

86TH CONGRESS
1ST SESSION

H. R. 97

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1959

Mr. FOGARTY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To encourage the establishment of voluntary pension plans by self-employed individuals.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Self-Employed Individ-
4 uals' Retirement Act of 1959".

5 **SEC. 2. DEDUCTION OF AMOUNTS PAID AS RETIREMENT**

6 **DEPOSITS.**

7 (a) **ADJUSTED GROSS INCOME.**—Section 62 of the
8 Internal Revenue Code of 1954 (relating to definition of
9 adjusted gross income) is amended by inserting after para-
10 graph (6) the following new paragraph:

1 “(7) DEDUCTION OF AMOUNTS PAID AS RETIRE-
2 MENT DEPOSITS.—The deduction allowed by section
3 217.”

4 (b) ALLOWANCE OF DEDUCTION.—Part VII of sub-
5 chapter B of chapter 1 of the Internal Revenue Code of 1954
6 (relating to additional itemized deductions for individuals)
7 is amended by renumbering section 217 as section 218 and
8 by inserting after section 216 the following new section:

9 “SEC. 217. AMOUNTS PAID AS RETIREMENT DEPOSITS.

10 “(a) GENERAL RULE.—In the case of a self-employed
11 individual, there shall be allowed as a deduction amounts
12 paid by him within the taxable year as retirement deposits.
13 Any amount paid by an individual as a retirement deposit
14 on or before the 15th day of the fourth month following the
15 close of the taxable year may, at his election (made under
16 regulations prescribed by the Secretary or his delegate), be
17 treated as having been paid on the last day of such taxable
18 year. No deduction shall be allowed under this section for
19 any taxable year of the taxpayer beginning after he attains
20 age 70.

21 “(b) LIMITATIONS.—

22 “(1) ANNUAL LIMIT.—Except as provided in
23 paragraph (2), the amount allowable under subsection
24 (a) to any self-employed individual for any taxable

1 year shall not exceed whichever of the following is the
2 lesser:

3 “(A) \$2,500, or

4 “(B) 10 percent of his net earnings from self-
5 employment (as defined in subsection (d)).

6 “(2) ANNUAL LIMIT FOR INDIVIDUALS ATTAIN-
7 ING AGE 50 BEFORE 1959.—In the case of any individual
8 who attained age 50 before January 1, 1959, the annual
9 limit for the taxable year provided by paragraph (1)
10 shall be increased by one-tenth for each full year of his
11 age in excess of 50, determined as of January 1, 1959.

12 “(3) LIFETIME LIMIT.—The aggregate amount al-
13 lowed as deductions to an individual under subsection
14 (a) for all taxable years during his lifetime shall not
15 exceed an amount equal to 20 times the maximum annual
16 deduction allowable if the annual limit provided in para-
17 graph (1) (A) (computed without the application of
18 paragraph (2)) were the only annual limit.

19 “(4) LIFETIME LIMIT FOR PARTICIPANTS IN CER-
20 TAIN EMPLOYEE PLANS.—In the case of an individual
21 who—

22 “(A) for any prior taxable year has received
23 any amount under an employee plan (as defined
24 in subsection (c) (2) (B)), or

1 “(B) at the close of the immediately preceding
2 taxable year, has nonforfeitable rights in any such
3 plan,

4 if any portion of such amount or rights is attributable to
5 an employer contribution, the lifetime limit provided in
6 paragraph (3) shall be computed by using (in lieu of
7 20) a lesser number, equal to 20 reduced by the number
8 of years of such individual’s service to which his rights
9 under such plan are attributable.

10 “(c) SELF-EMPLOYED INDIVIDUAL DEFINED.—

11 “(1) IN GENERAL.—For purposes of this section,
12 the term ‘self-employed individual’ means, with respect
13 to any taxable year, any individual who is subject to
14 tax for the taxable year under section 1401 (imposing
15 a tax on self-employment income), or who would be
16 subject to such tax for the taxable year but for—

17 “(A) paragraph (4) (relating to ministers
18 of a church and members of a religious order) or
19 paragraph (5) relating to physicians, etc.) of
20 sections 1402 (c), or

21 “(B) section 1402 (b) (1) (relating to reduc-
22 tion of net earnings for wages paid).

23 “(2) INDIVIDUALS COVERED BY CERTAIN EM-
24 PLOYEE PLANS.—

25 “(A) IN GENERAL.—Notwithstanding para-

1 graph (1), the term 'self-employed individual', with
2 respect to any taxable year, does not include an indi-
3 vidual—

4 “(i) who during such taxable year receives
5 an amount any portion of which is attributable
6 to an employer contribution under an employee
7 plan, or

8 “(ii) in respect to whom during such tax-
9 able year an employer contribution is made
10 (or treated under section 404 (a) (6) as hav-
11 ing been made) under an employee plan,
12 whether or not such individual's rights under
13 the plan are nonforfeitable.

