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

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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".

SEC. 2. ADEQUATE FUNDS FOR HEALTH INSURANCE PLANS.

(a) IN GENERAL.—Section 223(b)(1) of the Internal Revenue Code of 1986 is amended by striking "the sum of the monthly" and all that follows through "eligible individual" and inserting "$9,000 ($18,000 in the case of a joint return)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of such Code is amended by striking paragraphs (2), (3), and (5) and by redesignating paragraphs (4), (6), (7), and (8) as paragraphs (2), (3), (4), and (5), respectively.

(2) Section 223(b)(2) of such Code (as redesignated by paragraph (1)) is amended by striking the last sentence.

(3) Section 223(b)(4) of such Code (as redesignated by paragraph (1)) is amended to read as follows:

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

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

3

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 redesig-

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(c)".

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(c)(1))", and

22   (B) by striking "section 223(d)" and in-

23   serting "section 223(c)".

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.

SEC. 5. RESTORING LOWER PENALTY FOR NONQUALIFIED 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.

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