

109TH CONGRESS
2^D SESSION

H. R. 5262

To amend the Internal Revenue Code of 1986 to provide tax incentives for the payment of premiums for high deductible health plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2006

Mr. CANTOR (for himself, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mrs. BLACKBURN, Mr. BURGESS, Mr. PRICE of Georgia, and Mr. CAMP) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives for the payment of premiums for high deductible health plans, 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 “Tax Free Health Savings Act of 2006”.

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

Sec. 1. Short title, etc.

Sec. 2. Deduction of premiums for high deductible health plans.

- Sec. 3. Credit for certain employment taxes paid with respect to premiums for high deductible health plans and contributions to health savings accounts.
- Sec. 4. Refundable credit for health insurance coverage under high deductible health plan.
- Sec. 5. Advance payment of credit as premium payment for high deductible health insurance.
- Sec. 6. Increase in contribution limits for health savings accounts.
- Sec. 7. Health reimbursement arrangements and spending arrangements in combination with health savings accounts.
- Sec. 8. Certain expenses treated as qualified medical expenses.
- Sec. 9. Exception to requirement for employers to make comparable health savings account contributions.

1 **SEC. 2. DEDUCTION OF PREMIUMS FOR HIGH DEDUCTIBLE**
 2 **HEALTH PLANS.**

3 (a) IN GENERAL.—Part VII of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 additional itemized deductions for individuals) is amended
 6 by redesignating section 224 as section 225 and by insert-
 7 ing after section 223 the following new section:

8 **“SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH**
 9 **PLANS.**

10 “(a) DEDUCTION ALLOWED.—In the case of an indi-
 11 vidual, there shall be allowed as a deduction for the tax-
 12 able year the aggregate amount paid by the taxpayer as
 13 premiums under a high deductible health plan with respect
 14 to months during such year for which such individual is
 15 an eligible individual with respect to such health plan.

16 “(b) DEFINITIONS.—For purposes of this section—

17 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
 18 individual’ means an individual who—

19 “(A) is described in section 223(c)(1), and

1 “(B) is the taxpayer or the taxpayer’s
2 spouse and dependents.

3 “(2) HIGH DEDUCTIBLE HEALTH PLAN.—The
4 term ‘high deductible health plan’ has the meaning
5 given such term by section 223(c)(2).

6 “(c) SPECIAL RULES.—

7 “(1) DEDUCTION LIMITS.—

8 “(A) DEDUCTION ALLOWABLE FOR ONLY 1
9 PLAN.—For purposes of this section, in the
10 case of an individual covered by more than 1
11 high deductible health plan for any month, the
12 individual may only take into account amounts
13 paid for such month for the plan with the low-
14 est premium.

15 “(B) PLANS COVERING INELIGIBLE INDI-
16 VIDUALS.—If 2 or more individuals are covered
17 by a high deductible health plan for any month
18 but only 1 of such individuals is an eligible indi-
19 vidual for such month, only 50 percent of the
20 aggregate amount paid by such eligible indi-
21 vidual as premiums under the plan with respect
22 to such month shall be taken into account for
23 purposes of this section.

24 “(2) GROUP HEALTH PLAN COVERAGE.—

1 “(A) IN GENERAL.—No deduction shall be
2 allowed for an individual under subsection (a)
3 for any amount paid for coverage under a high
4 deductible health plan for a month if that indi-
5 vidual participates in any coverage under a
6 group health plan (within the meaning of sec-
7 tion 5000 without regard to section 5000(d)).
8 For purposes of the preceding sentence, an ar-
9 rangement which constitutes individual health
10 insurance shall not be treated as a group health
11 plan if such arrangement is a high deductible
12 health plan (as defined in section 223(c)(2)), or
13 is a payment by an employer or employee orga-
14 nization with respect to such high deductible
15 health plan, notwithstanding that an employer
16 or employee organization negotiates the cost or
17 benefits of such arrangement.

18 “(B) EXCEPTION FOR PLANS ONLY PRO-
19 VIDING CONTRIBUTIONS TO HEALTH SAVINGS
20 ACCOUNTS.—Subparagraph (A) shall not apply
21 to an individual if the individual’s only coverage
22 under a group health plan for a month consists
23 of contributions by an employer to a health sav-
24 ings account with respect to which the indi-
25 vidual is the account beneficiary.

1 “(C) EXCEPTION FOR CERTAIN PER-
2 MITTED COVERAGE.—Subparagraph (A) shall
3 not apply to an individual if the individual’s
4 only coverage under a group health plan for a
5 month is coverage described in clause (i) or (ii)
6 of section 223(c)(1)(B).

7 “(3) MEDICAL AND HEALTH SAVINGS AC-
8 COUNTS.—Subsection (a) shall not apply with re-
9 spect to any amount which is paid or distributed out
10 of an Archer MSA or a health savings account which
11 is not included in gross income under section 220(f)
12 or 223(f), as the case may be.

13 “(4) COORDINATION WITH DEDUCTION FOR
14 HEALTH INSURANCE OF SELF-EMPLOYED INDIVID-
15 UALS.—Any amount taken into account by the tax-
16 payer in computing the deduction under section
17 162(l) shall not be taken into account under this
18 section.

19 “(5) COORDINATION WITH MEDICAL EXPENSE
20 DEDUCTION.—Any amount taken into account by
21 the taxpayer in computing the deduction under this
22 section shall not be taken into account under section
23 213.”.

24 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-
25 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)

1 of section 62 of such Code is amended by inserting before
2 the last sentence at the end the following new paragraph:

3 “(21) PREMIUMS FOR HIGH DEDUCTIBLE
4 HEALTH PLANS.—The deduction allowed by section
5 224.”.

