

116TH CONGRESS
2D SESSION

H. R. 8032

To amend the Internal Revenue Code of 1986 to eliminate limitations on contributions to health savings accounts.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 14, 2020

Mr. BIGGS (for himself, Mr. FULCHER, Mr. PERRY, Mr. BALDERSON, Mrs. LESKO, Mr. GOSAR, Mr. HICE of Georgia, Mr. STEWART, Mr. HARRIS, Mr. YOHO, and Mr. ROY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to eliminate limitations on contributions to 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 “Health Savings Ac-
5 counts For All Act of 2020”.

1 **SEC. 2. REPEAL OF CONTRIBUTION LIMITATIONS.**

2 (a) IN GENERAL.—Subsection (b) of section 223 of
3 the Internal Revenue Code of 1986 is amended to read
4 as follows:

5 “(b) DENIAL OF DEDUCTION TO DEPENDENTS.—No
6 deduction shall be allowed under this section to any indi-
7 vidual with respect to whom a deduction under section 151
8 is allowable to another taxpayer for a taxable year begin-
9 ning in the calendar year in which such individual’s tax-
10 able year begins.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Subparagraph (A) of section 223(d)(1) of
13 the Internal Revenue Code of 1986 is amended—

14 (A) by striking “subsection (f)(5)” and in-
15 serting “subsection (f)(4)”, and

16 (B) by striking “accepted—” and all that
17 follows and inserting “accepted unless it is in
18 cash.”.

19 (2) Subsection (f) of section 223 of such Code
20 is amended by striking paragraph (3) and by redesi-
21 gnating paragraphs (4) through (8) as paragraphs
22 (3) through (7), respectively.

23 (3) Subsection (g) of section 223 of such Code
24 is amended—

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

4 (B) by amending subparagraph (B) to read
5 as follows:

6 “(B) the cost-of-living adjustment deter-
7 mined under section 1(f)(3) for the calendar
8 year in which such taxable year begins deter-
9 mined by substituting ‘calendar year 2003’ for
10 ‘calendar year 2016’ in subparagraph (A)(ii)
11 thereof.”.

12 (4) Section 26(b)(2) of such Code is amended—

13 (A) by striking “, 223(b)(8)(B)(i)(II),” in
14 subparagraph (S), and

15 (B) by striking “223(f)(4)” in subpara-
16 graph (U) and inserting “223(f)(3)”.

17 (5) Paragraph (1) of section 106(d) of such
18 Code is amended by striking “under an accident or
19 health plan” and all that follows and inserting
20 “under an accident or health plan.”.

21 (6) Subparagraph (C) of section 106(e)(4) of
22 such Code is amended by striking “223(f)(5)” and
23 inserting “223(f)(4)”.

24 (7) Subparagraph (C) of section 408(d)(9) of
25 such Code is amended—

1 (A) by striking “LIMITATIONS.—” in the
2 heading and all that follows through “(ii) ONE-
3 TIME TRANSFER.—” in clause (ii), and insert-
4 ing “ONE-TIME TRANSFER.—”,

5 (B) by redesignating subclauses (I) and
6 (II) as clauses (i) and (ii) and moving such
7 clauses 2 ems to the left, and

8 (C) by striking “subclause (II)” in clause
9 (i), as so redesignated, and inserting “clause
10 (ii)”.

11 (8) Section 4973 of such Code is amended by
12 striking subsection (g) and by redesignating sub-
13 section (h) as subsection (g).

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 the date of the enactment of this Act.

17 **SEC. 3. FREEDOM FROM MANDATE.**

18 (a) IN GENERAL.—Section 223 of the Internal Rev-
19 enue Code of 1986, as amended by section 2, is further
20 amended by striking subsections (c) and (g) and by red-
21 ignating subsections (d), (e), (f), and (h) as subsections
22 (c), (d), (e), and (f), respectively.

