

Union Calendar No. 365

112TH CONGRESS
2^D SESSION

H. R. 5858

[Report No. 112-517]

To amend the Internal Revenue Code of 1986 to improve health savings accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 29, 2012

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

JUNE 5, 2012

Additional sponsor: Mrs. BLACK

JUNE 5, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on May 29, 2012]

A BILL

To amend the Internal Revenue Code of 1986 to improve health savings accounts, 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, ETC.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Health Savings Accounts Improvements Act of 2012”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title, etc.

Sec. 2. Saver’s credit for contributions to health savings accounts.

Sec. 3. Special rule for certain medical expenses incurred before establishment of
account.

Sec. 4. Allow both spouses to make catch-up contributions to the same health sav-
ings account.

Sec. 5. Individuals eligible for veterans benefits for a service-connected disability.

Sec. 6. Distributions by certain early retirees for health coverage treated as quali-
fied medical expense.

8 **SEC. 2. SAVER’S CREDIT FOR CONTRIBUTIONS TO HEALTH**
 9 **SAVINGS ACCOUNTS.**

10 (a) *ALLOWANCE OF CREDIT.*—*Subsection (a) of section*
 11 *25B of the Internal Revenue Code of 1986 is amended by*
 12 *inserting “aggregate qualified HSA contributions and”*
 13 *after “so much of the”.*

14 (b) *QUALIFIED HSA CONTRIBUTIONS.*—*Subsection (d)*
 15 *of section 25B of such Code is amended by redesignating*
 16 *paragraph (2) as paragraph (3) and by inserting after*
 17 *paragraph (1) the following new paragraph:*

18 “(2) *QUALIFIED HSA CONTRIBUTIONS.*—*The*
 19 *term ‘qualified HSA contribution’ means, with re-*
 20 *spect to any taxable year, any contribution to a*

1 *health savings account (as defined in section*
2 *223(d)(1)) if—*

3 *“(A) such contribution is allowable as a de-*
4 *duction to the taxpayer under section 223(a) for*
5 *such taxable year, or*

6 *“(B) such contribution is made by an em-*
7 *ployer of the taxpayer at the election of the tax-*
8 *payer under a cafeteria plan (as defined in sec-*
9 *tion 125(d)) and is not includible in the gross*
10 *income of the taxpayer by reason of section*
11 *125.”.*

12 *(c) REPORTING OF HSA ELECTIVE CONTRIBUTIONS.—*
13 *Paragraph (12) of section 6051(a) of such Code is amended*
14 *to read as follows:*

15 *“(12) the total amount contributed to health sav-*
16 *ings accounts (as defined in section 223(d)) of the em-*
17 *ployee or the employee’s spouse and the portion of*
18 *such total amount contributed at the election of the*
19 *employee under any cafeteria plan (as defined in sec-*
20 *tion 125(d)),”.*

21 *(d) CONFORMING AMENDMENTS.—Section 25B(d)(3)*
22 *of such Code, as redesignated by subsection (b), is amend-*
23 *ed—*

24 *(1) by striking the first sentence of subparagraph*
25 *(A) and inserting the following: “The aggregate quali-*

1 *fied retirement savings contributions determined*
2 *under paragraph (1) and qualified HSA contribu-*
3 *tions determined under paragraph (2) shall be re-*
4 *duced (but not below zero) by the aggregate distribu-*
5 *tions received by the individual during the testing pe-*
6 *riod from any entity of a type to which contributions*
7 *under paragraph (1) or paragraph (2) (as the case*
8 *may be) may be made.”, and*

9 *(2) by inserting “223(f)(1) or (3),” after “section*
10 *72(p),” in subparagraph (C)(i).*

11 *(e) EFFECTIVE DATE.—The amendments made by this*
12 *section shall apply to taxable years beginning after Decem-*
13 *ber 31, 2012.*

14 **SEC. 3. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**
15 **INCURRED BEFORE ESTABLISHMENT OF AC-**
16 **COUNT.**

17 *(a) IN GENERAL.—Paragraph (2) of section 223(d) of*
18 *the Internal Revenue Code of 1986 is amended by adding*
19 *at the end the following new subparagraph:*

20 *“(D) TREATMENT OF CERTAIN MEDICAL EX-*
21 *PENSES INCURRED BEFORE ESTABLISHMENT OF*
22 *ACCOUNT.—If a health savings account is estab-*
23 *lished during the 60-day period beginning on the*
24 *date that coverage of the account beneficiary*
25 *under a high deductible health plan begins, then,*

