

# Union Calendar No. 317

118<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5687

[Report No. 118-387]

To amend the Internal Revenue Code of 1986 to modernize health savings accounts.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2023

Ms. VAN DUYNE introduced the following bill; which was referred to the Committee on Ways and Means

FEBRUARY 13, 2024

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 italic]

[For text of introduced bill, see copy of bill as introduced on September 26, 2023]

# **A BILL**

To amend the Internal Revenue Code of 1986 to modernize  
health savings accounts.

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.**

4 *This Act may be cited as the “HSA Modernization Act*  
5 *of 2023”.*

6 **SEC. 2. INDIVIDUALS WITHOUT SERVICE-CONNECTED DIS-**  
7 **ABILITY AND ELIGIBLE FOR CERTAIN VET-**  
8 **ERANS BENEFITS PERMITTED TO CON-**  
9 **TRIBUTE TO HEALTH SAVINGS ACCOUNTS.**

10 *(a) IN GENERAL.—Section 223(c)(1)(C) of the Internal*  
11 *Revenue Code of 1986 is amended by striking “for a service-*  
12 *connected disability (within the meaning of section 101(16)*  
13 *of title 38, United States Code)”.*

14 *(b) EFFECTIVE DATE.—The amendment made by this*  
15 *section shall apply to taxable years beginning after Decem-*  
16 *ber 31, 2025.*

17 **SEC. 3. INDIVIDUALS ENTITLED TO PART A OF MEDICARE**  
18 **BY REASON OF AGE ALLOWED TO CON-**  
19 **TRIBUTE TO HEALTH SAVINGS ACCOUNTS.**

20 *(a) IN GENERAL.—Section 223(c)(1)(B) of the Inter-*  
21 *nal Revenue Code of 1986 is amended by striking “and”*  
22 *at the end of clause (ii), by striking the period at the end*  
23 *of clause (iii) and inserting “, and”, and by adding at the*  
24 *end the following new clause:*

1                   “(iv) entitlement to hospital insurance  
2                   benefits under part A of title XVIII of the  
3                   Social Security Act by reason of section  
4                   226(a) of such Act.”.

5           (b) *TREATMENT OF HEALTH INSURANCE PURCHASED*  
6 *FROM ACCOUNT.*—Section 223(d)(2)(C)(iv) of such Code is  
7 amended by inserting “and who is not an eligible indi-  
8 vidual” after “who has attained the age specified in section  
9 1811 of the Social Security Act”.

10          (c) *COORDINATION WITH PENALTY ON DISTRIBUTIONS*  
11 *NOT USED FOR QUALIFIED MEDICAL EXPENSES.*—Section  
12 223(f)(4)(C) of such Code is amended by striking “Subpara-  
13 graph (A)” and inserting “Except in the case of an eligible  
14 individual, subparagraph (A)”

15          (d) *CONFORMING AMENDMENT.*—Section 223(b)(7) of  
16 such Code is amended by inserting “(other than an entitle-  
17 ment to benefits described in subsection (c)(1)(B)(iv))” after  
18 “Social Security Act”.

19          (e) *EFFECTIVE DATE.*—The amendments made by this  
20 section shall apply to months beginning after December 31,  
21 2025, in taxable years ending after such date.

1 **SEC. 4. INDIVIDUALS ELIGIBLE FOR INDIAN HEALTH SERV-**  
2 **ICE ASSISTANCE NOT DISQUALIFIED FROM**  
3 **HEALTH SAVINGS ACCOUNTS.**

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

7 “(E) *SPECIAL RULE FOR INDIVIDUALS ELI-*  
8 *GIBLE FOR ASSISTANCE UNDER INDIAN HEALTH*  
9 *SERVICE PROGRAMS.*—For purposes of subpara-  
10 graph (A)(ii), an individual shall not be treated  
11 as covered under a health plan described in such  
12 subparagraph merely because the individual re-  
13 ceives hospital care or medical services under a  
14 medical care program of the Indian Health Serv-  
15 ice or of a tribal organization.”.

16 (b) *EFFECTIVE DATE.*—The amendment made by this  
17 section shall apply to taxable years beginning after Decem-  
18 ber 31, 2025.

19 **SEC. 5. ALLOWANCE OF BRONZE AND CATASTROPHIC**  
20 **PLANS IN CONNECTION WITH HEALTH SAV-**  
21 **INGS ACCOUNTS.**

22 (a) *IN GENERAL.*—Section 223(c)(2) of the Internal  
23 Revenue Code of 1986 is amended by adding at the end  
24 the following new subparagraph:

25 “(H) *BRONZE AND CATASTROPHIC PLANS*  
26 *TREATED AS HIGH DEDUCTIBLE HEALTH*

1            *PLANS.—The term ‘high deductible health plan’*  
2            *shall include any plan described in subsection*  
3            *(d)(1)(A) or (e) of section 1302 of the Patient*  
4            *Protection and Affordable Care Act.’.*