14 “(B) EMPLOYEE PLAN DEFINED.—For pur-
15 poses of subparagraph (A) of this paragraph and
16 subsection (b) (4), the term 'employee plan'
17 means—

18 “(i) a pension, profit-sharing, or stock
19 bonus plan described in section 401 (a) which
20 is exempt from tax under section 501 (a), or an
21 annuity plan meeting the requirements of sec-
22 tion 401 (a) (3), (4), (5), and (6), or

23 “(ii) a pension plan established for its
24 employees by the United States or any agency
25 thereof, by a State or Territory or the District

1 of Columbia or any political subdivision or in-
2 strumentality thereof, or by any organization
3 described in section 501 (c) (3) (relating to
4 religious, charitable, etc., organizations) which
5 is exempt from tax under section 501 (a).

6 For purposes of this subparagraph, references to
7 provisions of this chapter shall be treated as in-
8 cluding references to the corresponding provisions
9 of the Internal Revenue Code of 1939.

10 “(d) NET EARNINGS FROM SELF-EMPLOYMENT DE-
11 FINED.—For purposes of this section, the term ‘net earnings
12 from self-employment’ means the net earnings from self-
13 employment as defined in section 1402 (a), but deter-
14 mined—

15 “(1) without regard to paragraphs (4) and (5)
16 of section 1402 (c), and

17 “(2) without regard to items which are not in-
18 cluded in gross income for purposes of this chapter, and
19 the deductions properly allocable to or chargeable
20 against such items.

21 “(e) RETIREMENT DEPOSIT DEFINED.—For purposes
22 of this section, the term ‘retirement deposit’ means a pay-
23 ment in money to—

1 “(1) a restricted retirement fund (as defined in
2 section 405 (a)), or

3 “(2) a domestic life insurance company (as defined
4 in section 801) as premiums under a restricted retire-
5 ment policy issued on the life of the taxpayer.

6 In the case of premiums described in paragraph (2), only
7 that portion of such premiums which (under regulations
8 prescribed by the Secretary or his delegate) is properly
9 allocable to the cost of restricted retirement benefits shall be
10 allowable as a deduction under this section.

11 “(f) RESTRICTED RETIREMENT POLICY DEFINED.—

12 “(1) IN GENERAL.—For purposes of this section,
13 the term ‘restricted retirement policy’ means a contract
14 (other than a term insurance contract) which is an
15 annuity, endowment, or life insurance contract, or com-
16 bination thereof—

17 “(A) issued by a domestic life insurance com-
18 pany (as defined in section 801) on the life of the
19 taxpayer,

20 “(B) which provides for the payment of re-
21 stricted retirement benefits, and

22 “(C) which meets the requirements of para-
23 graph (3).

1 “(2) RESTRICTED RETIREMENT BENEFITS.—For
2 purposes of paragraph (1) (B), a policy shall be
3 treated as providing restricted retirement benefits only
4 if it provides that the entire value of the policy is pay-
5 able in one or more of the following methods:

6 “(A) to the insured not later than at age $70\frac{1}{2}$,

7 “(B) to the insured as a life annuity (which
8 may provide for a minimum term certain not ex-
9 tending beyond his life expectancy), beginning not
10 later than at age $70\frac{1}{2}$,

11 “(C) to the insured and his spouse as a joint life
12 annuity or as a joint and survivor annuity (which
13 may provide for a minimum term certain not ex-
14 tending beyond the insured’s life expectancy), be-
15 ginning not later than the time the insured attains
16 age $70\frac{1}{2}$, or

17 “(D) to the insured (or, in the event of his
18 death, to his beneficiary) as an annuity certain
19 beginning not later than the time the insured attains
20 age $70\frac{1}{2}$ and not extending beyond his life expect-
21 ancy.

22 No annuity shall be treated as satisfying the require-
23 ments of subparagraph (B), (C), or (D) if it provides
24 for payments which (after annuity payments begin)

1 may increase for any reason other than dividends or
2 increases in investment income allocable to the policy.

3 “(3) RESTRICTED RETIREMENT POLICIES MUST
4 BE NONASSIGNABLE, ETC.—

5 “(A) IN GENERAL.—To meet the require-
6 ments of this paragraph, a policy—

7 “(i) shall be nonassignable, and no person
8 other than the insured shall have any of the
9 incidents of ownership, and

10 “(ii) shall not provide for life insurance
11 protection after age 70½.

