

115TH CONGRESS
1ST SESSION

S. 28

To amend the Internal Revenue Code of 1986 to expand the permissible use of health savings accounts to include health insurance payments and to increase the dollar limitation for contributions to health savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2017

Mr. FLAKE (for himself and Mr. JOHNSON) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand the permissible use of health savings accounts to include health insurance payments and to increase the dollar limitation for contributions to health savings accounts, 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.**

4 This Act may be cited as the “Health Savings Ac-
5 count Expansion Act of 2017”.

1 **SEC. 2. ADEQUATE FUNDS FOR HEALTH INSURANCE PLANS.**

2 (a) IN GENERAL.—Section 223(b)(1) of the Internal
3 Revenue Code of 1986 is amended by striking “the sum
4 of the monthly” and all that follows through “eligible indi-
5 vidual” and inserting “\$9,000 (\$18,000 in the case of a
6 joint return)”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Subsection (b) of such Code is amended by
9 striking paragraphs (2), (3), and (5) and by redesignig-
10 nating paragraphs (4), (6), (7), and (8) as para-
11 graphs (2), (3), (4), and (5), respectively.

12 (2) Section 223(b)(2) of such Code (as redesignig-
13 nated by paragraph (1)) is amended by striking the
14 last sentence.

15 (3) Section 223(b)(4) of such Code (as redesignig-
16 nated by paragraph (1)) is amended to read as fol-
17 lows:

18 “(4) MEDICARE ELIGIBLE INDIVIDUALS.—The
19 limitation under this subsection for any taxable year
20 with respect to an individual shall—

21 “(A) in the case of the first taxable year
22 in which such individual is entitled to benefits
23 under title XVIII of the Social Security Act, be
24 the amount which bears the same proportion to
25 the amount in effect under paragraph (1) with
26 respect to such individual as—

1 “(i) the number of months in the tax-
2 able year during which such individual was
3 not so entitled, bears to

4 “(ii) 12, and

5 “(B) be zero for any taxable year there-
6 after.”.

7 (4) Section 223(g)(1) of such Code is amend-
8 ed—

9 (A) in the matter preceding subparagraph
10 (A) by striking “Each dollar amount in sub-
11 section (b)(2)” and inserting “In the case of
12 taxable years beginning after December 31,
13 2018, each dollar amount in subsection (b)(1)”,
14 and

15 (B) by amending subparagraph (B) to read
16 as follows:

17 “(B) the cost-of-living adjustment deter-
18 mined under section 1(f)(3) for the calendar
19 year in which such taxable year begins deter-
20 mined by substituting ‘calendar year 2017’ for
21 ‘calendar year 1992’.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2017.

1 **SEC. 3. PARITY WITH EMPLOYER-PROVIDED HEALTH IN-**
2 **SURANCE; DIRECT PRIMARY CARE.**

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

5 “(2) QUALIFIED MEDICAL EXPENSES.—

6 “(A) IN GENERAL.—The term ‘qualified
7 medical expenses’ means, with respect to an ac-
8 count beneficiary, amounts paid by such bene-
9 ficiary for medical care (as defined in section
10 213(d)) for such individual, the spouse of such
11 individual, and any dependent (as defined in
12 section 152, determined without regard to sub-
13 sections (b)(1), (b)(2), and (d)(1)(B) thereof)
14 of such individual, but only to the extent such
15 amounts are not compensated for by insurance
16 or otherwise.

17 “(B) DIRECT PRIMARY CARE.—

18 “(i) IN GENERAL.—Such term in-
19 cludes expenses for direct primary care
20 service arrangements.

21 “(ii) DIRECT PRIMARY CARE SERVICE
22 ARRANGEMENTS.—For purposes of clause
23 (i), the term ‘direct primary care service
24 arrangements’ means an arrangement
25 under which an individual is provided cov-
26 erage restricted to primary care services in

1 exchange for a fixed periodic fee or pay-
2 ment for primary care services.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2017.