6 (c) COORDINATION WITH SECTION 35 HEALTH IN-
7 SURANCE COSTS CREDIT.—Section 35(g)(2) of such Code
8 is amended by striking “or 213” and inserting “, 213,
9 or 224”.

10 (d) CLERICAL AMENDMENT.—The table of sections
11 for part VII of subchapter B of chapter 1 of such Code
12 is amended by redesignating the item relating to section
13 224 as an item relating to section 225 and by inserting
14 before such item the following new item:

“Sec. 224. Premiums for high deductible health plans.”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2006.

18 **SEC. 3. CREDIT FOR CERTAIN EMPLOYMENT TAXES PAID**
19 **WITH RESPECT TO PREMIUMS FOR HIGH DE-**
20 **DUCTIBLE HEALTH PLANS AND CONTRIBU-**
21 **TIONS TO HEALTH SAVINGS ACCOUNTS.**

22 (a) ALLOWANCE OF CREDIT.—Subpart C of part IV
23 of subchapter A of chapter 1 of the Internal Revenue Code
24 of 1986 (relating to refundable credits) is amended by re-

1 designating section 36 as section 37 and by inserting after
2 section 35 the following new section:

3 **“SEC. 36. EMPLOYMENT TAXES PAID WITH RESPECT TO**
4 **PREMIUMS FOR HIGH DEDUCTIBLE HEALTH**
5 **PLANS AND CONTRIBUTIONS TO HEALTH**
6 **SAVINGS ACCOUNTS.**

7 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
8 dividual, there shall be allowed as a credit against the tax
9 imposed by this subtitle for the taxable year an amount
10 equal to the product of—

11 “(1) the sum of the rates of tax in effect under
12 sections 3101(a), 3101(b), 3111(a), and 3111(b) for
13 the calendar year in which the taxable year begins,
14 multiplied by

15 “(2) the sum of—

16 “(A) the aggregate amount paid by such
17 individual as premiums under a high deductible
18 health plan which is allowed as a deduction
19 under section 224 for the taxable year, and

20 “(B) the aggregate amount paid to a
21 health savings account of such individual which
22 is allowed as a deduction under section 223 for
23 the taxable year.

24 “(b) CREDIT LIMITED TO CERTAIN EMPLOYMENT
25 TAXES.—

1 “(1) IN GENERAL.—The credit allowed under
2 subsection (a) with respect to any individual for any
3 taxable year shall not exceed the specified employ-
4 ment taxes with respect to such individual for such
5 taxable year.

6 “(2) SPECIFIED EMPLOYMENT TAXES.—For
7 purposes of this subsection, the term ‘specified em-
8 ployment taxes’ means, with respect to any indi-
9 vidual for any taxable year, the sum of—

10 “(A) the taxes imposed under sections
11 3101(a), 3101(b), 3111(a), 3111(b), 3201(a),
12 3211(a), and 3221(a) (taking into account any
13 adjustments or refunds under section 6413)
14 with respect to wages and compensation re-
15 ceived by such individual during the calendar
16 year in which such taxable year begins, and

17 “(B) the taxes imposed under subsections
18 (a) and (b) of section 1401 with respect to the
19 self-employment income of such individual for
20 such taxable year.

21 “(c) SPECIAL RULE FOR EMPLOYMENT COMPENSA-
22 TION IN EXCESS OF SOCIAL SECURITY CONTRIBUTION
23 BASE.—

24 “(1) IN GENERAL.—If the aggregate amount of
25 employment compensation received by any individual

1 during the calendar year in which the taxable year
2 begins exceeds the contribution and benefit base (as
3 determined under section 230 of the Social Security
4 Act), the amount of the credit determined under
5 subsection (a) (determined before application of sub-
6 section (b)) shall be equal to the sum of—

7 “(A) the amount determined under sub-
8 section (a) by only taking into account so much
9 of the amount determined under subsection
10 (a)(2) as does not exceed such excess and by
11 only taking into account the rates of tax in ef-
12 fect under section 3101(b) and 3111(b), and

13 “(B) the amount determined under sub-
14 section (a) by only taking into account so much
15 of the amount determined under subsection
16 (a)(2) as is not taken into account under sub-
17 paragraph (A) and by taking into account each
18 of the rates of tax referred to in subsection
19 (a)(1).

20 “(2) EMPLOYMENT COMPENSATION.—For pur-
21 poses of this subsection, the term ‘employment com-
22 pensation’ means, with respect to any individual for
23 any taxable year, the sum of—

24 “(A) the wages (as defined in section
25 3121(a)) and compensation (as defined in sec-

1 tion 3231(e)) received by such individual during
2 the calendar year in which such taxable year
3 begins, and

4 “(B) the self-employment income (as de-
5 fined in section 1402(b)) of such individual for
6 such taxable year.”.

7 (b) INCREASE IN ADDITIONAL TAX ON DISTRIBUTU-
8 TIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—
9 Paragraph (4) of section 223(f) of such Code (relating to
10 additional tax on distributions not used for qualified med-
11 ical expenses) is amended to read as follows:

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

14 “(A) IN GENERAL.—The tax imposed by
15 this chapter on the account beneficiary for any
16 taxable year in which there is a payment or dis-
17 tribution from a health savings account of such
18 beneficiary which is includible in gross income
19 under paragraph (2) shall be increased by 30
20 percent of the amount which is so includible.