12 “(B) SPECIAL RULES.—For purposes of sub-
13 paragraph (A) (i), there shall not be taken into
14 account—

15 “(i) the right to make any designation de-
16 scribed in paragraph (2),

17 “(ii) the right to designate one or more
18 beneficiaries to receive the proceeds payable in
19 the event of the death of the insured before he
20 attains age 70½, and

21 “(iii) any designation made pursuant to
22 a right described in clause (i) or (ii).

23 “(g) IDENTIFICATION OF POLICIES AND FUNDS.—

1 “(1) POLICIES.—No deduction shall be allowed
2 under this section with respect to any amount paid as
3 a premium on a restricted retirement policy for any
4 period before such policy has been identified as such, in
5 such manner and form as the Secretary or his delegate
6 shall by regulations prescribe.

7 “(2) FUNDS.—No deduction shall be allowed un-
8 der this section with respect to any amount paid to a re-
9 stricted retirement fund by any individual before such
10 fund has been identified as such, and before such indi-
11 vidual has been identified as a participant in such fund,
12 in such manner and form as the Secretary or his dele-
13 gate shall by regulations prescribe.

14 “(h) FACE-AMOUNT CERTIFICATES.—For purposes of
15 this title, any reference to a restricted retirement policy as
16 defined in subsection (f) of this section shall be treated as
17 including a face-amount certificate, as defined in section 2
18 (a) (15) of the Investment Company Act of 1940 (15
19 U. S. C., sec. 80a-2), issued after December 31, 1954, but
20 only if such certificate provides restricted retirement benefits
21 within the meaning of subsection (f) (2) and meets the re-
22 quirements of subsection (f) (3). With respect to any face
23 amount certificate described in the preceding sentence, refer-

1 ences to an insurance company or the insurer in this section
 2 and sections 78, 6047, and 7207 shall be treated as including
 3 a reference to the company issuing such certificate.

4 “(i) **CROSS REFERENCES.**—

“**(1) For taxation of amounts received from a restricted retirement fund or policy, see section 78.**

“**(2) For provisions relating to information requirements with respect to restricted retirement funds and policies, see section 6047.**”

5 (c) **CLERICAL AMENDMENT.**—The table of sections for
 6 such part VII is amended by striking out the last item and
 7 inserting in lieu thereof the following:

“Sec. 217. Amounts paid as retirement deposits.

“Sec. 218. Cross references.”

8 **SEC. 3. AMOUNTS RECEIVED FROM RESTRICTED RETIRE-**
 9 **MENT FUNDS OR POLICIES.**

10 (a) **GENERAL RULE.**—Part II of subchapter B of
 11 chapter 1 of the Internal Revenue Code of 1954 (relating
 12 to items specifically included in gross income) is amended
 13 by adding at the end thereof the following new section:

14 **“SEC. 78. AMOUNTS RECEIVED FROM RESTRICTED RE-**
 15 **TIREMENT FUNDS OR POLICIES.**

16 “(a) **RESTRICTED RETIREMENT FUNDS.**—

17 “(1) **IN GENERAL.**—Except as otherwise provided
 18 in this section, amounts of money and the fair market
 19 value of property received from a restricted retirement

1 fund shall be included in the recipient's gross income for
2 the taxable year in which received.

3 “(2) SPECIAL RULES.—In the case of a restricted
4 retirement fund—

5 “(A) RETURN OF EXCESS CONTRIBUTIONS.—

6 There shall be excluded from gross income any
7 amount received which has become an excess contri-
8 bution by reason of the disallowance of a deduction
9 taken with respect to amounts paid to the fund, but
10 only if such excess contribution (and the income
11 attributable thereto) is returned as provided in sec-
12 tion 405 (c) (2) (D). The exclusion provided
13 by this subparagraph shall not apply to income at-
14 tributable to any such excess contribution.

15 “(B) CONTRIBUTIONS KNOWN TO BE EXCES-
16 SIVE.—If at any time an individual knowingly
17 makes contributions to one or more restricted retire-
18 ment funds in excess of the amount which he rea-
19 sonably believes will be allowable as a deduction
20 for such contributions for the taxable year, his entire
21 interest in all restricted retirement funds shall be
22 treated for purposes of paragraph (1) as amounts
23 received during such taxable year.

24 “(C) DISTRIBUTION OF ANNUITIES.—Not-
25 withstanding any other provision of this subtitle, no

1 amount shall be includible in gross income by reason
2 of the receipt of an annuity contract from such fund,
3 if such contract and the distribution thereof meets
4 the requirements of section 405.

