

Internal Revenue Code Section 408(o)

Definitions and rules relating to nondeductible contributions to individual retirement plans

(o) Definitions and rules relating to nondeductible contributions to individual retirement plans

(1) In general

Subject to the provisions of this subsection, designated nondeductible contributions may be made on behalf of an individual to an individual retirement plan.

(2) Limits on amounts which may be contributed

(A) In general

The amount of the designated nondeductible contributions made on behalf of any individual for any taxable year shall not exceed the nondeductible limit for such taxable year.

(B) Nondeductible limit

For purposes of this paragraph—

(i) In general

The term “nondeductible limit” means the excess of—

(I) the amount allowable as a deduction under section 219 (determined without regard to section 219(g)), over

(II) the amount allowable as a deduction under section 219 (determined with regard to section 219(g)).

(ii) Taxpayer may elect to treat deductible contributions as nondeductible. If a taxpayer elects not to deduct an amount which (without regard to this clause) is allowable as a deduction under section 219 for any taxable year, the nondeductible limit for such taxable year shall be increased by such amount.

(C) Designated nondeductible contributions

(i) In general

For purposes of this paragraph, the term “designated nondeductible contribution” means any contribution to an individual retirement plan for the taxable year which is designated (in such manner as the Secretary may prescribe) as a contribution for which a deduction is not allowable under section 219.

(ii) Designation

Any designation under clause (i) shall be made on the return of tax imposed by chapter 1 for the taxable year.

(3) Time when contributions made

In determining for which taxable year a designated nondeductible contribution is made, the rule of section 219(f)(3) shall apply.

(4) Individual required to report amount of designated nondeductible contributions —

(A) In general. Any individual who —

- (i) makes a designated nondeductible contribution to any individual retirement plan for any taxable year, or
- (ii) receives any amount from any individual retirement plan for any taxable year, shall include on his return of the tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe for any such taxable year) information described in subparagraph (B).

(B) Information required to be supplied

The following information is described in this subparagraph:

- (i) The amount of designated nondeductible contributions for the taxable year.
- (ii) The amount of distributions from individual retirement plans for the taxable year.
- (iii) The excess (if any) of—
 - (I) the aggregate amount of designated nondeductible contributions for all preceding taxable years, over
 - (II) the aggregate amount of distributions from individual retirement plans which was excludable from gross income for such taxable years.
- (iv) The aggregate balance of all individual retirement plans of the individual as of the close of the calendar year in which the taxable year begins.
- (v) Such other information as the Secretary may prescribe.

(C) Penalty for reporting contributions not made —

For penalty where individual reports designated nondeductible contributions not made, see section 6693(b).

(5) Special rule for difficulty of care payments excluded from gross income

In the case of an individual who for a taxable year excludes from gross income under section 131 a qualified foster care payment which is a difficulty of care payment, if—

- (A) the deductible amount in effect for the taxable year under section 219(b), exceeds
- (B) the amount of compensation includible in the individual's gross income for the taxable year,

the individual may elect to increase the nondeductible limit under paragraph (2) for the taxable year by an amount equal to the lesser of such excess or the amount so excluded.

Text contains those laws in effect on March 25, 2024