23 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (a) of section 223 of the Inter-
2 nal Revenue Code of 1986 is amended to read as fol-
3 lows:

4 “(a) DEDUCTION ALLOWED.—In the case of an indi-
5 vidual, there shall be allowed as a deduction for the tax-
6 able year an amount equal to the aggregate amount paid
7 in cash during such taxable year by or on behalf of such
8 individual to a health savings account of such individual.”.

9 (2) Subsection (c)(1)(A) of section 223 of such
10 Code, as amended by section 2 and redesignated by
11 subsection (a), is further amended by striking “sub-
12 section (f)(4)” and inserting “subsection (e)(4)”.

13 (3) Subparagraph (U) of section 26(b)(2) of
14 such Code, as amended by section 2, is further
15 amended by striking “section 223(f)(3)” and insert-
16 ing “section 223(e)(3)”.

17 (4) Sections 35(g)(3), 220(f)(5)(A),
18 848(e)(1)(B)(v), 4973(a)(5), and 6051(a)(12) of
19 such Code are each amended by striking “section
20 223(d)” each place it appears and inserting “section
21 223(c)”.

22 (5) Section 106(d)(1) of such Code is amend-
23 ed—

24 (A) by striking “who is an eligible indi-
25 vidual (as defined in section 223(c)(1))”, and

1 (B) by striking “section 223(d)” and in-
2 serting “section 223(c)”.

3 (6) Section 106(e) of such Code is amended—

4 (A) by striking paragraphs (3) and (4) and
5 by redesignating paragraph (5) as paragraph
6 (4),

7 (B) by inserting after paragraph (2) the
8 following new paragraph:

9 “(3) TREATMENT AS ROLLOVER CONTRIBU-
10 TION.—A qualified HSA distribution shall be treated
11 as a rollover contribution described in section
12 223(e)(4).”, and

13 (C) by striking “to any eligible individual
14 covered under a high deductible health plan of
15 the employer” in paragraph (4)(B)(ii) (as so re-
16 designated) and inserting “to any employee
17 with respect to whom a health savings account
18 has been established”.

19 (7) Section 408(d)(9)(A) of such Code is
20 amended by striking “who is an eligible individual
21 (as defined in section 223(c)) and”.

22 (8) Section 877A(g)(6) of such Code is amend-
23 ed by striking “223(f)(4)” and inserting
24 “223(e)(4)”.

25 (9) Section 4975 of such Code is amended—

1 (A) in subsection (c)(6)—

2 (i) by striking “section 223(d)” and
3 inserting “section 223(c)”, and

4 (ii) by striking “section 223(e)(2)”
5 and inserting “section 223(d)(2)”, and

6 (B) in subsection (e)(1)(E), by striking
7 “section 223(d)” and inserting “section
8 223(c)”.

9 (10) Subsection (b) of section 4980G of such
10 Code is amended to read as follows:

11 “(b) RULES AND REQUIREMENTS.—

12 “(1) IN GENERAL.—An employer meets the re-
13 quirements of this subsection for any calendar year
14 if the employer makes available comparable con-
15 tributions to the health savings accounts of all com-
16 parable participating employees for each coverage
17 period during such calendar year.

18 “(2) COMPARABLE CONTRIBUTIONS.—

19 “(A) IN GENERAL.—For purposes of para-
20 graph (1), the term ‘comparable contributions’
21 means contributions—

22 “(i) which are the same amount, or

23 “(ii) if the employees are covered by a
24 health plan, which are the same percentage

1 of the annual deductible limit under the
2 plan covering the employees.

3 “(B) PART-YEAR EMPLOYEES.—In the
4 case of an employee who is employed by the em-
5 ployer for only a portion of the calendar year,
6 a contribution to the health savings account of
7 such employee shall be treated as comparable if
8 it is an amount which bears the same ratio to
9 the comparable amount (determined without re-
10 gard to this subparagraph) as such portion
11 bears to the entire calendar year.

12 “(3) COMPARABLE PARTICIPATING EMPLOY-
13 EES.—For purposes of paragraph (1), the term
14 ‘comparable participating employees’ means all em-
15 ployees who are covered (if at all) under the same
16 health plan of the employer and have the same cat-
17 egory of coverage. For purposes of the preceding
18 sentence, the categories of coverage are self-only and
19 family coverage.