5 “(3) PROHIBITED TRANSACTIONS, ETC.—If the
6 trustee of a restricted retirement fund knowingly engages
7 in a prohibited transaction (within the meaning of sec-
8 tion 405 (d) (3)), the member (or members) in re-
9 spect of whom such transaction occurred shall be treated
10 as having received, in his taxable year in which such
11 transaction occurred, his entire interest in the fund. The
12 period for assessing a deficiency for any taxable year,
13 to the extent attributable to the interest described in
14 the preceding sentence, shall not expire before one year
15 after the date on which the Secretary or his delegate
16 is notified, in such manner as he shall by regulations
17 prescribe, of such prohibited transaction.

18 “(4) BASIS.—The adjusted basis of any person in
19 a restricted retirement fund shall be zero.

20 “(b) POLICIES.—

21 “(1) GENERAL RULE.—Any amount received
22 under a restricted retirement policy shall be taxable
23 under section 72 (relating to annuities) with the modi-
24 fications set forth in paragraph (2).

1 “(2) APPLICATION OF SECTION 72.—In applying
2 section 72 for purposes of paragraph (1)—

3 “(A) Section 72 (e) (3) shall not apply.

4 “(B) Notwithstanding section 72 (e) (1)
5 (B), any amount received before the annuity start-
6 ing date shall be included in the recipient’s gross
7 income for the taxable year in which received
8 to the extent that—

9 “(i) such amount, plus all amounts there-
10 before received by all persons under such
11 policies and includible in gross income under
12 this subparagraph, does not exceed

13 “(ii) the aggregate amount allowed as a
14 deduction under section 217 with respect to the
15 policy for the taxable year and all prior tax-
16 able years.

17 “(C) In computing—

18 “(i) the aggregate amount of premiums
19 or other consideration paid for the policy for
20 purposes of section 72 (c) (1) (A) (relating
21 to investment in contract), and

22 “(ii) the aggregate premiums or other
23 consideration paid for purposes of section 72
24 (e) (1) (B) (relating to certain amounts not
25 received as an annuity),

1 there shall not be taken into account any amount
2 allowed as a deduction under section 217, nor (as
3 determined under regulations prescribed by the
4 Secretary or his delegate) any portion of the pre-
5 miums or other consideration which is properly
6 allocable to other than the cost of restricted retire-
7 ment benefits (within the meaning of section 217
8 (f) (2)). Proper adjustment to basis, or pre-
9 miums or other consideration paid, shall be made
10 for advances which are treated as income under
11 paragraph (3) (B), and shall have been repaid.

12 “(3) SPECIAL RULES.—In the case of a restricted
13 retirement policy—

14 “(A) PROCEEDS OF LIFE CONTRACTS PAY-
15 ABLE BY REASON OF DEATH.—Paragraph (1)
16 shall not apply to the extent that amounts received
17 under a life insurance contract by reason of the
18 death of the insured exceed the cash surrender value
19 of such contract immediately before the death of the
20 insured, and to such extent such amounts shall be
21 treated as provided in section 101.

22 “(B) BORROWING, PURCHASE OF INSUR-
23 ANCE.—

24 “(i) If during any taxable year of the in-
25 sured any part of the value of the policy is

1 borrowed by the insured from the insurer, the
2 amount so borrowed shall be treated for pur-
3 poses of paragraph (1) as having been received
4 by the insured under the policy during such
5 taxable year. This clause shall not apply to a
6 borrowing in an amount not in excess of the
7 current annual premium, if applied to the pay-
8 ment of such premium and if repaid in full
9 within 12 months after the due date of such
10 premium.

11 “(ii) If, under any option or under any
12 other arrangement with the insurance company,
13 any amount of the value of a restricted retirement
14 policy is applied to the purchase of other than
15 restricted retirement benefits (within the mean-
16 ing of section 217 (f) (2)), the entire cash
17 surrender value of such policy at such time shall
18 be treated for purposes of paragraph (1) as an
19 amount received under such policy, except to
20 the extent that such value is within 60 days
21 after such time irrevocably converted into a
22 contract which provides only such restricted
23 retirement benefits.

24 “(iii) This subparagraph shall not apply

1 in the case of any borrowing or any purchase,
2 to the extent that the aggregate amount which
3 has been so borrowed or applied does not exceed
4 the cash surrender value at the time the policy
5 (or a predecessor policy) became a restricted
6 retirement policy.

7 “(C) ASSIGNMENT OF CONTRACT.—If during
8 any taxable year the insured assigns (or agrees to
9 assign) any portion of the value of the policy in
10 violation of section 217 (f) (3), the entire cash sur-
11 render value of such policy at such time shall be
12 treated for purposes of paragraph (1) as an
13 amount received under such policy.

