

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3065

To amend the Internal Revenue Code of 1986 to establish medical care savings benefits.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 1993

Mr. JACOBS (for himself, Mr. ARCHER, Mr. INHOFE, Mr. TORRICELLI, Mr. LIPINSKI, and Mr. POSHARD) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to establish medical care savings benefits.

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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Medical Cost Containment Act of 1993”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2.**

4 Section 125A is added to the Code to read as follows:

5 **“SEC. 125A. MEDICAL CARE SAVINGS BENEFITS.**

6 “(a) IN GENERAL.—A medical care savings benefit  
7 is a qualified benefit which consists of a Health Plan meet-  
8 ing the requirements of this section that includes, as part  
9 thereof, a Medical Care Savings Account, as set forth in  
10 section 408A.

11 “(b) ESTABLISHMENT OF MEDICAL CARE SAVINGS  
12 BENEFIT.—A medical care savings benefit shall be estab-  
13 lished as a Health Plan which provides that all or part  
14 of the premium differential realized by instituting a Quali-  
15 fied Higher Deductible Health Plan is credited to a par-  
16 ticipating employee during a plan year to pay for medical  
17 care described in section 213(d) subject to the limitations  
18 set forth in subsection (e) hereof. To the extent that any  
19 amount remains credited to that participant at the end  
20 of each plan year, such amount shall be deposited to a  
21 section 408(A) medical care savings account (which may  
22 also be referred to as a ‘Medical IRA’) for that partici-  
23 pant.

24 “(c) PAYMENTS FROM ACCOUNT BALANCE.—If the  
25 plan provides for level installment payments, the plan may

1 also provide that the maximum amount of reimbursement  
2 at a particular time during the period of coverage may  
3 be limited to the amount of actual contributions to the  
4 participant's benefit account. A participant may be ad-  
5 vanced, interest free, such amounts necessary to cover in-  
6 curred medical expenses which exceed the amount then  
7 credited to the participant's benefit account, upon the par-  
8 ticipant's agreement to repay such advancement from fu-  
9 ture installments or upon ceasing to be a participant.

10       “(d) REPORTING.—Employers shall cause to be is-  
11 sued to participating employees, not less frequently than  
12 quarterly, a statement setting forth amounts remaining in  
13 their accounts.

14       “(e) LIMITATIONS ON MEDICAL CARE SAVINGS BEN-  
15 EFITS.—For purposes of this section—

16           “(1) IN GENERAL.—In the case of an Employer  
17 who has a Health Plan in existence immediately  
18 prior to the adoption of the Medical Care Savings  
19 Benefit, the maximum amount that may be contrib-  
20 uted annually to a participant's benefit account shall  
21 be equal to—

22                   “(A) the cost of that Health Plan for that  
23 participant's type of coverage; plus

24                   “(B) a cost of living adjustment for the  
25 calendar year in which the plan year begins, de-

1           terminated under section 1(f)(3) of the Code as  
2           adjusted annually based on the CPI-Medical  
3           cost of living component.

4           “(2) OTHER EMPLOYERS.—In the case of an  
5           Employer to whom paragraph (1) does not apply,  
6           the contribution limit shall be equal to the 67th per-  
7           centile of the per employee health plan expenditures  
8           (for the calendar year for which such plan begins)  
9           for the type of coverage applicable to such employee  
10          based on a broad representative survey using meth-  
11          odology the same as or similar to that used by  
12          States to develop an average market premium for  
13          small group guarantee access legislation. Such study  
14          may be no broader than each State and may be bro-  
15          ken down into representative surveys for areas with-  
16          in a State. The amount of such contribution shall be  
17          adjusted annually in accordance with the cost of liv-  
18          ing adjustment provided for in subsection (1)(b) of  
19          this section.

20          “(3) OVERALL LIMITATION.—In no event may  
21          any contribution described above exceed the deduct-  
22          ible amount of the Qualified Higher Deductible  
23          Plan.

24          “(f) HEALTH PLAN.—The term ‘Health Plan’ means  
25          an employee welfare benefit plan providing medical care

1 (as defined in section 213(d) of the Internal Revenue Code  
2 of 1954) to participants or beneficiaries directly or  
3 through insurance, reimbursement, or otherwise.

4 “(g) QUALIFIED HIGHER DEDUCTIBLE PLAN.—The  
5 term ‘Qualified Higher Deductible Plan’ is a Health Plan  
6 which provides for payment of covered benefits in excess  
7 of the higher deductible, which higher deductible shall not  
8 exceed \$5,000 in 1993 and, adjusted annually thereafter  
9 for increases in the cost of living in accordance with regu-  
10 lations prescribed by the Secretary.