5            *(b) EFFECTIVE DATE.—The amendment made by this*  
6            *section shall apply to months beginning after December 31,*  
7            *2025, in taxable years ending after such date.*

8            **SEC. 6. SAFE HARBOR FOR ABSENCE OF DEDUCTIBLE FOR**  
9            **MENTAL HEALTH SERVICES.**

10           *(a) IN GENERAL.—Section 223(c)(2) of the Internal*  
11           *Revenue Code of 1986, as amended by this Act, is amended*  
12           *by adding at the end the following new subparagraph:*

13                            *“(I) SAFE HARBOR FOR ABSENCE OF DE-*  
14                            *DUCTIBLE FOR MENTAL HEALTH SERVICES.—A*  
15                            *plan shall not fail to be treated as a high deduct-*  
16                            *ible health plan by reason of failing to have a*  
17                            *deductible for not more than the first \$500 of*  
18                            *any mental health benefits (as defined in section*  
19                            *9812(e)(4)) specified by the plan for purposes of*  
20                            *this subparagraph.’.*

21            *(b) EFFECTIVE DATE.—The amendments made by this*  
22            *section shall apply to plan years beginning after December*  
23            *31, 2025.*

1 **SEC. 7. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**  
2 **INCURRED BEFORE ESTABLISHMENT OF**  
3 **HEALTH SAVINGS ACCOUNT.**

4 (a) *IN GENERAL.*—Section 223(d)(2) of the Internal  
5 Revenue Code of 1986 is amended by adding at the end  
6 the following new subparagraph:

7 “(E) *TREATMENT OF CERTAIN MEDICAL EX-*  
8 *PENSES INCURRED BEFORE ESTABLISHMENT OF*  
9 *ACCOUNT.*—If a health savings account is estab-  
10 lished during the 60-day period beginning on the  
11 date that coverage of the account beneficiary  
12 under a high deductible health plan begins, then,  
13 solely for purposes of determining whether an  
14 amount paid is used for a qualified medical ex-  
15 pense, such account shall be treated as having  
16 been established on the date that such coverage  
17 begins.”.

18 (b) *EFFECTIVE DATE.*—The amendment made by this  
19 section shall apply with respect to coverage beginning after  
20 December 31, 2025.

21 **SEC. 8. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**  
22 **TRIBUTIONS TO THE SAME HEALTH SAVINGS**  
23 **ACCOUNT.**

24 (a) *IN GENERAL.*—Section 223(b)(5) of the Internal  
25 Revenue Code of 1986 is amended to read as follows:

1           “(5) *SPECIAL RULE FOR MARRIED INDIVIDUALS*  
2           *WITH FAMILY COVERAGE.*—

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

8           “(i) *the limitation under paragraph*  
9           *(1) shall be applied by not taking into ac-*  
10           *count any other high deductible health plan*  
11           *coverage of either spouse (and if such*  
12           *spouses both have family coverage under*  
13           *separate high deductible health plans, only*  
14           *one such coverage shall be taken into ac-*  
15           *count),*

16           “(ii) *such limitation (after application*  
17           *of clause (i)) shall be reduced by the aggre-*  
18           *gate amount paid to Archer MSAs of such*  
19           *spouses for the taxable year, and*

20           “(iii) *such limitation (after applica-*  
21           *tion of clauses (i) and (ii)) shall be divided*  
22           *equally between such spouses unless they*  
23           *agree on a different division.*

24           “(B) *TREATMENT OF ADDITIONAL CON-*  
25           *TRIBUTION AMOUNTS.*—*If both spouses referred*





1       (c) *CONFORMING AMENDMENTS.*—Section 223(g)(1) of  
2 such Code is amended—

3           (1) by striking “subsections (b)(2) and” both  
4 places it appears and inserting “subsection”, and

5           (2) in subparagraph (B), by striking “deter-  
6 mined by” and all that follows through “‘calendar  
7 year 2003’.” and inserting “determined by sub-  
8 stituting ‘calendar year 2003’ for ‘calendar year  
9 2016’ in subparagraph (A)(i) thereof.”.

10       (d) *EFFECTIVE DATE.*—The amendments made by this  
11 section shall apply to taxable years beginning after Decem-  
12 ber 31, 2025.

13 **SEC. 10. CLARIFICATION OF TREATMENT OF DISTRIBUTIONS FROM HEALTH SAVINGS ACCOUNT FOR**  
14 **LONG-TERM CARE SERVICES.**  
15

16       (a) *IN GENERAL.*—Section 223(d)(2)(A) of the Inter-  
17 nal Revenue Code of 1986 is amended by inserting before  
18 the last sentence the following: “Such term includes  
19 amounts paid for qualified long-term care services (as de-  
20 fined in section 7702B(c)).”.

21       (b) *EFFECTIVE DATE.*—The amendment made by this  
22 section shall apply to amounts paid after the date of the  
23 enactment of this Act.

24       (c) *NO INFERENCE.*—Nothing contained in this section  
25 or the amendment made thereby shall be construed to create

- 1 *any inference with respect to any amounts paid on or before*
- 2 *such date.*

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