14 “(D) TAXATION OF CASH SURRENDER
15 VALUE ON DEATH BEFORE AGE 70½.—If the in-
16 sured dies before he attains age 70½, the entire cash
17 surrender value of a restricted retirement policy
18 shall be treated for purposes of paragraph (1) as
19 an amount received under the policy, except to the
20 extent that such value is applied to provide an im-
21 mediate annuity for his surviving spouse which will
22 be payable for her life (or for a term certain not ex-
23 tending beyond her life expectancy).

1 “(c) COMPUTATION OF TAX.—

2 “(1) AMOUNTS TO WHICH SUBSECTION AP-
3 PLIES.—This subsection shall apply only to amounts
4 (other than dividends) referred to in subsection (a) or
5 (b) which are received by any person while the self-
6 employed individual is living and has not attained age
7 $64\frac{1}{2}$ and includible in such person’s gross income.

8 “(2) INCOME TO BE SPREAD FOR PURPOSES OF
9 COMPUTATION.—

10 “(A) IN GENERAL.—If the aggregate of the
11 amounts to which this subsection applies received by
12 any person in his taxable year equals or exceeds
13 \$2,500, the increase in his tax for the taxable year in
14 which such amounts are received shall not be less
15 than 110 percent of the aggregate increase in taxes,
16 for the taxable year and the 4 immediately preced-
17 ing taxable years, which would have resulted if
18 such amount had been included in such person’s
19 gross income ratably over such taxable years.

20 “(B) PERIOD WHERE DEDUCTIONS HAVE
21 BEEN TAKEN FOR LESS THAN 4 YEARS.—If the
22 self-employed individual has been allowed deduc-
23 tions under section 217 for a number of prior
24 taxable years less than 4, subparagraph (A) shall

1 be applied by taking into account a number of
2 taxable years immediately preceding the taxable
3 year in which the amount was so received equal to
4 such lesser number.

5 “(3) AMOUNTS AGGREGATING LESS THAN
6 \$2,500.—If paragraph (2) does not apply to a person
7 for the taxable year, the increase in tax of such person
8 for the taxable year attributable to the inclusion in
9 gross income of amounts to which this subsection applies
10 shall be 110 percent of such increase (computed with-
11 out regard to this paragraph).

12 “(d) LUMP SUM DISTRIBUTIONS OF ENTIRE IN-
13 TEREST.—

14 “(1) APPLICATION OF SUBSECTION.—This sub-
15 section shall apply—

16 “(A) in the case of a self-employed individual,
17 if—

18 “(i) after attaining age $64\frac{1}{2}$ he receives
19 within one taxable year his entire interest under
20 all his restricted retirement funds and policies,

21 “(ii) he has been allowed deductions un-
22 der section 217 for 5 or more prior taxable
23 years (whether or not consecutive), and

24 “(iii) no person has theretofore received

1 any amount under any of his restricted retire-
2 ment funds or policies (other than dividends
3 on such policies) ; and

4 “(B) in the case of the estate or other bene-
5 ficiary of a deceased self-employed individual, if
6 there is received by such beneficiary within one
7 taxable year such beneficiary’s entire interest under
8 all restricted retirement funds and policies of the
9 deceased.

10 “(2) LIMITATION ON TAX.—In any case to which
11 this subsection applies, the tax attributable to the
12 amounts so received for the taxable year in which so
13 received shall not be greater than 5 times the increase in
14 tax resulting from the inclusion in gross income of the
15 recipient of 20 percent of the amount so received which
16 is includible in gross income.

17 “(e) DETERMINATION OF TAXABLE INCOME.—Not-
18 withstanding section 63 (relating to definition of taxable
19 income), for purposes only of computing the tax under this
20 chapter attributable to amounts includible in gross income by
21 reason of this section, the taxable income of the recipient for
22 the taxable year of receipt (and for any other taxable year

1 involved in the computation under subsection (c)) shall be
2 treated as being not less than the amount by which—

3 “(1) the aggregate of such amounts so includible
4 in gross income, exceeds

5 “(2) the amount of the deductions allowed for such
6 taxable year under section 151 (relating to deductions
7 for personal exemptions).

8 In any case in which the preceding sentence results in an
9 increase in taxable income for any taxable year, the re-
10 sulting increase in the taxes imposed by section 1 or 3 for
11 such taxable year shall not be reduced by any credit under
12 part IV of subchapter A (other than section 31 thereof)
13 which, but for this sentence, would be allowable.