6 **SEC. 4. FREEDOM FROM MANDATE.**

7 (a) IN GENERAL.—Section 223 of the Internal Rev-
8 enue Code of 1986, as amended by sections 2 and 3, is
9 amended by striking subsection (c) and redesignating sub-
10 sections (d) through (h) as subsections (c) through (g),
11 respectively.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Subsection (a) of section 223 of such Code
14 is amended to read as follows:

15 “(a) DEDUCTION ALLOWED.—In the case of an indi-
16 vidual, there shall be allowed as a deduction for a taxable
17 year an amount equal to the aggregate amount paid in
18 cash during such taxable year by or on behalf of such indi-
19 vidual to a health savings account of such individual.”.

20 (2) Subsection (b) of section 223 of such Code
21 (as amended by section 2) is amended by striking
22 paragraph (5).

23 (3) Section 223(c)(1)(A) of such Code (as re-
24 designated by subsection (a)) is amended—

1 (A) by striking “subsection (f)(5)” and in-
2 serting “subsection (e)(5)”, and

3 (B) in clause (ii) by striking “the sum
4 of—” and all that follows and inserting “the
5 dollar amount in effect under subsection
6 (b)(1).”.

7 (4) Section 223(f)(1) of such Code (as redesign-
8 nated by subsection (a)) is amended by striking
9 “subsections (b)(1) and (c)(2)(A)” and inserting
10 “subsection (b)(1)”.

11 (5) Section 26(b)(2)(U) of such Code is amend-
12 ed by striking “section 223(f)(4)” and inserting
13 “section 223(e)(4)”.

14 (6) Sections 35(g)(3), 220(f)(5)(A),
15 848(e)(1)(v), 4973(a)(5), and 6051(a)(12) of such
16 Code are each amended by striking “section 223(d)”
17 each place it appears and inserting “section 223(e)”.

18 (7) Section 106(d)(1) of such Code is amend-
19 ed—

20 (A) by striking “who is an eligible indi-
21 vidual (as defined in section 223(e)(1))”, and

22 (B) by striking “section 223(d)” and in-
23 serting “section 223(e)”.

24 (8) Section 408(d)(9) of such Code is amend-
25 ed—

1 (A) in subparagraph (A) by striking “who
2 is an eligible individual (as defined in section
3 223(c)) and”, and

4 (B) in subparagraph (C) by striking “com-
5 puted on the basis of the type of coverage under
6 the high deductible health plan covering the in-
7 dividual at the time of the qualified HSA fund-
8 ing distribution”.

9 (9) Section 877A(g)(6) of such Code is amend-
10 ed by striking “223(f)(4)” and inserting
11 “223(e)(4)”.

12 (10) Section 4973(g) of such Code is amend-
13 ed—

14 (A) by striking “section 223(d)” and in-
15 serting “section 223(c)”,

16 (B) in paragraph (2), by striking “section
17 223(f)(2)” and inserting “section 223(e)(2)”,
18 and

19 (C) by striking “section 223(f)(3)” and in-
20 serting “section 223(e)(3)”.

21 (11) Section 4975 of such Code is amended—

22 (A) in subsection (c)(6)—

23 (i) by striking “section 223(d)” and
24 inserting “section 223(c)”, and

1 (ii) by striking “section 223(e)(2)”
2 and inserting “section 223(d)(2)”, and
3 (B) in subsection (e)(1)(E), by striking
4 “section 223(d)” and inserting “section
5 223(c)”.

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

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2017.

12 **SEC. 5. RESTORING LOWER PENALTY FOR NONQUALIFIED**
13 **DISTRIBUTIONS.**

14 (a) HSAs.—Section 223(e)(4)(A) of the Internal
15 Revenue Code of 1986, as amended by section 4, is
16 amended by striking “20 percent” and inserting “10 per-
17 cent”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to distributions made in taxable
20 years beginning after December 31, 2017.

○