

105TH CONGRESS  
2D SESSION

# H. R. 4649

To amend the Internal Revenue Code of 1986 to provide for the establishment of medical security accounts for individuals who are 40 years old or older.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 1998

Mr. SNOWBARGER 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 provide for the establishment of medical security accounts for individuals who are 40 years old or older.

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. MEDICAL SECURITY ACCOUNTS FOR INDIVID-**  
4 **UALS WHO ARE 40 OR OLDER.**

5 (a) IN GENERAL.—Part VII of subchapter B of chap-  
6 ter 1 of the Internal Revenue Code of 1986 (relating to  
7 additional itemized deductions for individuals) is amended  
8 by redesignating section 222 as section 223 and by insert-  
9 ing after section 221 the following new section:

1 **“SEC. 222. MEDICAL SECURITY ACCOUNTS FOR INDIVID-**  
2 **UALS WHO ARE 40 OR OLDER.**

3 “(a) DEDUCTION ALLOWED.—In the case of an indi-  
4 vidual who is an eligible individual during the taxable year,  
5 there shall be allowed as a deduction for the taxable year  
6 an amount equal to the aggregate amount paid in cash  
7 during such taxable year by such individual to a medical  
8 security account of such individual.

9 “(b) LIMITATIONS.—For purposes of this section—

10 “(1) IN GENERAL.—The amount allowable as a  
11 deduction under subsection (a) to an individual for  
12 the taxable year shall not exceed the lesser of—

13 “(A) the limitation amount (one-half of  
14 such amount in the case of an individual who  
15 has attained age 56 before the end of the tax-  
16 able year), or

17 “(B) an amount equal to the compensation  
18 includible in the individual’s gross income for  
19 such taxable year.

20 “(2) LIMITATION AMOUNT.—The term ‘limita-  
21 tion amount’ means \$5,000.

22 “(c) DEFINITIONS.—For purposes of this section—

23 “(1) MEDICAL SECURITY ACCOUNT.—The term  
24 ‘medical security account’ means a trust created or  
25 organized in the United States exclusively for the  
26 purpose of paying the qualified medical expenses of

1 the account holder, but only if the written governing  
2 instrument creating the trust meets the following re-  
3 quirements:

4 “(A) Except in the case of a rollover con-  
5 tribution described in subsection (e)(5), no con-  
6 tribution will be accepted—

7 “(i) unless it is in cash, or

8 “(ii) to the extent such contribution,  
9 when added to previous contributions to  
10 the trust for the calendar year, exceeds the  
11 limitation amount specified in subsection  
12 (b)(2).

13 “(B) The trustee is a bank (as defined in  
14 section 408(n)), an insurance company (as de-  
15 fined in section 816), or another person who  
16 demonstrates to the satisfaction of the Sec-  
17 retary that the manner in which such person  
18 will administer the trust will be consistent with  
19 the requirements of this section.

20 “(C) No part of the trust assets will be in-  
21 vested in life insurance contracts.

22 “(D) The assets of the trust will not be  
23 commingled with other property except in a  
24 common trust fund or common investment  
25 fund.

1           “(E) The interest of an individual in the  
2           balance in his account is nonforfeitable.

3           “(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible  
4           individual’ means any individual who has attained  
5           age 40 before the end of the taxable year.

6           “(3) QUALIFIED MEDICAL EXPENSES.—The  
7           term ‘qualified medical expenses’ means, with re-  
8           spect to an account holder, amounts paid by such  
9           holder for medical care (as defined in section  
10          213(d)) for such individual, the spouse of such indi-  
11          vidual, and any dependent (as defined in section  
12          152) of such individual, but only to the extent such  
13          amounts are not compensated for by insurance or  
14          otherwise.

15          “(4) ACCOUNT HOLDER.—The term ‘account  
16          holder’ means the individual on whose behalf the  
17          medical security account was established.