14 “(f) DEFINITIONS.—For purposes of this section—

15 “(1) SELF-EMPLOYED INDIVIDUAL.—The term
16 ‘self-employed individual’ means an individual who has
17 been allowed a deduction under section 217 for any
18 taxable year.

19 “(2) DIVIDEND.—The term ‘dividend’ means any
20 amount received, by a policyholder of a restricted retire-
21 ment policy in his capacity as a policyholder, which
22 is in the nature of a dividend or similar distribution.

1 “(3) **RESTRICTED RETIREMENT FUND.**—The term
2 ‘restricted retirement fund’ means any fund (including a
3 predecessor fund) with respect to which the self-em-
4 ployed individual has been allowed a deduction under
5 section 217 for any taxable year.

6 “(4) **RESTRICTED RETIREMENT POLICY.**—The
7 term ‘restricted retirement policy’ means any policy
8 (including a predecessor policy) with respect to which
9 the self-employed individual has been allowed a deduc-
10 tion under section 217 for any taxable year.”

11 (b) **TECHNICAL AMENDMENTS.**—

12 (1) Section 72 (m) of the Internal Revenue Code
13 of 1954 (relating to cross references) is amended to read
14 as follows:

15 “(m) **CROSS REFERENCES.**—

 “(1) For special rules relating to amounts received
 under restricted retirement policies, see section 78.

 “(2) For limitations on adjustments to basis of an-
 nuity contracts sold, see section 1021.”

16 (2) Section 316 (b) (1) of the Internal Revenue
17 Code of 1954 (relating to definition of dividends) is
18 amended by adding at the end thereof the following new
19 sentence: “The definition in subsection (a) shall not
20 apply to the term ‘dividend’ as used in section 78 (relat-
21 ing to amounts received under restricted retirement

1 funds and policies) or in section 217 (relating to deduc-
2 tion for retirement deposits).”

3 (c) CLERICAL AMENDMENT.—The table of sections for
4 part II of subchapter B of chapter 1 of the Internal Revenue
5 Code of 1954 is amended by adding at the end thereof the
6 following new item:

“Sec. 78. Amounts received from restricted retirement funds
or policies.”

7 **SEC. 4. RESTRICTED RETIREMENT FUNDS.**

8 (a) DEFINITION.—Part I of subchapter D of chapter 1
9 of the Internal Revenue Code of 1954 (relating to pension,
10 profit-sharing, stock bonus plans, etc.) is amended by adding
11 at the end thereof the following new section:

12 **“SEC. 405. RESTRICTED RETIREMENT FUNDS.**

13 “(a) IN GENERAL.—For purposes of this chapter and
14 section 6047, the term ‘restricted retirement fund’ means a
15 trust established under a retirement plan for one or more
16 self-employed individuals.

17 “(b) RETIREMENT PLAN.—For purposes of subsection
18 (a), the term ‘retirement plan’ means a trust instrument
19 for the exclusive benefit of the participating individual or
20 individuals who are members of the plan, for the purpose of
21 investing and reinvesting, and of distributing to the respec-

1 tive members of the plan, or to their estates or other bene-
2 ficiaries, the corpus and income of the trust.

3 “(c) REQUIREMENTS FOR RETIREMENT PLAN.—A
4 plan described in subsection (b) shall be treated as a retire-
5 ment plan only if the requirements of paragraphs (1), (2),
6 and (3) of this subsection are met:

7 “(1) TRUSTEE MUST BE BANK.—The trustee is a
8 bank (as defined in section 581).

9 “(2) TERMS OF TRUST.—Under the trust instru-
10 ment—

11 “(A) INTEREST NONASSIGNABLE.—A mem-
12 ber may not assign (or agree to assign) any portion
13 of his interest in the fund, but he may—

14 “(i) designate one or more beneficiaries in
15 the event of his death, or

16 “(ii) direct the trustee to transfer his entire
17 interest to another restricted retirement fund
18 designated by such member.

19 “(B) TERMINATION OF TRUST, ETC.—

20 “(i) Before the member attains age 70,
21 his entire interest in the trust will be dis-
22 tributed or applied to the purchase of an
23 annuity described in subparagraph (B), (C),
24 or (D) of section 217 (f) (2) which does not
25 provide life insurance protection, and which is

1 immediately distributed to the member, or he
2 will have elected to have his entire interest in the
3 trust distributed before he attains age 80 (with
4 not less than 10 percent of the value of
5 such interest, determined at age 70, being dis-
6 tributed in each taxable year beginning with
7 the taxable year in which he attains age 70).