11 “(h) COORDINATION WITH HEALTH FLEXIBLE  
12 SPENDING ACCOUNTS.—If, during a Plan Year, a partici-  
13 pating employee has a Medical Care Savings Benefit in  
14 effect and a health flexible spending account established  
15 under section 125, coverage under the health flexible  
16 spending account, for the type of medical expenses that  
17 may be reimbursed under the Medical Care Savings Bene-  
18 fit, would be limited to 100 percent of the deductible under  
19 the Qualified Higher Deductible Plan, less the amount  
20 credited in the current year to the Employee’s Medical  
21 Care Savings Benefit Account. For purposes of section  
22 125, a Medical Care Savings Benefit is not considered to  
23 involve the deferral of compensation for purposes of the  
24 Code.

1       “(i) SEPARATE DETERMINATIONS FOR CATEGORIES  
2 OF EMPLOYEES AND SEPARATE LINES OF BUSINESS.—  
3 Contributions to Health Plans established by an Employer  
4 may be separately determined on the basis of:

5           “(1) Types of coverage.

6           “(2) Reasonable classifications of employees  
7 based on such classifications as hours of work per  
8 week, retirement status, coverage by a collective bar-  
9 gaining agreement.

10          “(3) Employees within separate lines of busi-  
11 ness, within the meaning of section 414(r).

12       “(j) OTHER DEFINITIONS FOR PURPOSES OF THIS  
13 SECTION.—

14           “(1) EMPLOYEE.—The term ‘employee’ means  
15 any individual employed by an Employer, includ-  
16 ing—

17           “(A) an individual who is employee within  
18 the meaning of section 401(c)(1); and

19           “(B) former employees.

20           “(2) TYPES OF COVERAGE.—The types of cov-  
21 erage are—

22           “(A) self-only coverage; and

23           “(B) coverage other than self-only cov-  
24 erage.

1       “(k) PREVENTATIVE HEALTH CARE.—By allowing  
2 medical expenses payable from a medical care savings ben-  
3 efit to be those permitted under section 213(d) of the In-  
4 ternal Revenue Code, participating employees are encour-  
5 aged to use this benefit to promote good health, to use  
6 preventative medical and health procedures, and to seek  
7 appropriate consultative and second opinions.

8       “(l) NONDUPLICATION OF BENEFITS.—Policies is-  
9 sued as a part of a medical care savings benefit shall not  
10 be required to duplicate expenses that may be proper ex-  
11 penses covered by the medical care savings benefit. Addi-  
12 tionally, the Qualified Higher Deductible Plan may pro-  
13 vide that the deductible specified in the insurance policy  
14 may be increased by the amount of any benefits payable  
15 by any other health benefits program or plan.”.

16 **SEC. 3. MEDICAL CARE SAVINGS ACCOUNT.**

17       (a) IN GENERAL.—Chapter 1 (relating to normal  
18 taxes and surcharge) is amended by adding after section  
19 408 the following new section:

20 **“SEC. 408A. MEDICAL CARE SAVINGS ACCOUNTS.**

21       “(a) MEDICAL CARE SAVINGS ACCOUNTS.—For pur-  
22 poses of this section, the term ‘medical care savings ac-  
23 count’ (which may also be referred to as a ‘Medical IRA’)  
24 means a trust created or organized in the United States  
25 for the exclusive benefit of an individual, the individual’s

1 dependents (as defined in section 152) or beneficiaries,  
2 but only if the written instrument creating the trust meets  
3 the following requirements:

4           “(1) No contribution will be accepted unless it  
5 is in cash.

6           “(2) The trustee is a bank (as defined in sub-  
7 section (d)), insurance company (as defined in sec-  
8 tion 816), or such other person who demonstrates to  
9 the satisfaction of the Secretary that the manner in  
10 which such other person will administer the trust  
11 will be consistent with the requirements of this sec-  
12 tion.

13           “(3) No part of the trust funds will be invested  
14 in life insurance contracts.

15           “(4) The interest of an individual in the bal-  
16 ance of the account is nonforfeitable.

17           “(5) The assets of the trust will not be commin-  
18 gled with other property except in a common trust  
19 fund or common investment fund.

20           “(b) TAX TREATMENT OF ACCOUNTS.—

21           “(1) EXEMPTION FROM TAX.—Any medical  
22 care savings account is exempt from taxation under  
23 this subtitle unless such account has ceased to be a  
24 medical care savings account by reason of paragraph  
25 (2) or (3): *Provided, however,* That earnings on such

1 account shall be taxable. Notwithstanding the pre-  
2 ceding sentence, any such account is subject to the  
3 taxes imposed by section 511 (relating to imposition  
4 of tax on unrelated business income of charitable,  
5 etc. organizations).

6 “(2) LOSS OF EXEMPTION OF ACCOUNT WHERE  
7 EMPLOYEE ENGAGES IN PROHIBITED TRANS-  
8 ACTION.—

9 “(A) IN GENERAL.—If, during any taxable  
10 year of the individual for whose benefit any  
11 medical care savings account is established,  
12 that individual, dependent, or his beneficiary  
13 engages in any transaction prohibited by section  
14 4975 with respect to such account, such ac-  
15 count ceases to be a medical care savings ac-  
16 count as of the first day of such taxable year.  
17 For purposes of this paragraph the individual  
18 for whose benefit any account was established is  
19 treated as the creator of such account.