18          “(d) CERTAIN RULES TO APPLY.—Rules similar to  
19          the following rules shall apply for purposes of this section:

20                 “(1) Section 219(d)(2) (relating to no deduc-  
21                 tion for rollovers).

22                 “(2) Section 219(f)(3) (relating to time when  
23                 contributions deemed made).

24                 “(3) Except as provided in section 106(b), sec-  
25                 tion 219(f)(5) (relating to employer payments).

1           “(4) Section 408(g) (relating to community  
2 property laws).

3           “(5) Section 408(h) (relating to custodial ac-  
4 counts).

5           “(e) TAX TREATMENT OF ACCOUNTS.—

6           “(1) IN GENERAL.—A medical security account  
7 is exempt from taxation under this subtitle unless  
8 such account has ceased to be a medical security ac-  
9 count. Notwithstanding the preceding sentence, any  
10 such account is subject to the taxes imposed by sec-  
11 tion 511 (relating to imposition of tax on unrelated  
12 business income of charitable, etc. organizations).

13           “(2) ACCOUNT TERMINATIONS.—Rules similar  
14 to the rules of paragraphs (2) and (4) of section  
15 408(e) shall apply to medical security accounts, and  
16 any amount treated as distributed under such rules  
17 shall be treated as not used to pay qualified medical  
18 expenses.

19           “(f) TAX TREATMENT OF DISTRIBUTIONS.—

20           “(1) AMOUNTS USED FOR QUALIFIED MEDICAL  
21 EXPENSES.—Any amount paid or distributed out of  
22 a medical security account which is used exclusively  
23 to pay—

1           “(A) qualified medical expenses of any ac-  
2           count holder who has attained age 55 before  
3           the close of the taxable year, or

4           “(B) for continuation coverage (within the  
5           meaning of section 4980B(f)) under a group  
6           health plan,

7           shall not be includible in gross income.

8           “(2) INCLUSION OF AMOUNTS NOT USED FOR  
9           QUALIFIED MEDICAL EXPENSES.—Any amount paid  
10          or distributed out of a medical security account  
11          which is not used exclusively to pay the qualified  
12          medical expenses of the account holder shall be in-  
13          cluded in the gross income of such holder.

14          “(3) EXCESS CONTRIBUTIONS RETURNED BE-  
15          FORE DUE DATE OF RETURN.—

16          “(A) IN GENERAL.—If any excess con-  
17          tribution is contributed for a taxable year to  
18          any medical security account of an individual,  
19          paragraph (2) shall not apply to distributions  
20          from the medical security accounts of such indi-  
21          vidual (to the extent such distributions do not  
22          exceed the aggregate excess contributions to all  
23          such accounts of such individual for such year)  
24          if—

1           “(i) such distribution is received by  
2           the individual on or before the last day  
3           prescribed by law (including extensions of  
4           time) for filing such individual’s return for  
5           such taxable year, and

6           “(ii) such distribution is accompanied  
7           by the amount of net income attributable  
8           to such excess contribution.

9           Any net income described in clause (ii) shall be  
10          included in the gross income of the individual  
11          for the taxable year in which it is received.

12          “(B) EXCESS CONTRIBUTION.—For pur-  
13          poses of subparagraph (A), the term ‘excess  
14          contribution’ means any contribution (other  
15          than a rollover contribution) which is neither  
16          excludable from gross income under section  
17          106(b) nor deductible under this section.

18          “(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT  
19          USED FOR QUALIFIED MEDICAL EXPENSES.—

20          “(A) IN GENERAL.—The tax imposed by  
21          this chapter on the account holder for any tax-  
22          able year in which there is a payment or dis-  
23          tribution from a medical security account of  
24          such holder which is includible in gross income

1 under paragraph (2) shall be increased by 15  
2 percent of the amount which is so includible.

3 “(B) EXCEPTION FOR DISABILITY OR  
4 DEATH.—Subparagraph (A) shall not apply if  
5 the payment or distribution is made after the  
6 account holder becomes disabled within the  
7 meaning of section 72(m)(7) or dies.