8 “(ii) If the member dies before he attains
9 age 70, his entire interest in the trust will,
10 within 5 years after the date of his death, be
11 distributed, or applied to the purchase of an im-
12 mediate annuity for his surviving spouse which
13 will be payable for her life (or for a term cer-
14 tain not extending beyond her life expectancy)
15 and which will be immediately distributed to
16 such spouse.

17 “(C) INTERESTS TO BE PROPORTIONATE.—If
18 the trust has more than one member, the interest of
19 each member shall be proportionate to the money he
20 has paid in (or his interest which has been trans-
21 ferred thereto in accordance with subparagraph (A)
22 (ii)), and to the income and other adjustments
23 properly attributable thereto.

24 “(D) RETURN OF EXCESS CONTRIBUTIONS.—

25 The trustee is required to distribute promptly to the

1 member, any amount paid in by him for any taxable
2 year in excess of the amount deductible by such
3 member for such year under section 217, together
4 with all income attributable to such excess.

5 “(3) PERMISSIBLE INVESTMENTS.—Under the
6 trust instrument, the trustee may not invest or reinvest
7 the corpus or income of the trust other than in—

8 “(A) (i) stock or securities listed on a securi-
9 ties exchange which is registered with the Securities
10 and Exchange Commission as a national securities
11 exchange (not including stock and securities in a
12 corporation if, immediately after the acquisition
13 thereof, the aggregate ownership of voting stock in
14 such corporation by the trust and by its mem-
15 bers (including ownership attributed to such mem-
16 bers under section 318) is more than 10 per-
17 cent of such voting stock), (ii) bonds or other evi-
18 dences of indebtedness issued by the United States,
19 any State or Territory, or the District of Columbia,
20 or any political subdivision or instrumentality of any
21 of the foregoing, and (iii) stock in a regulated in-
22 vestment company meeting the requirements of sec-
23 tion 851; and

24 “(B) the purchase, for the account in the plan
25 of a member thereof, of an annuity on the life of

1 such member (or a face-amount certificate which
2 meets the requirements of section 217 (h)) which
3 provides only restricted retirement benefits (within
4 the meaning of section 217 (f) (2)).

5 “(d) REQUIREMENTS FOR EXEMPTION FROM TAX.—

6 “(1) IN GENERAL.—A restricted retirement fund
7 which has engaged in a prohibited transaction shall not
8 be exempt from taxation under section 501 (a).

9 “(2) TAXABLE YEARS AFFECTED.—Paragraph
10 (1) shall apply only for taxable years after the taxable
11 year during which the fund is notified by the Secretary
12 or his delegate that it has engaged in a prohibited trans-
13 action; except that if the trustee knowingly engaged
14 in a prohibited transaction, paragraph (1) shall apply
15 with respect to the accounts in the fund of the member
16 or members in respect of whom such transaction oc-
17 curred for the taxable year in which such transaction
18 occurred and all taxable years thereafter.

19 “(3) PROHIBITED TRANSACTION DEFINED.—For
20 purposes of this subsection, the term ‘prohibited trans-
21 action’ means any transaction in which the trustee—

22 “(A) lends any part of the corpus or income of
23 the fund to;

24 “(B) pays any compensation for personal
25 services rendered to the fund to;

1 “(C) makes any part of its services available
2 on a preferential basis to; or

3 “(D) acquires for the fund any stock, securities,
4 or evidences of indebtedness from, or sells any stock,
5 securities, or evidences of indebtedness of the fund to,
6 any person described in section 503 (c) (for this pur-
7 pose treating each member of the plan as the grantor of
8 the trust). The term also includes any transaction pur-
9 suant to which the fund ceases to meet any requirement
10 of subsection (c) of this section, and any failure to
11 comply with any provision of the trust instrument
12 required by such subsection.

13 “(4) CROSS REFERENCES.—

 “(A) For tax consequences to members involved in a
 prohibited transaction, see section 78 (a) (3).

 “(B) For tax-free transfer of interests to other re-
 stricted retirement funds of members not involved in the
 prohibited transaction, see subsection (c) (2) (A) (ii).

14 “(e) OTHER TRUST RULES INAPPLICABLE.—The
15 provisions of part I of subchapter J (section 641 and
16 following, relating to estates, trusts, and beneficiaries) shall
17 not apply with respect to restricted retirement funds, so long
18 as they are exempt from tax under section 501 (a).”

19 (b) EXEMPTION FROM TAXATION.—Section 501 (a)
20 of the Internal Revenue Code of 1954 (relating to exemption
21 from tax of certain organizations) is amended by adding at

1 the end thereof the following new sentence: "A restricted
2 retirement fund (as defined in section 405) shall be exempt
3 from tax under this subtitle except to the extent such exemp-
4 tion is denied under section 405 (d)."