21 “(B) EXCEPTION FOR DISABILITY OR
22 DEATH.—In the case of payments or distribu-
23 tions made after the account beneficiary be-
24 comes disabled within the meaning of section
25 72(m)(7) or dies, subparagraph (A) shall be ap-

1 **SEC. 4. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
2 **COVERAGE UNDER HIGH DEDUCTIBLE**
3 **HEALTH PLAN.**

4 (a) ALLOWANCE OF CREDIT.—Subpart C of part IV
5 of subchapter A of chapter 1 of the Internal Revenue Code
6 of 1986 (as amended by this Act) is amended by inserting
7 after section 36 the following new section:

8 **“SEC. 36A. HEALTH INSURANCE COVERAGE UNDER HIGH**
9 **DEDUCTIBLE HEALTH PLAN.**

10 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
11 dividual, there shall be allowed as a credit against the tax
12 imposed by this subtitle for the taxable year the aggregate
13 amount paid in cash by the taxpayer for qualified coverage
14 under a high deductible health plan for the taxpayer and
15 the taxpayer’s spouse and dependents.

16 “(b) LIMITATIONS.—

17 “(1) IN GENERAL.—The amount allowable as a
18 credit under subsection (a) for the taxable year shall
19 not exceed the sum of the monthly limitations for
20 months during such taxable year that the taxpayer
21 or the taxpayer’s spouse or dependents is an eligible
22 individual.

23 “(2) MONTHLY LIMITATION.—

24 “(A) IN GENERAL.—The monthly limita-
25 tion for any month is the credit percentage of
26 $\frac{1}{12}$ of—

1 “(i) \$1,111 in the case of qualified
2 health insurance covering only 1 adult or 1
3 or more children,

4 “(ii) \$2,222 in the case of qualified
5 health insurance covering only 2 adults or
6 1 adult and 1 or more children, and

7 “(iii) \$3,333 in the case of qualified
8 health insurance covering at least 2 adults
9 and 1 or more children or at least 3
10 adults.

11 “(B) SPECIAL RULE FOR MARRIED INDI-
12 VIDUALS.—In the case of a taxpayer who is
13 married (within the meaning of section 7703)
14 as of the close of the taxable year but does not
15 file a joint return for such year and who does
16 not live apart from such taxpayer’s spouse at
17 all times during the taxable year, any dollar
18 limitation imposed under subparagraph (A)
19 shall be divided equally between the taxpayer
20 and the taxpayer’s spouse unless they agree on
21 a different division.

22 “(3) CREDIT PERCENTAGE.—For purposes of
23 paragraph (2), the credit percentage is 90 percent,
24 reduced as provided in paragraphs (4) and (5).

1 “(4) PHASEOUT OF CREDIT PERCENTAGE FOR
2 COVERAGE OF 1 ADULT OR CHILDREN.—

3 “(A) JOINT RETURN, SURVIVING SPOUSES,
4 AND HEADS OF HOUSEHOLD.—If—

5 “(i) coverage described in paragraph
6 (2)(A)(i) is provided under qualified health
7 insurance for any month in the taxable
8 year, and

9 “(ii) taxpayer is a married individual,
10 surviving spouse (as defined in section
11 2(a)), or head of household (as defined in
12 section 2(b)) and has modified adjusted
13 gross income in excess of \$25,000 for the
14 taxable year,

15 the 90 percent in paragraph (3) shall be re-
16 duced by the number of percentage points
17 which bears the same ratio to 90 percentage
18 points as such excess bears to \$15,000.

19 “(B) SPECIAL RULE FOR MARRIED FILING
20 SEPARATE RETURN.—In the case of a married
21 individual who has coverage described in para-
22 graph (2)(A)(i) for any month in the taxable
23 year and who files a separate return for the
24 taxable year, subparagraph (A) shall be applied

1 by substituting for each dollar amount therein
2 one-half of such dollar amount.

3 “(C) SINGLE RETURN.—In the case of any
4 other return by an individual who has coverage
5 described in paragraph (2)(A)(i) for any month
6 in the taxable year, and if—

7 “(i) the taxpayer has modified ad-
8 justed gross income in excess of \$15,000
9 for the taxable year but not in excess of
10 \$20,000, the 90 percent in paragraph (3)
11 shall be reduced by the number of percent-
12 age points which bears the same ratio to
13 40 percentage points as—

14 “(I) the excess of modified ad-
15 justed gross income in excess of
16 \$15,000, bears to

17 “(II) \$5,000, or

18 “(ii) the taxpayer has modified ad-
19 justed gross income in excess of \$20,000
20 for the taxable year, the 90 percent in
21 paragraph (3) shall be reduced by the sum
22 of 40 percentage points plus the number of
23 percentage points which bears the same
24 ratio to 50 percentage points as—

1 “(I) the excess of modified ad-
2 justed gross income in excess of
3 \$20,000, bears to

4 “(II) \$10,000.

5 “(5) PHASEOUT OF CREDIT PERCENTAGE FOR
6 COVERAGE OF 2 OR MORE ADULTS AND CHIL-
7 DREN.—

8 “(A) IN GENERAL.—If—

9 “(i) coverage described in clause (ii)
10 or (iii) of paragraph (2)(A) is provided
11 under qualified health insurance for any
12 month in the taxable year, and

13 “(ii) the taxpayer has modified ad-
14 justed gross income in excess of \$25,000
15 for the taxable year,

16 the 90 percent in paragraph (3) shall be re-
17 duced by the number of percentage points
18 which bears the same ratio to 90 percentage
19 points as such excess bears to \$35,000.

20 “(B) SPECIAL RULE FOR MARRIED FILING
21 SEPARATE RETURN.—In the case of a married
22 individual filing a separate return, subpara-
23 graph (A) shall be applied by substituting for
24 each dollar amount therein one-half of such dol-
25 lar amount.