20 “(4) PART-TIME EMPLOYEES.—

21 “(A) IN GENERAL.—Paragraph (3) shall
22 be applied separately with respect to part-time
23 employees and other employees.

24 “(B) PART-TIME EMPLOYEE.—For pur-
25 poses of subparagraph (A), the term ‘part-time

1 employee’ means any employee who is custom-
2 arily employed for fewer than 30 hours per
3 week.”.

4 (11) Section 4980G(d) of such Code is amended
5 by striking “section 4980E” and inserting “this sec-
6 tion”.

7 (12) Section 6693(a)(2)(C) of such Code is
8 amended by striking “section 223(h)” and inserting
9 “section 223(f)”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **SEC. 4. ALLOWANCE OF DISTRIBUTIONS FOR PRESCRIP-**
14 **TION AND OVER-THE-COUNTER MEDICINES**
15 **AND DRUGS.**

16 (a) HSAs.—Paragraph (2)(A) of section 223(c) of
17 the Internal Revenue Code of 1986, as redesignated by
18 section 3, is amended by adding at the end the following:
19 “The term ‘qualified medical expenses’ shall include an
20 amount paid for any prescription or over-the-counter med-
21 icine or drug.”.

22 (b) ARCHER MSAs.—Section 220(d)(2)(A) of the In-
23 ternal Revenue Code of 1986 is amended—

24 (1) by striking “section 223(d)(2)(D)” and in-
25 serting “section 223(c)(2)(B)”, and

1 (2) by adding at the end the following: “The
2 term ‘qualified medical expenses’ shall include an
3 amount paid for any prescription or over-the-counter
4 medicine or drug.”.

5 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
6 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sub-
7 section (f) of section 106 of the Internal Revenue Code
8 of 1986 is amended to read as follows:

9 “(f) REIMBURSEMENTS FOR PRESCRIPTION AND
10 OVER-THE-COUNTER MEDICINES AND DRUGS.—For pur-
11 poses of this section and section 105, reimbursement for
12 expenses incurred for any prescription or over-the-counter
13 medicine or drug shall be treated as a reimbursement for
14 medical expenses.”.

15 (d) EFFECTIVE DATES.—

16 (1) DISTRIBUTIONS FROM SAVINGS AC-
17 COUNTS.—The amendments made by subsections (a)
18 and (b) shall apply to amounts paid in taxable years
19 beginning after the date of the enactment of this
20 Act.

21 (2) REIMBURSEMENTS.—The amendment made
22 by subsection (c) shall apply to expenses incurred in
23 plan years beginning after the date of the enactment
24 of this Act.

1 **SEC. 5. PURCHASE OF HEALTH INSURANCE FROM HSA.**

2 (a) IN GENERAL.—Paragraph (2) of section 223(c)
3 of the Internal Revenue Code of 1986, as redesignated by
4 section 3, is amended—

5 (1) by striking subparagraphs (B) and (C), and

6 (2) by redesignating subparagraph (D) as sub-
7 paragraph (B).

8 (b) CONFORMING AMENDMENT.—Paragraph (2) of
9 section 223(c) of the Internal Revenue Code of 1986, as
10 amended by the preceding sections of this Act, is further
11 amended by striking “and any dependent (as defined in
12 section 152, determined without regard to subsections
13 (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual”
14 and inserting “any dependent (as defined in section 152,
15 determined without regard to subsections (b)(1), (b)(2),
16 and (d)(1)(B) thereof) of such individual, and any child
17 (as defined in section 152(f)(1)) of such individual who
18 has not attained the age of 27 before the end of such indi-
19 vidual’s taxable year”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to insurance pur-
22 chased after the date of the enactment of this Act in tax-
23 able years beginning after such date.

