 control of the qualified down payment savings program or
8 their designee shall make such reports regarding such pro-
9 gram to the Secretary and to designated beneficiaries with
10 respect to contributions, distributions, and such other
11 matters as the Secretary may require. The reports re-
12 quired by this subsection shall be filed at such time and
13 in such manner and furnished to such individuals at such
14 time and in such manner as may be required by the Sec-
15 retary.

16 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—
17 For purposes of this section—

18 “(1) DESIGNATED BENEFICIARY.—The term
19 ‘designated beneficiary’ means the individual des-
20 ignated at the commencement of participation in the
21 qualified down payment savings program as the ben-
22 eficiary of amounts paid (or to be paid) to the pro-
23 gram.

24 “(2) QUALIFIED DOWN PAYMENT EXPENSES.—
25 The term ‘qualified down payment expenses’ means

1 amounts (including closing costs) paid or incurred to
 2 purchase a principal residence (within the meaning
 3 of section 121).

4 “(3) QUALIFIED DOWN PAYMENT SAVINGS AC-
 5 COUNT.—The term ‘qualified down payment savings
 6 account’ means an account maintained under a
 7 qualified down payment savings program.

8 “(f) REGULATIONS.—Notwithstanding any other pro-
 9 vision of this section, the Secretary, in consultation with
 10 the Chairman of the Securities and Exchange Commis-
 11 sion, shall prescribe such regulations as may be necessary
 12 or appropriate to carry out the purposes of this section
 13 and to prevent abuse of such purposes. Such regulations
 14 shall include—

15 “(1) impermissible investments for qualified
 16 down payment savings programs;

17 “(2) permissible fees, including the maximum
 18 amount of overall fees and commissions, that may be
 19 charged in association with a qualified down pay-
 20 ment savings program account; and

21 “(3) minimum required disclosures to account
 22 beneficiaries, including disclosures related to any
 23 possible losses that could be incurred in a qualified
 24 down payment savings account.”.

25 (b) TAX ON EXCESS CONTRIBUTIONS.—

1 (1) IN GENERAL.—Subsection (a) of section
 2 4973 of the Internal Revenue Code of 1986 is
 3 amended by striking “or” at the end of paragraph
 4 (5), by inserting “or” at the end of paragraph (6),
 5 and by inserting after paragraph (6) the following
 6 new paragraph:

7 “(7) a qualified down payment savings account
 8 (within the meaning of section 529B),”.

9 (2) EXCESS CONTRIBUTION.—Section 4973 of
 10 such Code is amended by adding at the end the fol-
 11 lowing new subsection:

12 “(i) EXCESS CONTRIBUTIONS TO QUALIFIED DOWN
 13 PAYMENT SAVINGS ACCOUNTS.—For purposes of this sec-
 14 tion—

15 “(1) IN GENERAL.—In the case of a qualified
 16 down payment savings account (within the meaning
 17 of section 529B), the term ‘excess contributions’
 18 means the amount by which the amount contributed
 19 for the taxable year to such account (other than con-
 20 tributions under section 529B(c)(3)(C)) exceeds the
 21 contribution limit under section 529B(b)(2)(B).

22 “(2) SPECIAL RULE.—For purposes of this sub-
 23 section, any contribution which is distributed out of
 24 the qualified down payment savings account in a dis-

1 tribution to which section 529B(c)(6)(C) applies
 2 shall be treated as an amount not contributed.”.

3 (c) PENALTY FOR FAILURE TO FILE REPORTS.—
 4 Section 6693(a)(2) is amended by striking “and” at the
 5 end of subparagraph (E), by redesignating subparagraph
 6 (F) as subparagraph (G), and by inserting after subpara-
 7 graph (E) the following:

8 “(E) section 529B(d) (relating to qualified
 9 down payment savings programs), and”.

10 (d) OTHER CONFORMING AMENDMENTS.—

11 (1) Section 26(b)(2) of the Internal Revenue
 12 Code of 1986 is amended by striking “and” at the
 13 end of subparagraph (Y), by striking the period at
 14 the end of subparagraph (Z) and inserting “, and”,
 15 and by inserting after subparagraph (Y) the fol-
 16 lowing:

17 “(AA) section 529B(c)(6) (relating to ad-
 18 ditional tax on qualified down payment savings
 19 program distributions not used for qualified
 20 down payment expenses).”.

21 (2) Section 877A of such Code is amended—

22 (A) in subsection (e)(2) by inserting “a
 23 qualified down payment savings program (as
 24 defined in section 529B),” after “a qualified

1 ABLE program (as defined in section 529A),”,
 2 and

3 (B) in subsection (g)(6) by inserting
 4 “529B(c)(6),” after “529A(c)(3),”.

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

10 “(9) a program described in section 529B.”.

11 (4) The table of sections for part VIII of sub-
 12 chapter F of chapter 1 of such Code is amended by
 13 inserting after the item relating to section 529A the
 14 following new item:

“Sec. 529B. Qualified down payment savings programs.”.

15 (e) REPORTS ON DOWN PAYMENT SAVINGS PRO-
 16 GRAMS.—Beginning on that date that is 12 months after
 17 the regulations established pursuant to section 529B(f)
 18 are finalized, and every two years thereafter, the Secretary
 19 of the Treasury (or the Secretary’s delegate), in coordina-
 20 tion with the Chairman of the Securities and Exchange
 21 Commission and the States offering qualified down pay-
 22 ment savings programs, shall issue a public report detail-
 23 ing the following:

24 (1) The number of States that have established
 25 qualified down payment savings programs.

1 (2) The number of down payment savings pro-
2 gram accounts in existence during the time specified
3 in the report and the number of such accounts that
4 have been established over the life of the program.

5 (3) The age distribution of down payment sav-
6 ings account beneficiaries.

7 (4) The percentage of qualified down payment
8 savings account beneficiaries that would be first-time
9 homebuyers.

10 (5) A summary of the account balances held in
11 qualified down payment savings program accounts.

12 (6) The race and gender distribution of quali-
13 fied down payment savings program account des-
14 ignated beneficiaries.

15 (7) The income distribution of the designated
16 beneficiaries of qualified down payment savings pro-
17 gram accounts.

18 (8) The number of down payment savings pro-
19 gram distributions that have been made since the
20 previous report.

21 (9) Such other information as the Secretary (or
22 the Secretary's designee) shall determine is required
23 to assess whether qualified down payment savings
24 accounts have contributed to facilitating access to
25 affordable homeownership, including first-time

1 homeownership, particularly among young people,
2 low- and moderate-income people, and people from
3 communities with historically low rates of homeown-
4 ership.

5 (f) EFFECTIVE DATE.—

6 (1) IN GENERAL.—The amendments made by
7 this section shall apply to taxable years beginning
8 after December 31, 2021.

9 (2) REGULATIONS.—The Secretary of the
10 Treasury (or the Secretary’s designee) shall promul-
11 gate the regulations or other guidance required
12 under section 529B(f) of the Internal Revenue Code
13 of 1986, as added by subsection (a), not later than
14 6 months after the date of the enactment of this
15 Act.

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