5 (c) CLERICAL AMENDMENT.—The table of sections for
6 part I of subchapter D of chapter 1 of such Code is amended
7 by adding at the end thereof the following new item:

"Sec. 405. Restricted retirement funds."

8 **SEC. 5. TECHNICAL AMENDMENTS.**

9 (a) RETIREMENT INCOME CREDIT.—Section 37 (c)
10 of the Internal Revenue Code of 1954 (relating to definition
11 of retirement income) is amended by adding at the end
12 thereof the following new sentence: "Such term does not in-
13 clude any amount received from a restricted retirement fund
14 (as defined in section 405) or under a restricted retirement
15 policy (as defined in section 217 (f))."

16 (b) TREATMENT OF AMOUNTS RECEIVED BY SPOUSE
17 OR OTHER BENEFICIARY UNDER A RESTRICTED RETIRE-
18 MENT FUND OR RESTRICTED RETIREMENT POLICY.—
19 Section 691 of the Internal Revenue Code of 1954 (relating
20 to recipients of income in respect of decedents) is amended
21 by relettering subsection (e) as subsection (f), and by insert-
22 ing after subsection (d) the following new subsection:

23 "(e) AMOUNTS RECEIVED BY BENEFICIARY OF A

1 PARTICIPANT IN RESTRICTED RETIREMENT FUND,
2 ETC.—For purposes of this section, amounts received after
3 the death of the member of a restricted retirement fund (as
4 defined in section 405), or after the death of the insured
5 under a restricted retirement policy (as defined in section
6 217 (f)), from such fund or under such policy shall, to the
7 extent included in gross income under section 78, be con-
8 sidered as amounts included in gross income under sub-
9 section (a).”

10 (c) INFORMATION REQUIREMENTS.—

11 (1) IN GENERAL.—Subpart B of part III of sub-
12 chapter A of chapter 61 of the Internal Revenue Code
13 of 1954 (relating to information concerning transactions
14 with other persons) is amended by adding at the end
15 thereof the following new section:

16 “SEC. 6047. INFORMATION RELATING TO RESTRICTED RE-
17 TIREMENT FUNDS AND POLICIES.

18 “(a) BANKS AND INSURANCE COMPANIES.—Every
19 bank which is a trustee of a restricted retirement fund
20 (as defined in section 405), and every insurance com-
21 pany which is the issuer of a policy which is a restricted
22 retirement policy (as defined in section 217 (f)), shall file
23 such returns (in such form and at such times), keep such
24 records, make such identification of policies and funds (and
25 accounts within such funds), and supply such information,

1 as the Secretary or his delegate shall by forms or regulations
2 prescribe.

3 “(b) SELF-EMPLOYED INDIVIDUALS.—Every individ-
4 ual who—

5 “(1) is a member of a restricted retirement fund
6 (as defined in section 405), or

7 “(2) is the insured under a restricted retirement
8 policy (as defined in section 217 (f)),

9 shall furnish the bank or insurance company such informa-
10 tion, at such times and in such form and manner, as the
11 Secretary or his delegate shall by forms or regulations
12 prescribe.

13 “(c) CROSS REFERENCE.—

“For criminal penalty for furnishing fraudulent in-
formation, see section 7207.”

14 (2) CLERICAL AMENDMENT.—The table of sections
15 for such subpart B is amended by adding at the end
16 thereof the following:

“Sec. 6047. Information relating to restricted retirement
funds and policies.”

17 (3) PENALTY.—Section 7207 of the Internal Rev-
18 enue Code of 1954 (relating to fraudulent returns, state-
19 ments, or other documents) is amended by adding at the
20 end thereof the following new sentence: “Any person
21 required pursuant to section 6047 (b) to furnish any

1 information to any bank or insurance company who
2 willfully furnishes any information known by him to
3 be fraudulent or to be false as to any material matter
4 shall be fined not more than \$1,000, or imprisoned not
5 more than 1 year, or both."

6 **SEC. 6. TAXABLE YEARS TO WHICH APPLICABLE.**

7 The amendments made by this Act shall apply only with
8 respect to taxable years beginning after December 31, 1958.

Passed the House of Representatives July 29, 1958.

Attest:

RALPH R. ROBERTS,

Clerk.

86TH CONGRESS
1ST SESSION

H. R. 97

A BILL

To encourage the establishment of voluntary
pension plans by self-employed individuals.

By Mr. FOGARTY

JANUARY 7, 1959

Referred to the Committee on Ways and Means