1 “(6) ROUNDING.—Any percentage resulting
2 from a reduction under paragraphs (4) and (5) shall
3 be rounded to the nearest one-tenth of a percent.

4 “(7) MODIFIED ADJUSTED GROSS INCOME.—
5 For purposes of this subsection, the term ‘modified
6 adjusted gross income’ means adjusted gross income
7 determined—

8 “(A) without regard to this section and
9 sections 911, 931, and 933, and

10 “(B) after application of sections 86, 135,
11 137, 219, 221, and 469.

12 “(8) ADULT.—For purposes of this subsection,
13 the term ‘adult’ means an individual who is the tax-
14 payer, the taxpayer’s spouse, or a dependent of the
15 taxpayer who has attained age 24 as of the close of
16 the taxable year.

17 “(9) CHILD.—For purposes of this subsection,
18 the term ‘child’ means a dependent of the taxpayer
19 who has not attained age 24 as of the close of the
20 taxable year.

21 “(c) QUALIFIED COVERAGE UNDER A HIGH DE-
22 DUCTIBLE HEALTH PLAN.—For purposes of this section,
23 the term ‘qualified coverage under a high deductible health
24 plan’ means coverage under a high deductible health plan
25 (as defined in section 223(c)(2)) for any month for which

1 each individual covered under such plan is an eligible indi-
2 vidual.

3 “(d) ELIGIBLE INDIVIDUAL.—For purposes of this
4 section—

5 “(1) IN GENERAL.—The term ‘eligible indi-
6 vidual’ means, with respect to any month, an indi-
7 vidual who—

8 “(A) is described in section 223(c)(1) and
9 is not covered by a group health plan, and

10 “(B) does not have other specified cov-
11 erage.

12 “(2) GROUP HEALTH PLAN.—The term ‘group
13 health plan’ has the meaning given such term by
14 section 5000 without regard to subsection (d) there-
15 of. For purposes of the preceding sentence, an ar-
16 rangement which constitutes individual health insur-
17 ance shall not be treated as a group health plan if
18 such arrangement is a high deductible health plan
19 (as defined in section 223(c)(2)), or is a payment by
20 an employer or employee organization with respect
21 to such high deductible health plan, notwithstanding
22 that an employer or employee organization nego-
23 tiates the cost or benefits of such arrangement.

1 “(3) OTHER SPECIFIED COVERAGE.—An indi-
2 vidual has other specified coverage for any month if,
3 as of the first day of such month—

4 “(A) MEDICARE, MEDICAID, SCHIP.—Such
5 individual—

6 “(i) is entitled to benefits under part
7 A of title XVIII of the Social Security Act
8 or enrolled under part B of such title,

9 “(ii) is enrolled in the program under
10 title XIX of the Social Security Act (other
11 than under section 1928 of such Act), or

12 “(iii) is enrolled in the program under
13 title XXI of the Social Security Act.

14 “(B) IMPRISONMENT.—Such individual is
15 imprisoned under Federal, State, or local au-
16 thority.

17 “(C) PHYSICAL PRESENCE REQUIRE-
18 MENTS.—Such individual is present in the
19 United States on fewer than 183 days during
20 the taxable year (determined in accordance with
21 section 7701(b)(7)).

22 “(e) OTHER DEFINITIONS.—

23 “(1) DEPENDENTS.—For purposes of this sec-
24 tion—

1 “(A) DEPENDENT DEFINED.—The term
2 ‘dependent’ has the meaning given such term by
3 section 152 (determined without regard to sub-
4 sections (b)(1), (b)(2), and (d)(1)(B) thereof).

5 “(B) SPECIAL RULE FOR DEPENDENT
6 CHILD OF DIVORCED PARENTS.—An individual
7 who is a child to whom section 152(e) applies
8 shall be treated as a dependent of the custodial
9 parent for a coverage month unless the custo-
10 dial and noncustodial parent provide otherwise.

11 “(C) DENIAL OF CREDIT TO DEPEND-
12 ENTS.—No credit shall be allowed under this
13 section to any individual with respect to whom
14 a deduction under section 151(c) is allowable to
15 another taxpayer for a taxable year beginning
16 in the calendar year in which such individual’s
17 taxable year begins.

18 “(f) INFLATION ADJUSTMENTS.—

19 “(1) CREDIT AND HEALTH INSURANCE
20 AMOUNTS.—In the case of any taxable year begin-
21 ning after 2007, each dollar amount referred to in
22 subsection (b)(2)(A) shall be increased by an
23 amount equal to—

24 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 213(d)(10)(B)(ii) for the
3 calendar year in which the taxable year begins,
4 determined by substituting ‘2006’ for ‘1996’ in
5 subclause (II) thereof.

6 If any amount as adjusted under the preceding sen-
7 tence is not a multiple of \$10, such amount shall be
8 rounded to the nearest multiple of \$10.

9 “(2) INCOME PHASEOUT AMOUNTS.—In the
10 case of any taxable year beginning after 2007, each
11 dollar amount referred to in paragraphs (4) and (5)
12 of subsection (b) shall be increased by an amount
13 equal to—

14 “(A) such dollar amount, multiplied by

15 “(B) the cost-of-living adjustment deter-
16 mined under section 1(f)(3) for the calendar
17 year in which the taxable year begins, deter-
18 mined by substituting ‘calendar year 2006’ for
19 ‘calendar year 1992’ in subparagraph (B)
20 thereof.

21 If any amount as adjusted under the preceding sen-
22 tence is not a multiple of \$50, such amount shall be
23 rounded to the next lowest multiple of \$50.