8 “(C) EXCEPTION FOR DISTRIBUTIONS  
9 AFTER MEDICARE ELIGIBILITY.—Subparagraph  
10 (A) shall not apply to any payment or distribu-  
11 tion after the date on which the account holder  
12 attains the age specified in section 1811 of the  
13 Social Security Act.

14 “(5) ROLLOVER CONTRIBUTION.—An amount is  
15 described in this paragraph as a rollover contribu-  
16 tion if it meets the requirements of subparagraphs  
17 (A), (B), and (C).

18 “(A) IN GENERAL.—Paragraph (2) shall  
19 not apply to any amount paid or distributed  
20 from a medical security account to the account  
21 holder to the extent the amount received is paid  
22 into a medical security account for the benefit  
23 of such holder not later than the 60th day after  
24 the day on which the holder receives the pay-  
25 ment or distribution.

1           “(B) LIMITATIONS.—This paragraph shall  
2 not apply to any amount described in subpara-  
3 graph (A) received by an individual from a  
4 medical security account if, at any time during  
5 the 1-year period ending on the day of such re-  
6 ceipt, such individual received any other amount  
7 described in subparagraph (A) from a medical  
8 security account which was not includible in the  
9 individual’s gross income because of the appli-  
10 cation of this paragraph.

11           “(C) ROLLOVER FROM MEDICAL SAVINGS  
12 ACCOUNT.—An amount is not described in this  
13 paragraph if such amount is paid or distributed  
14 from a medical savings account (as defined in  
15 section 220(d)(1)) to the account holder of such  
16 account and if—

17                   “(i) at any time prior to such receipt,  
18 such account holder received any other  
19 amount from a medical savings account  
20 which was contributed to a medical secu-  
21 rity account, or

22                   “(ii) the amount from such medical  
23 savings account contributed to the medical  
24 security account exceeds the limitation  
25 amount specified in subsection (b)(2).

1           “(6) COORDINATION WITH MEDICAL EXPENSE  
2 DEDUCTION.—For purposes of determining the  
3 amount of the deduction under section 213, any pay-  
4 ment or distribution out of a medical security ac-  
5 count for qualified medical expenses shall not be  
6 treated as an expense paid for medical care.

7           “(7) TRANSFER OF ACCOUNT INCIDENT TO DI-  
8 VORCE.—The transfer of an individual’s interest in  
9 a medical security account to an individual’s spouse  
10 or former spouse under a divorce or separation in-  
11 strument described in subparagraph (A) of section  
12 71(b)(2) shall not be considered a taxable transfer  
13 made by such individual notwithstanding any other  
14 provision of this subtitle, and such interest shall,  
15 after such transfer, be treated as a medical security  
16 account with respect to which such spouse is the ac-  
17 count holder.

18           “(8) TREATMENT AFTER DEATH OF ACCOUNT  
19 HOLDER.—

20           “(A) TREATMENT IF DESIGNATED BENE-  
21 FICIARY IS SPOUSE.—If the account holder’s  
22 surviving spouse acquires such holder’s interest  
23 in a medical security account by reason of being  
24 the designated beneficiary of such account at  
25 the death of the account holder, such medical

1 security account shall be treated as if the  
2 spouse were the account holder.

3 “(B) OTHER CASES.—

4 “(i) IN GENERAL.—If, by reason of  
5 the death of the account holder, any per-  
6 son acquires the account holder’s interest  
7 in a medical security account in a case to  
8 which subparagraph (A) does not apply—

9 “(I) such account shall cease to  
10 be a medical security account as of  
11 the date of death, and

12 “(II) an amount equal to the fair  
13 market value of the assets in such ac-  
14 count on such date shall be includible  
15 if such person is not the estate of  
16 such holder, in such person’s gross in-  
17 come for the taxable year which in-  
18 cludes such date, or if such person is  
19 the estate of such holder, in such  
20 holder’s gross income for the last tax-  
21 able year of such holder.