1 **SEC. 6. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**
2 **INCURRED BEFORE ESTABLISHMENT OF AC-**
3 **COUNT.**

4 (a) IN GENERAL.—Paragraph (2) of section 223(c)
5 of the Internal Revenue Code of 1986, as amended and
6 redesignated by the preceding sections of this Act, is fur-
7 ther amended by adding at the end the following new sub-
8 paragraph:

9 “(C) CERTAIN MEDICAL EXPENSES IN-
10 CURRED BEFORE ESTABLISHMENT OF ACCOUNT
11 TREATED AS QUALIFIED.—An expense shall not
12 fail to be treated as a qualified medical expense
13 solely because such expense was incurred before
14 the establishment of the health savings account
15 if such expense was incurred—

16 “(i) during either—

17 “(I) the taxable year in which the
18 health savings account was estab-
19 lished, or

20 “(II) the preceding taxable year,
21 in the case of a health savings ac-
22 count established after the taxable
23 year in which such expense was in-
24 curred but before the time prescribed
25 by law for filing the return for such

1 taxable year (not including extensions
2 thereof), and

3 “(ii) for medical care which (but for
4 the fact that it was incurred before the es-
5 tablishment of the account) otherwise
6 meets the requirements of the preceding
7 subparagraphs.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years beginning after
10 the date of the enactment of this Act.

11 **SEC. 7. ADMINISTRATIVE ERROR CORRECTION BEFORE**
12 **DUE DATE OF RETURN.**

13 (a) IN GENERAL.—Paragraph (3) of section 223(e)
14 of the Internal Revenue Code of 1986, as amended and
15 redesignated by the preceding sections of this Act, is
16 amended by adding at the end the following new subpara-
17 graph:

18 “(D) EXCEPTION FOR ADMINISTRATIVE
19 ERRORS CORRECTED BEFORE DUE DATE OF RE-
20 TURN.—Subparagraph (A) shall not apply if
21 any payment or distribution is made to correct
22 an administrative, clerical, or payroll contribu-
23 tion error and if—

24 “(i) such distribution is received by
25 the individual on or before the last day

1 prescribed by law (including extensions of
2 time) for filing such individual's return for
3 such taxable year, and

4 “(ii) such distribution is accompanied
5 by the amount of net income attributable
6 to such contribution.

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

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall take effect on the date of the enactment
12 of this Act.

13 **SEC. 8. ALLOWING HSA ROLLOVER TO CHILD OR PARENT**
14 **OF ACCOUNT HOLDER.**

15 (a) IN GENERAL.—Paragraph (7)(A) of section
16 223(e) of the Internal Revenue Code of 1986, as redesignig-
17 nated by the preceding sections of this Act, is amended—

18 (1) by inserting “, child, parent, or grand-
19 parent” after “surviving spouse”,

20 (2) by inserting “, child, parent, or grand-
21 parent, as the case may be,” after “the spouse”,

22 (3) by inserting “, CHILD, PARENT, OR GRAND-
23 PARENT” after “SPOUSE” in the heading thereof,
24 and

1 (4) by adding at the end the following: “In the
2 case of a child who acquires such beneficiary’s inter-
3 est and with respect to whom a deduction under sec-
4 tion 151 is allowable to another taxpayer for a tax-
5 able year beginning in the calendar year in which
6 such individual’s taxable year begins, such health
7 savings account shall be treated as a health savings
8 account of such child.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 the date of the enactment of this Act.

12 **SEC. 9. EQUIVALENT BANKRUPTCY PROTECTIONS FOR**
13 **HEALTH SAVINGS ACCOUNTS AS RETIRE-**
14 **MENT FUNDS.**

15 (a) IN GENERAL.—Section 522 of title 11, United
16 States Code, is amended by adding at the end the fol-
17 lowing new subsection:

18 “(r) TREATMENT OF HEALTH SAVINGS AC-
19 COUNTS.—For purposes of this section, any health savings
20 account (as described in section 223 of the Internal Rev-
21 enue Code of 1986) shall be treated in the same manner
22 as an individual retirement account described in section
23 408 of such Code.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to cases commencing under title

1 11, United States Code, after the date of the enactment
2 of this Act.

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