24 “(g) SPECIAL RULES.—

1 “(1) COORDINATION WITH DEDUCTION FOR
2 PREMIUMS FOR HIGH DEDUCTIBLE HEALTH
3 PLANS.—No credit shall be allowable under this sec-
4 tion for a taxable year if a deduction is allowed
5 under section 224 for the taxable year.

6 “(2) COORDINATION WITH DEDUCTION FOR
7 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-
8 DIVIDUALS.—No credit shall be allowable under this
9 section for a taxable year if a deduction is allowed
10 under section 162(1) for the taxable year.

11 “(3) COORDINATION WITH ADVANCE PAY-
12 MENT.—Rules similar to the rules of section
13 35(g)(1) shall apply to any credit to which this sec-
14 tion applies.

15 “(4) COORDINATION WITH SECTION 35.—If a
16 taxpayer is eligible for the credit allowed under this
17 section and section 35 for any month, the taxpayer
18 shall elect which credit is to be allowed with respect
19 to such month.

20 “(h) EXPENSES MUST BE SUBSTANTIATED.—A pay-
21 ment for insurance to which subsection (a) applies may
22 be taken into account under this section only if the tax-
23 payer substantiates such payment in such form as the Sec-
24 retary may prescribe.

1 “(i) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary to carry out the pur-
3 poses of this section.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Paragraph (2) of section 1324(b) of title
6 31, United States Code, as amended by this Act, is
7 amended by inserting “or section 36A” after “sec-
8 tion 36”.

9 (2) The table of sections for subpart C of part
10 IV of subchapter A of chapter 1 of the Internal Rev-
11 enue Code of 1986 (as amended by this Act) is
12 amended by inserting after the item relating to sec-
13 tion 36 the following new item:

“Sec. 36A. Health insurance coverage under high deductible health plan.”.

14 (c) EFFECTIVE DATES.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2006.

17 **SEC. 5. ADVANCE PAYMENT OF CREDIT AS PREMIUM PAY-**
18 **MENT FOR HIGH DEDUCTIBLE HEALTH IN-**
19 **SURANCE.**

20 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
21 enue Code of 1986 (relating to miscellaneous provisions)
22 is amended by adding at the end the following:

1 **“SEC. 7529. ADVANCE PAYMENT OF CREDIT AS PREMIUM**
2 **PAYMENT FOR HIGH DEDUCTIBLE HEALTH**
3 **INSURANCE.**

4 “Not later than January 1, 2008, the Secretary shall
5 establish a program for making payments to providers of
6 qualified coverage under a high deductible health plan (as
7 defined by subsection (c) of section 36A) on behalf of indi-
8 viduals eligible for the credit under section 36A. Such pay-
9 ments shall be made on the basis of modified adjusted
10 gross income of eligible individuals for the preceding tax-
11 able year.”.

12 (b) **DISCLOSURE OF RETURN INFORMATION FOR**
13 **PURPOSES OF ADVANCE PAYMENT OF CREDIT AS PRE-**
14 **MIUMS FOR HIGH DEDUCTIBLE HEALTH INSURANCE.—**

15 (1) **IN GENERAL.—**Subsection (l) of section
16 6103 of such Code is amended by adding at the end
17 the following new paragraph:

18 “(21) **DISCLOSURE OF RETURN INFORMATION**
19 **FOR PURPOSES OF ADVANCE PAYMENT OF CREDIT**
20 **AS PREMIUMS FOR HIGH DEDUCTIBLE HEALTH IN-**
21 **SURANCE.—**The Secretary may, on behalf of individ-
22 uals eligible for the credit under section 36A, dis-
23 close to a provider of qualified coverage under a high
24 deductible health plan (as defined by subsection (c)
25 of section 36A), and persons acting on behalf of
26 such provider, return information with respect to

1 any such individual and the spouse and dependents
 2 of such individual only to the extent necessary (as
 3 prescribed by regulations issued by the Secretary) to
 4 carry out the program established by section 7529
 5 (relating to advance payment of credit as premium
 6 payment for high deductible health insurance).”.

7 (2) CONFIDENTIALITY OF INFORMATION.—
 8 Paragraph (3) of section 6103(a) of such Code is
 9 amended by striking “or (20)” and inserting “(20),
 10 or (21)”.

11 (3) UNAUTHORIZED DISCLOSURE.—Paragraph
 12 (2) of section 7213(a) of such Code is amended by
 13 striking “or (20)” and inserting “(20), or (21)”.

14 (c) INFORMATION REPORTING.—

15 (1) IN GENERAL.—Subpart B of part III of
 16 subchapter A of chapter 61 of such Code (relating
 17 to information concerning transactions with other
 18 persons) is amended by inserting after section
 19 6050T the following new section:

20 **“SEC. 6050U. RETURNS RELATING TO CREDIT FOR HEALTH**
 21 **INSURANCE COVERAGE UNDER HIGH DE-**
 22 **DUCTIBLE HEALTH PLAN.**

23 “(a) REQUIREMENT OF REPORTING.—Every person
 24 who is entitled to receive payments for any month of any
 25 calendar year under section 7529 (relating to advance pay-

1 ment of credit as premium payment for high deductible
2 health insurance) with respect to any individual shall, at
3 such time as the Secretary may prescribe, make the return
4 described in subsection (b) with respect to each such indi-
5 vidual.

6 “(b) FORM AND MANNER OF RETURNS.—A return
7 is described in this subsection if such return—

8 “(1) is in such form as the Secretary may pre-
9 scribe, and

10 “(2) contains—

11 “(A) the name, address, and TIN of each
12 individual referred to in subsection (a),

13 “(B) the number of months for which
14 amounts were entitled to be received with re-
15 spect to such individual under section 7529 (re-
16 lating to advance payment of credit as premium
17 payment for high deductible health insurance),

18 “(C) the amount entitled to be received for
19 each such month, and

20 “(D) such other information as the Sec-
21 retary may prescribe.

