
By Mr. Brennan, a petition (accompanied by bill, Senate, No. 10) of John A. Brennan, Jr., for legislation relative to creating individual housing accounts to facilitate home ownership. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT RELATIVE TO CREATING INDIVIDUAL HOUSING ACCOUNTS TO FACILITATE HOME OWNERSHIP.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of Chapter 62 of the General Laws
2 is hereby amended by adding the following subsection: —

3 (m) "Individual housing account" — shall mean a trust
4 created or organized in the commonwealth for the exclusive
5 benefit of an individual and his/her spouse jointly, but only
6 if the written governing instrument creating the trust meets
7 the following requirements:

8 (1) No contribution will be accepted unless it is in cash,
9 and contributions will not be accepted for the taxable year
10 in excess of \$3,000 on behalf of any individual or in excess of
11 \$15,000 on behalf of an individual for all taxable years.

12 (2) The trustee is a bank as defined in section one of chap-
13 ter one hundred and sixty-seven, national banking associa-
14 tion, savings and loan association or federal credit union.

15 (3) No part of the trust funds will be invested in life in-
16 surance contracts.

17 (4) The interest of an individual in the balance in his ac-
18 count is nonforfeitable.

19 (5) The assets of the trust will not be commingled with
20 other property except in a common trust fund or common
21 investment fund.

22 (6) The entire interest of an individual or married couple
23 for whose benefit the trust is maintained will be distributed
24 to him, or them, not later than 120 months after the date on
25 which the first contribution is made to the trust. Such ac-

26 count may be subject to those regulations that the commis-
27 sioner may prescribe from time to time

1 SECTION 2. Paragraph (2) of subsection (a) of section 2
2 of said chapter 62 is hereby amended by adding the follow-
3 ing subsection: —

4 (G) Income from a qualified individual housing account

1 SECTION 3. Section 2 of said chapter 62 is hereby amended
2 by inserting after subsection (d) the following subsection: —

3 (d $\frac{1}{2}$) In addition to the deductions provided under subsec-
4 tion (d) in determining Part B adjusted gross income in the
5 case of an individual, there is allowed as a deduction amounts
6 paid in cash during the taxable year by such individual to an
7 individual housing account subject to the following limita-
8 tions:

9 (1) Maximum Annual Deduction — The amount allowable
10 as a deduction under this subparagraph to an individual for
11 any taxable year may not exceed \$3,000. In the case of a
12 married couple filing separate returns, the sum of the amounts
13 allowable to each of them under this subparagraph for the
14 taxable year may not exceed such amount.

15 (2) Maximum Lifetime Deduction. — The amount allow-
16 able as a deduction under this subparagraph to an individual
17 for all taxable years may not exceed \$15,000. In the case of
18 a married individual, the \$15,000 amount in the preceding
19 sentence shall be reduced by an amount equal to the sum of
20 the amounts allowed as deductions for all taxable years to his
21 spouse.

1 SECTION 4. Said chapter 62 is hereby further amended by
2 inserting after section 4 the following section: —

3 Section 4A. a. Any amount paid or distributed out of an
4 individual housing account shall be included in Part B tax-
5 able income by the payee or distributee for the taxable year
6 in which the payment or distribution is received, unless such
7 amount is used exclusively in connection with the purchase
8 or construction of a residence for the payee or distributee.

9 b. Paragraph (a) does not apply to the distribution of any
10 contribution paid during a taxable year to an individual hous-

11 ing account to the extent that such contribution exceeds the
12 amount allowable as a deduction under section 2 if —

13 (1) such distribution is received on or before the day pre-
14 scribed by law (including extensions of time) for filing such
15 individual's return for such taxable year.

16 (2) no deduction is allowed under section 2 with respect
17 to such excess contribution, and

18 (3) such distribution is accompanied by the amount of net
19 income attributable to such excess contribution.

20 c. The transfer of an individual's interest in an individual
21 housing account to his former spouse under a divorce decree
22 or under a written instrument incident to a divorce is not to
23 be considered a taxable transfer made by such individual not-
24 withstanding any other provision of this chapter and such
25 interest, at the time of the transfer, is to be treated as an in-
26 dividual housing account of the spouse, and not of such in-
27 dividual. After the transfer, the account is to be treated, for
28 purposes of this chapter, as maintained for the benefit of the
29 spouse.

30 d. Any individual housing account is exempt from taxation
31 under section 4 unless such account has ceased to be an in-
32 dividual housing account by reason of paragraphs (e) or (f).

33 e.

34 1. If during any taxable year of the individual for whose
35 benefit an individual housing account is established, that in-
36 dividual engages in any transaction prohibited by regulations
37 of the commissioner with respect to the account, the account
38 ceases to be an individual housing account as of the first day
39 of that taxable year. For purposes of this paragraph the in-
40 dividual for whose benefit any account was established is
41 treated as the creator of the account.

42 2. In any case in which any account ceases to be an in-
43 dividual housing account by reason of subparagraph (1) on
44 the first day of any taxable year, paragraph (a) shall apply
45 as if there were a distribution on such first day in an amount
46 equal to the fair market value (on such first day) of all assets
47 in the account (on such first day).

48 3. If, during any taxable year, the individual for whose
49 benefit an individual housing account is established uses the

50 account or any portion thereof as security for a loan, the por-
51 tion so used is treated as distributed to that individual.

52 f.

53 1. If a distribution from an individual housing account to
54 an individual for whose benefit such account was established
55 is made, and not used in connection with the purchase of a
56 residence for such individual, the tax liability of such individ-
57 ual under this chapter for the taxable year in which such dis-
58 tribution is received shall be increased by an amount equal to
59 10 percent of the amount of the distribution which is in-
60 cludible in his gross income for such taxable year.

61 2. If an amount is includible in the gross income of an in-
62 dividual for a taxable year, his tax under section 4 for such
63 taxable year shall be increased by an amount equal to 10 per-
64 cent of such amount required to be included in his gross in-
65 come.

66 3. Subparagraphs (1) and (2) do not apply if the payment
67 or distribution is attributable to the taxpayer becoming dis-
68 abled within the meaning of 26 U.S.C. 72(m) (7).

1 SECTION 5. Chapter 167 of the General Laws is hereby
2 amended by inserting after section 56C, inserted by section
3 1 of chapter 553 of the acts of 1978, the following section: —

4 *Section 56D.* Any bank, national banking association, sav-
5 ings and loan association, or federal credit union may act as
6 trustee for funds contributed to an individual housing account
7 as defined in subsection (m) of section one of chapter sixty-
8 two. Such account may be subject to such regulations of the
9 commissioner of revenue which in the judgment of said com-
10 missioner are necessary and proper to establish and maintain
11 such account in accordance with applicable law.