20 “(B) ACCOUNT TREATED AS DISTRIBUTING  
21 ALL ITS ASSETS.—In any case in which any ac-  
22 count ceases to be a medical savings account by  
23 reason of subparagraph (A) as of the first day  
24 of any taxable year, section 511 shall apply as  
25 if there were a distribution on such first day in

1           an amount equal to the fair market value (on  
2           such first day) of all assets in the account (on  
3           such first day).

4           “(3) EFFECT OF PLEDGING ACCOUNT AS SECUR-  
5           RITY.—If, during any taxable year of the individual  
6           for whose benefit a medical care savings account is  
7           established, that individual uses the account or any  
8           portion thereof as security for a loan, the portion so  
9           used is treated as distributed to that individual.

10           “(4) COMMINGLING MEDICAL CARE SAVINGS AC-  
11           COUNT AMOUNTS IN CERTAIN COMMON TRUST  
12           FUNDS AND COMMON INVESTMENT FUNDS.—Any  
13           common trust fund or common investment fund of  
14           individual medical care savings account assets which  
15           is exempt from taxation under this subtitle does not  
16           cease to be exempt on account of the participation  
17           or inclusion of assets of a trust exempt from tax-  
18           ation under section 501(a) which is described in sec-  
19           tion 401(a).

20           “(c) TREATMENT OF DISTRIBUTIONS.—

21           “(1) IN GENERAL.—Except as otherwise pro-  
22           vided in this subsection, any amount paid or distrib-  
23           uted out of a medical savings account shall be in-  
24           cluded in gross income by the distributee.

1           “(2) DISTRIBUTIONS FOR MEDICAL EX-  
2 PENSES.—Distributions from a medical care savings  
3 account shall not be taxable to the distributee, for  
4 amounts paid directly or indirectly for medical ex-  
5 penses as defined in section 213(d).

6           “(3) 10 PERCENT ADDITIONAL TAX FOR EARLY  
7 WITHDRAWALS.—Distributions described in para-  
8 graph 1 and not described in paragraph 2 shall be  
9 subject to an additional 10 percent tax for distribu-  
10 tions made prior to age 59½ of the distributee.

11           “(4) ROLLOVER CONTRIBUTION.—An amount is  
12 described in this paragraph as a rollover contribu-  
13 tion which shall not be included in the gross income  
14 of the distributee if it meets the requirements of  
15 subparagraphs (A) and (B).

16           “(A) IN GENERAL.—Paragraph (1) does  
17 not apply to any amount paid or distributed out  
18 of a medical care savings account to the individ-  
19 ual for whose benefit the account is maintained  
20 if the entire amount received is paid into a  
21 medical care savings account for the benefit of  
22 such individual not later than the sixtieth day  
23 after the day on which he receives the payment  
24 or distribution.

1           “(B) LIMITATION.—This paragraph does  
2 not apply to any amount described in para-  
3 graph (A) received by an individual from a  
4 medical savings account if at any time during  
5 the one-year period ending on the day of such  
6 receipt such individual received any other  
7 amount described in that subparagraph from a  
8 medical care savings account which was not in-  
9 cludible in his gross income because of the ap-  
10 plication of this paragraph.

11           “(C) DENIAL OF ROLLOVER TREATMENT  
12 FOR INHERITED ACCOUNTS, ETC.—

13           “(i) IN GENERAL.—In the case of an  
14 inherited medical savings account—

15           “(I) this paragraph shall not  
16 apply to any amount received by an  
17 individual from such an account (and  
18 no amount transferred from such ac-  
19 count to another medical care savings  
20 account shall be excluded from gross  
21 income by reason of such transfer),  
22 and

23           “(II) such inherited account shall  
24 not be treated as a medical care sav-  
25 ings account for purposes of determin-

1                   ing whether any other amount is a  
2                   rollover contribution.

3                   “(ii) INHERITED MEDICAL CARE SAV-  
4                   INGS ACCOUNT.—

5                   “(I) the individual for whose ben-  
6                   efit the account is maintained ac-  
7                   quired such account by reason of the  
8                   death of another individual, and

9                   “(II) such individual was not the  
10                  surviving spouse of such other individ-  
11                  ual.

12               “(d) BANK.—For purposes of subsection (a)(2), the  
13               term ‘bank’ means—

14               “(1) a bank (as defined in section 581),

15               “(2) an insured credit union (within the mean-  
16               ing of section 101(6) of the Federal Credit Union  
17               Act), and

18               “(3) a corporation which, under the laws of the  
19               State of its incorporation, is subject to supervision  
20               and examination by the Commissioner of Banking or  
21               other officer of such State in charge of the adminis-  
22               tration of the banking laws of such State.”.

23 **SEC. 4. EFFECTIVE DATES.**

24               The amendments made by this Act shall apply to  
25               years beginning after December 31, 1993.

1 **SEC. 5. OVERALL EFFECT ON TAX DEDUCTIBILITY.**

2       This Act is not intended to change the Code's current  
3 tax treatment of employer-provided coverage under acci-  
4 dent and health plans.

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