22 “(c) STATEMENTS TO BE FURNISHED TO INDIVID-
23 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
24 QUIRED.—Every person required to make a return under
25 subsection (a) shall furnish to each individual whose name

1 is required to be set forth in such return a written state-
2 ment showing—

3 “(1) the name and address of the person re-
4 quired to make such return and the phone number
5 of the information contact for such person, and

6 “(2) the information required to be shown on
7 the return with respect to such individual.

8 The written statement required under the preceding sen-
9 tence shall be furnished on or before January 31 of the
10 year following the calendar year for which the return
11 under subsection (a) is required to be made.”.

12 (2) ASSESSABLE PENALTIES.—

13 (A) Subparagraph (B) of section
14 6724(d)(1) of such Code (relating to defini-
15 tions) is amended by redesignating clauses (xiii)
16 through (xviii) as clauses (xiv) through (xix),
17 respectively, and by inserting after clause (xii)
18 the following new clause:

19 “(xiii) section 6050U (relating to re-
20 turns relating to credit for health insur-
21 ance coverage under high deductible health
22 plan),”.

23 (B) Paragraph (2) of section 6724(d) of
24 such Code is amended by striking “or” at the
25 end of subparagraph (AA), by striking the pe-

1 riod at the end of subparagraph (BB) and in-
 2 serting “, or”, and by adding after subpara-
 3 graph (BB) the following new subparagraph:

4 “(CC) section 6050U (relating to returns
 5 relating to credit for health insurance coverage
 6 under high deductible health plan).”.

7 (d) CLERICAL AMENDMENTS.—

8 (1) The table of sections for chapter 77 of such
 9 Code is amended by adding at the end the following
 10 new item:

 “Sec. 7529. Advance payment of credit as premium payment for high deduct-
 ible health insurance.”.

11 (2) The table of sections for subpart B of part
 12 III of subchapter A of chapter 61 of such Code is
 13 amended by adding at the end the following new
 14 item:

 “Sec. 6050U. Returns relating to credit for health insurance coverage under
 high deductible health plan.”.

15 (e) EFFECTIVE DATE.—The amendments made by
 16 this section shall take effect on the date of the enactment
 17 of this Act.

18 **SEC. 6. INCREASE IN CONTRIBUTION LIMITS FOR HEALTH**
 19 **SAVINGS ACCOUNTS.**

20 (a) INCREASE IN MONTHLY LIMIT.—

21 (1) IN GENERAL.—Paragraph (2) of section
 22 223(b) of the Internal Revenue Code of 1986 (relat-

1 ing to monthly limitation) is amended to read as fol-
2 lows:

3 “(2) MONTHLY LIMITATION.—

4 “(A) IN GENERAL.—In the case of an eligi-
5 ble individual who has coverage under a high
6 deductible health plan, the monthly limitation
7 for any month of such coverage is $\frac{1}{12}$ of the
8 lesser of—

9 “(i) the sum of the annual deductible
10 and the other annual out-of-pocket ex-
11 penses (other than for premiums) required
12 to be paid under the plan by the eligible
13 individual for covered benefits, or

14 “(ii) in the case of an eligible indi-
15 vidual with—

16 “(I) self-only coverage, the dollar
17 amount in effect under subclause (I)
18 of subsection (c)(2)(A)(ii), or

19 “(II) family coverage, the dollar
20 amount in effect under subclause (II)
21 of subsection (c)(2)(A)(ii).

22 “(B) SPECIAL RULES RELATING TO OUT-
23 OF-POCKET EXPENSES.—

24 “(i) REDUCTION FOR SEPARATE
25 PLAN.—The annual out-of-pocket expenses

1 taken into account under subparagraph
2 (A)(i) with respect to any eligible indi-
3 vidual shall be reduced by any out-of-pock-
4 et expense payable under a separate plan
5 covering the individual.

6 “(ii) SECRETARIAL AUTHORITY.—The
7 Secretary may by regulations provide that
8 annual out-of-pocket expenses will not be
9 taken into account under subparagraph
10 (A)(i) to the extent that there is only a re-
11 mote likelihood that such amounts will be
12 required to be paid.”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 223(b)(3)(A) of such Code is
15 amended by striking “subparagraphs (A) and
16 (B) of”.

17 (B) Section 223(d)(1)(A)(ii)(I) of such
18 Code is amended by striking “subsection
19 (b)(2)(B)(ii)” and inserting “subsection
20 (c)(2)(A)(ii)(II)”.

21 (C) Section 223(c)(2)(D)(ii) of such Code
22 is amended to read as follows:

23 “(ii) CERTAIN ITEMS DISREGARDED
24 IN COMPUTING MONTHLY LIMITATION.—
25 Such plan’s annual deductible, and such

1 plan’s annual out-of-pocket limitation, for
2 services provided outside of such network
3 shall not be taken into account for pur-
4 poses of subsection (b)(2).”.

5 (D) Section 223(g)(1) of such Code is
6 amended by striking “subsections (b)(2) and
7 (c)(2)(A)” and inserting “subsection (c)(2)(A)”.

8 (b) APPLICATION OF SPECIAL RULES FOR MARRIED
9 INDIVIDUALS.—Paragraph (5) of section 223(b) of such
10 Code (relating to special rule for married individuals) is
11 amended to read as follows:

12 “(5) SPECIAL RULES FOR MARRIED INDIVID-
13 UALS.—

14 “(A) IN GENERAL.—In the case of individ-
15 uals who are married to each other and who are
16 both eligible individuals, the limitation under
17 paragraph (1) for each spouse shall be equal to
18 the spouse’s applicable share of the combined
19 marital limit.