22 “(ii) SPECIAL RULES.—

23 “(I) REDUCTION OF INCLUSION  
24 FOR PRE-DEATH EXPENSES.—The  
25 amount includible in gross income

1 under clause (i) by any person (other  
2 than the estate) shall be reduced by  
3 the amount of qualified medical ex-  
4 penses which were incurred by the de-  
5 cedent before the date of the dece-  
6 dent's death and paid by such person  
7 within 1 year after such date.

8 “(II) DEDUCTION FOR ESTATE  
9 TAXES.—An appropriate deduction  
10 shall be allowed under section 691(c)  
11 to any person (other than the dece-  
12 dent or the decedent's spouse) with  
13 respect to amounts included in gross  
14 income under clause (i) by such per-  
15 son.

16 “(g) COST-OF-LIVING ADJUSTMENT.—In the case of  
17 any taxable year beginning in a calendar year after 1999,  
18 the \$5,000 amount in subsection (b)(2) shall be increased  
19 by an amount equal to—

20 “(1) such dollar amount, multiplied by

21 “(2) the cost-of-living adjustment determined  
22 under section 1(f)(3) for the calendar year in which  
23 such taxable year begins by substituting ‘calendar  
24 year 1998’ for ‘calendar year 1992’ in subparagraph  
25 (B) thereof.

1 If any increase under the preceding sentence is not a mul-  
2 tiple of \$50, such increase shall be rounded to the nearest  
3 multiple of \$50.

4 “(h) REPORTS.—The Secretary may require the  
5 trustee of a medical security account to make such reports  
6 regarding such account to the Secretary and to the ac-  
7 count holder with respect to contributions, distributions,  
8 and such other matters as the Secretary determines appro-  
9 priate. The reports required by this subsection shall be  
10 filed at such time and in such manner and furnished to  
11 such individuals at such time and in such manner as may  
12 be required by the Secretary.

13 “(i) COORDINATION WITH OTHER MEDICAL SAVINGS  
14 ACCOUNTS PROVISIONS.—No deduction shall be allowed  
15 under subsection (a) for any expense for which a deduction  
16 or credit is allowed under any other provision of this chap-  
17 ter.”.

18 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-  
19 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
20 of section 62 of such Code is amended by inserting after  
21 paragraph (17) the following new paragraph:

22 “(18) MEDICAL SECURITY ACCOUNTS FOR INDI-  
23 VIDUALS WHO ARE 40 OR OLDER.—The deduction al-  
24 lowed by section 222.”.

1           (c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO  
2 MEDICAL SECURITY ACCOUNTS.—Section 106 of such  
3 Code is amended by adding at the end the following new  
4 subsection:

5           “(d) CONTRIBUTIONS TO MEDICAL SECURITY AC-  
6 COUNTS.—

7           “(1) IN GENERAL.—In the case of an employee  
8 who is an eligible individual, amounts contributed by  
9 such employee’s employer to any medical security ac-  
10 count of such employee shall be treated as employer-  
11 provided coverage for medical expenses under an ac-  
12 cident or health plan to the extent such amounts do  
13 not exceed the limitation under section 222(b) (de-  
14 termined without regard to this subsection) which is  
15 applicable to such employee for such taxable year.

16           “(2) APPLICABLE RULES.—For purposes of this  
17 subsection, rules similar to the rules of paragraphs  
18 (2), (3), (4), and (5) of subsection (b) shall apply.

19           “(3) ELIGIBLE INDIVIDUAL.—For purposes of  
20 this subsection, the terms ‘eligible individual’ and  
21 ‘medical security account’ have the respective mean-  
22 ings given to such terms by section 222.”.