1 *solely for purposes of determining whether an*
2 *amount paid is used for a qualified medical ex-*
3 *penditure, such account shall be treated as having*
4 *been established on the date that such coverage*
5 *begins.”.*

6 **(b) EFFECTIVE DATE.**—*The amendment made by this*
7 *section shall apply with respect to coverage beginning after*
8 *the date of the enactment of this Act.*

9 **SEC. 4. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**
10 **TRIBUTIONS TO THE SAME HEALTH SAVINGS**
11 **ACCOUNT.**

12 **(a) IN GENERAL.**—*Paragraph (5) of section 223(b) of*
13 *the Internal Revenue Code of 1986 is amended to read as*
14 *follows:*

15 **“(5) SPECIAL RULE FOR MARRIED INDIVIDUALS**
16 **WITH FAMILY COVERAGE.—**

17 **“(A) IN GENERAL.**—*In the case of individ-*
18 *uals who are married to each other, if both*
19 *spouses are eligible individuals and either spouse*
20 *has family coverage under a high deductible*
21 *health plan as of the first day of any month—*

22 **“(i) the limitation under paragraph**
23 **(1) shall be applied by not taking into ac-**
24 **count any other high deductible health plan**
25 **coverage of either spouse (and if such**

1 *spouses both have family coverage under*
2 *separate high deductible health plans, only*
3 *one such coverage shall be taken into ac-*
4 *count),*

5 *“(ii) such limitation (after application*
6 *of clause (i)) shall be reduced by the aggre-*
7 *gate amount paid to Archer MSAs of such*
8 *spouses for the taxable year, and*

9 *“(iii) such limitation (after applica-*
10 *tion of clauses (i) and (ii)) shall be divided*
11 *equally between such spouses unless they*
12 *agree on a different division.*

13 *“(B) TREATMENT OF ADDITIONAL CON-*
14 *TRIBUTION AMOUNTS.—If both spouses referred*
15 *to in subparagraph (A) have attained age 55 be-*
16 *fore the close of the taxable year, the limitation*
17 *referred to in subparagraph (A)(iii) which is*
18 *subject to division between the spouses shall in-*
19 *clude the additional contribution amounts deter-*
20 *mined under paragraph (3) for both spouses. In*
21 *any other case, any additional contribution*
22 *amount determined under paragraph (3) shall*
23 *not be taken into account under subparagraph*
24 *(A)(iii) and shall not be subject to division be-*
25 *tween the spouses.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2012.*

4 **SEC. 5. INDIVIDUALS ELIGIBLE FOR VETERANS BENEFITS**
5 **FOR A SERVICE-CONNECTED DISABILITY.**

6 (a) *IN GENERAL.*—*Paragraph (1) of section 223(c) of*
7 *the Internal Revenue Code of 1986 is amended by adding*
8 *at the end the following new subparagraph:*

9 “(C) *SPECIAL RULE FOR INDIVIDUALS ELI-*
10 *GIBLE FOR CERTAIN VETERANS BENEFITS.*—*An*
11 *individual shall not fail to be treated as an eligi-*
12 *ble individual for any period merely because the*
13 *individual receives hospital care or medical serv-*
14 *ices under any law administered by the Sec-*
15 *retary of Veterans Affairs for a service-connected*
16 *disability (within the meaning of section 101(16)*
17 *of title 38, United States Code).”.*

18 (b) *EFFECTIVE DATE.*—*The amendment made by this*
19 *section shall apply to months beginning after December 31,*
20 *2012.*

21 **SEC. 6. DISTRIBUTIONS BY CERTAIN EARLY RETIREES FOR**
22 **HEALTH COVERAGE TREATED AS QUALIFIED**
23 **MEDICAL EXPENSE.**

24 (a) *IN GENERAL.*—*Subparagraph (C) of section*
25 *223(d)(2) of the Internal Revenue Code of 1986 is amended*

1 *by striking “or” at the end of clause (iii), by striking the*
2 *period at the end of clause (iv) and inserting “, or”, and*
3 *by adding at the end the following new clause:*

4 *“(v) in the case of an account bene-*
5 *ficiary who has attained age 55 but not the*
6 *age specified in section 1811 of the Social*
7 *Security Act, any group health plan (as de-*
8 *finied in section 5000(b)(1)) in which such*
9 *account beneficiary is enrolled by reason of*
10 *being a former employee or a surviving*
11 *spouse of a former employee.”.*

12 *(b) EFFECTIVE DATE.—The amendments made by this*
13 *section shall apply to amounts paid for coverage for periods*
14 *after December 31, 2012.*

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