20 “(B) COMBINED MARITAL LIMIT.—For
21 purposes of subparagraph (A), the combined
22 marital limit is the excess (if any) of—

23 “(i) the lesser of—

24 “(I) subject to subparagraph (C),
25 the sum of the limitations computed

1 separately under paragraph (1) for
2 each spouse (including any additional
3 contribution amount under paragraph
4 (3)), or

5 “(II) the dollar amount in effect
6 under subsection (c)(2)(A)(ii)(II),
7 over

8 “(ii) the aggregate amount paid to
9 Archer MSAs of such spouses for the tax-
10 able year.

11 “(C) SPECIAL RULE WHERE BOTH
12 SPOUSES HAVE FAMILY COVERAGE UNDER
13 SAME PLAN.—For purposes of subparagraph
14 (B)(i)(I), if either spouse has family coverage
15 which covers both spouses, both spouses shall
16 be treated as having only such coverage (and if
17 both spouses each have such coverage under
18 different plans, shall be treated as having only
19 family coverage with the plan with respect to
20 which the lowest amount is determined under
21 paragraph (2)(A)(i)).

22 “(D) APPLICABLE SHARE.—For purposes
23 of subparagraph (A), a spouse’s applicable
24 share is one-half of the combined marital limit

1 unless both spouses agree on a different divi-
2 sion.

3 “(E) COUPLES NOT MARRIED ENTIRE
4 YEAR.—The Secretary shall prescribe rules for
5 the application of this paragraph in the case of
6 any taxable year for which the individuals were
7 not married to each other during all months in-
8 cluded in the taxable year, including rules
9 which allow individuals in appropriate cases to
10 take into account coverage prior to marriage in
11 computing the combined marital limit for pur-
12 poses of this paragraph.”.

13 (c) SELF-ONLY COVERAGE.—Section 223(c)(4) of
14 such Code (defining family coverage) is amended to read
15 as follows:

16 “(4) COVERAGE.—

17 “(A) FAMILY COVERAGE.—The term ‘fam-
18 ily coverage’ means any coverage other than
19 self-only coverage.

20 “(B) SELF-ONLY COVERAGE.—If more
21 than 1 individual is covered by a high deduct-
22 ible health plan but only 1 of the individuals is
23 an eligible individual, the coverage shall be
24 treated as self-only coverage.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2006.

4 **SEC. 7. HEALTH REIMBURSEMENT ARRANGEMENTS AND**
5 **SPENDING ARRANGEMENTS IN COMBINATION**
6 **WITH HEALTH SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Subparagraph (B) of section
8 223(c)(1) of the Internal Revenue Code of 1986 (relating
9 to certain coverage disregarded) is amended by striking
10 “and” at the end of clause (i), by striking the period at
11 the end of clause (ii) and inserting “, and”, and by insert-
12 ing after clause (ii) the following new clause:

13 “(iii) coverage under a flexible spend-
14 ing arrangement or a health reimburse-
15 ment arrangement, or both, which meets
16 the requirements of paragraph (6).”.

17 (b) COMBINATION HEALTH REIMBURSEMENT, SAV-
18 INGS, AND SPENDING ARRANGEMENTS.—Subsection (c) of
19 section 223 of such Code (relating to definitions and spe-
20 cial rules) is amended by adding at the end the following
21 new paragraph:

22 “(6) COMBINED LIMIT FOR CONTRIBUTIONS OR
23 CREDITS TO HEALTH REIMBURSEMENT, ARRANGE-
24 MENTS AND SPENDING ARRANGEMENTS.—

1 “(A) IN GENERAL.—In the case of cov-
2 erage under a flexible spending arrangement or
3 a health reimbursement arrangement, or both,
4 such coverage meets the requirements of this
5 paragraph if, with respect to an individual—

6 “(i) the sum of—

7 “(I) the amount allowable as a
8 deduction under subsection (a),

9 “(II) the salary reduction
10 amount elected by the individual and,
11 if applicable, the employer contribu-
12 tion or credit allocated to the indi-
13 vidual for the taxable year under the
14 flexible spending arrangement (as de-
15 fined in section 106(c)(2)), plus

16 “(III) the amounts that the indi-
17 vidual is permitted, under the terms
18 of the plan, to receive in reimburse-
19 ments for the taxable year under the
20 health reimbursement arrangement,
21 does not exceed

22 “(ii) the sum of the annual deductible
23 and the other annual out-of-pocket ex-
24 penses (other than for premiums) required

1 to be paid under the plan by the eligible
2 individual for covered benefits.

3 “(B) EXCEPTIONS FOR DISREGARDED COV-
4 ERAGE.—For purposes of subparagraph (A)—

5 “(i) CERTAIN FLEXIBLE SPENDING
6 ARRANGEMENTS.—Any flexible spending
7 arrangement salary reduction amounts or
8 employer contributions or credits that are
9 restricted by the employer to use for cov-
10 erage described in paragraph (1)(B) shall
11 not be taken into account under subpara-
12 graph (A)(i)(II).

13 “(ii) CERTAIN HEALTH REIMBURSE-
14 MENT ARRANGEMENTS.—Any reimburse-
15 ments from a health reimbursement ar-
16 rangement for coverage described in para-
17 graph (1)(B) shall not be taken into ac-
18 count under subparagraph (A)(i)(III).

19 “(C) TERMINATION.—Coverage shall not
20 be treated as meeting the requirements of this
21 paragraph for any taxable year beginning after
22 December 31, 2011.”.