23           (d) EMPLOYER CONTRIBUTIONS REQUIRED TO BE  
24 SHOWN ON W-2.—Section 6051(a) of such Code is  
25 amended by striking “and” at the end of paragraph (10),

1 by striking the period at the end of paragraph (11) and  
2 inserting “, and”, and by inserting after paragraph (11)  
3 the following new paragraph:

4 “(12) the amount contributed to any medical  
5 security account (as defined in section 222(c)) of  
6 such employee or such employee’s spouse.”.

7 (e) TAX ON EXCESS CONTRIBUTIONS.—Section 4973  
8 of such Code (relating to tax on excess contributions to  
9 individual retirement accounts, certain section 403(b) con-  
10 tracts, and certain individual retirement annuities) is  
11 amended—

12 (1) in subsection (a) by striking “or” at the end  
13 of paragraph (3), by inserting “or” at the end of  
14 paragraph (4), and by inserting after paragraph (4)  
15 the following new paragraph:

16 “(5) a medical security account (within the  
17 meaning of section 222(c)),” and

18 (2) by adding at the end the following new sub-  
19 section:

20 “(g) EXCESS CONTRIBUTIONS TO MEDICAL SECUR-  
21 RITY ACCOUNTS.—For purposes of this section, in the  
22 case of medical security accounts (within the meaning of  
23 section 222(e)), the term ‘excess contributions’ means the  
24 sum of—

1           “(1) the aggregate amount contributed for the  
2 taxable year to the accounts (other than rollover  
3 contributions described in section 222(f)(5)) which is  
4 neither excludable from gross income under section  
5 106(b) nor allowable as a deduction under section  
6 222 for such year, and

7           “(2) the amount determined under this sub-  
8 section for the preceding taxable year, reduced by  
9 the sum of—

10           “(A) the distributions out of the accounts  
11 which were included in gross income under sec-  
12 tion 222(f)(2), and

13           “(B) the excess (if any) of—

14           “(i) the maximum amount allowable  
15 as a deduction under section 222(b) (deter-  
16 mined without regard to section 106(b))  
17 for the taxable year, over

18           “(ii) the amount contributed to the  
19 accounts for the taxable year.

20 For purposes of this subsection, any contribution which  
21 is distributed out of the medical savings account in a dis-  
22 tribution to which section 222(f)(3) applies shall be treat-  
23 ed as an amount not contributed.”.

24           (f) TAX ON PROHIBITED TRANSACTIONS.—

1           (1) Subsection (c) of section 4975 of such Code  
2           is amended by adding at the end the following new  
3           paragraph:

4           “(4) SPECIAL RULE FOR MEDICAL SECURITY  
5           ACCOUNTS.—An individual for whose benefit a medi-  
6           cal security account (within the meaning of section  
7           222(c) is established shall be exempt from the tax  
8           imposed by this section with respect to any trans-  
9           action concerning such account (which would other-  
10          wise be taxable under this section) if section  
11          222(e)(2) applies to such transaction.”.

12          (2) Paragraph (1) of section 4975(e) of such  
13          Code is amended by striking “or” at the end of sub-  
14          paragraph (E), by redesignating subparagraph (F)  
15          as subparagraph (G), and by inserting after sub-  
16          paragraph (E) the following new subparagraph:

17                  “(F) a medical security account described  
18                  in section 222(c).”.

19          (g) FAILURE TO PROVIDE REPORTS ON MEDICAL  
20          SECURITY ACCOUNTS.—Paragraph (2) of section 6693(a)  
21          of such Code is amended by striking “and” at the end  
22          of subparagraph (C), by striking the period at the end of  
23          subparagraph (D) and inserting “, and”, and by inserting  
24          after subparagraph (D) the following new subparagraph:

1           “(E) Section 222(h) (relating to medical  
2           security accounts for individuals who are 40 or  
3           older).”.

4           (h) CLERICAL AMENDMENT.—The table of sections  
5 for part VII of subchapter B of chapter 1 is amended by  
6 striking the last item and inserting the following:

                  “Sec. 222. Medical security accounts for individuals who are 40  
  or older.

                  “Sec. 223. Cross reference.”.

7           (i) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 1998.

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