23 (c) ONE-TIME FSA AND HRA ROLLOVERS TO
24 HSAs.—

1 (1) IN GENERAL.—A plan shall not fail to be
2 treated as a flexible spending arrangement or health
3 reimbursement arrangement under section 105 or
4 106 of the Internal Revenue Code of 1986 merely
5 because—

6 (A) such plan provides for a contribution
7 to the health savings account (as defined in sec-
8 tion 223 of such Code) of the employee which
9 meets the requirements of paragraph (2), and

10 (B) such plan thereafter terminates with
11 respect to such employee.

12 (2) REQUIREMENTS.—A contribution meets the
13 requirements of this paragraph if—

14 (A) in the case of a flexible spending ar-
15 rangement (as defined in section 106(c)(2) of
16 such Code) in existence on April ____, 2006,
17 such contribution is the remaining balance in
18 such arrangement as of the last day of the plan
19 year ending in or before the taxable year in
20 which such contribution is made,

21 (B) in the case of a health reimbursement
22 arrangement in existence on April ____, 2006,
23 such contribution is the remaining balance of
24 the amount to be received in reimbursements
25 under such arrangement as of the last day of

1 the plan year ending in or before the taxable
2 year in which such contribution is made, and

3 (C) such contribution is made by the em-
4 ployer directly to the health savings account of
5 the employee not later than 60 days after the
6 end of the plan year of such flexible spending
7 arrangement or health reimbursement arrange-
8 ment.

9 (3) TREATMENT AS ROLLOVER CONTRIBU-
10 TION.—For purposes of sections 223 and 4973 of
11 such Code, a contribution which meets the require-
12 ments of paragraph (2) shall be treated as a rollover
13 contribution described in section 223(f)(5) of such
14 Code.

15 (4) TAX TREATMENT RELATING TO CONTRIBU-
16 TIONS.—For purposes of this title—

17 (A) INCOME TAX.—Gross income shall not
18 include the amount of any contribution under
19 this subsection.

20 (B) EMPLOYMENT TAXES.—Amounts con-
21 tributed to a health savings account under this
22 subsection shall be treated as a payment de-
23 scribed in section 106(d).

1 (C) COMPARABILITY EXCISE TAX.—Section
2 4980G shall not apply to contributions made
3 under this subsection.

4 (5) TERMINATION.—This paragraph shall not
5 apply to any taxable year beginning after December
6 31, 2011.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2006.

10 **SEC. 8. CERTAIN EXPENSES TREATED AS QUALIFIED MED-**
11 **ICAL EXPENSES.**

12 (a) PREMIUMS FOR NON-GROUP HIGH DEDUCTIBLE
13 HEALTH PLANS TREATED AS QUALIFIED MEDICAL EX-
14 PENSES.—Subparagraph (C) of section 223(d)(2) of the
15 Internal Revenue Code of 1986 is amended by striking
16 “or” at the end of clause (iii), by striking the period at
17 the end of clause (iv) and inserting “, or”, and by adding
18 at the end the following new clause:

19 “(v) in the case of any individual who
20 meets the requirements of subsection
21 (c)(1)(A)(ii) (after application of sub-
22 section (c)(1)(B)) and section 224(c)(2), a
23 high deductible health plan.”.

24 (b) SPECIAL RULE FOR CERTAIN MEDICAL EX-
25 PENSES INCURRED BEFORE ESTABLISHMENT OF AC-

1 COUNT.—Paragraph (2) of section 223(d) of such Code
2 is amended by adding at the end the following new sub-
3 paragraph:

4 “(E) CERTAIN MEDICAL EXPENSES IN-
5 CURRED BEFORE ESTABLISHMENT OF ACCOUNT
6 TREATED AS QUALIFIED.—An expense shall not
7 fail to be treated as a qualified medical expense
8 solely because such expense was incurred before
9 the establishment of the health savings account
10 if such expense was incurred—

11 “(i) during either—

12 “(I) the taxable year in which the
13 health savings account was estab-
14 lished, or

15 “(II) the preceding taxable year
16 in the case of a health savings ac-
17 count established after the taxable
18 year in which such expense was in-
19 curred but before the time prescribed
20 by law for filing the return for such
21 taxable year (not including extensions
22 thereof), and

23 “(ii) for medical care of an individual
24 during a period that such individual was
25 covered by a high deductible health plan

1 and met the requirements of subsection
2 (c)(1)(A)(ii) (after application of sub-
3 section (c)(1)(B)).”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2006.

7 **SEC. 9. EXCEPTION TO REQUIREMENT FOR EMPLOYERS TO**
8 **MAKE COMPARABLE HEALTH SAVINGS AC-**
9 **COUNT CONTRIBUTIONS.**

10 (a) IN GENERAL.—Section 4980G of the Internal
11 Revenue Code of 1986 (relating to failure of employer to
12 make comparable health savings account contributions) is
13 amended by adding at the end the following new sub-
14 section:

15 “(d) EXCEPTION.—

16 “(1) IN GENERAL.—To the extent that an em-
17 ployer’s contributions to the health savings accounts
18 of qualified employees exceed the employer’s com-
19 parable contributions to the health savings accounts
20 of other employees, this section shall not apply with
21 respect to the employer’s contributions to the health
22 savings accounts of qualified employees.

23 “(2) QUALIFIED EMPLOYEE.—For purposes of
24 this subsection, with respect to an employer, the
25 term ‘qualified employee’ means an individual—

1 “(A) reasonably expected to incur a higher
2 level of medical expenses than the majority of
3 the employer’s other employees due to a dis-
4 ease, illness, or other medical condition, and

5 “(B) with respect to whom such elevated
6 expenses are reasonably expected to continue
7 over a period in excess of 1 year.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 2006.

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