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

Mr. CANTOR (for himself and [see attached list of cosponsors]) introduced the following bill; which was referred to the Committee on

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.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the “Tax Free Health Savings Act of 2006”.
(b) TABLE OF CONTENTS.—The table of contents for 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.

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

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

“SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

“(a) DEDUCTION ALLOWED.—In the case of an individual, there shall be allowed as a deduction for the taxable year the aggregate amount paid by the taxpayer as premiums under a high deductible health plan with respect to months during such year for which such individual is an eligible individual with respect to such health plan.

“(b) DEFINITIONS.—For purposes of this section—
“(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means an individual who—

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

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

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

“(e) SPECIAL RULES.—

“(1) DEDUCTION LIMITS.—

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

“(B) PLANS COVERING INELIGIBLE INDIVIDUALS.—If 2 or more individuals are covered by a high deductible health plan for any month but only 1 of such individuals is an eligible individual for such month, only 50 percent of the aggregate amount paid by such eligible individual as premiums under the plan with respect
to such month shall be taken into account for purposes of this section.

“(2) GROUP HEALTH PLAN COVERAGE.—

“(A) IN GENERAL.—No deduction shall be allowed for an individual under subsection (a) for any amount paid for coverage under a high deductible health plan for a month if that individual participates in any coverage under a group health plan (within the meaning of section 5000 without regard to section 5000(d)). For purposes of the preceding sentence, an arrangement which constitutes individual health insurance shall not be treated as a group health plan if such arrangement is a high deductible health plan (as defined in section 223(c)(2)), or is a payment by an employer or employee organization with respect to such high deductible health plan, notwithstanding that an employer or employee organization negotiates the cost or benefits of such arrangement.

“(B) EXCEPTION FOR PLANS ONLY PROVIDING CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.—Subparagraph (A) shall not apply to an individual if the individual's only coverage under a group health plan for a month consists
of contributions by an employer to a health savings account with respect to which the individual is the account beneficiary.

“(C) Exception for certain permitted coverage.—Subparagraph (A) shall not apply to an individual if the individual’s only coverage under a group health plan for a month is coverage described in clause (i) or (ii) of section 223(e)(1)(B).

“(3) Medical and health savings accounts.—Subsection (a) shall not apply with respect to any amount which is paid or distributed out of an Archer MSA or a health savings account which is not included in gross income under section 220(f) or 223(f), as the case may be.

“(4) Coordination with deduction for health insurance of self-employed individuals.—Any amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

“(5) Coordination with medical expense deduction.—Any amount taken into account by the taxpayer in computing the deduction under this
section shall not be taken into account under section 213.”.

(b) Deduction Allowed Whether or not Individual Itemizes Other Deductions.—Subsection (a) of section 62 of such Code is amended by inserting before the last sentence at the end the following new paragraph:

“(21) Premiums for high deductible health plans.—The deduction allowed by section 224.”.

(c) Coordination With Section 35 Health Insurance Costs Credit.—Section 35(g)(2) of such Code is amended by striking “or 213” and inserting “, 213, or 224”.

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

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

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.
SEC. 3. CREDIT FOR CERTAIN EMPLOYMENT TAXES PAID
WITH RESPECT TO PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS AND CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.

(a) ALLOWANCE OF CREDIT.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

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

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

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

“(2) the sum of—

“(A) the aggregate amount paid by such individual as premiums under a high deductible health plan which is allowed as a deduction under section 224 for the taxable year, and
“(B) the aggregate amount paid to a health savings account of such individual which is allowed as a deduction under section 223 for the taxable year.

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

“(1) IN GENERAL.—The credit allowed under subsection (a) with respect to any individual for any taxable year shall not exceed the specified employment taxes with respect to such individual for such taxable year.

“(2) SPECIFIED EMPLOYMENT TAXES.—For purposes of this subsection, the term ‘specified employment taxes’ means, with respect to any individual for any taxable year, the sum of—

“(A) the taxes imposed under sections 3101(a), 3101(b), 3111(a), 3111(b), 3201(a), 3211(a), and 3221(a) (taking into account any adjustments or refunds under section 6413) with respect to wages and compensation received by such individual during the calendar year in which such taxable year begins, and

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

“(c) Special Rule for Employment Compensation in Excess of Social Security Contribution Base.—

“(1) In general.—If the aggregate amount of
employment compensation received by any individual
during the calendar year in which the taxable year
begins exceeds the contribution and benefit base (as
determined under section 230 of the Social Security
Act), the amount of the credit determined under
subsection (a) (determined before application of sub-
section (b)) shall be equal to the sum of—

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

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

“(2) EMPLOYMENT COMPENSATION.—For purposes of this subsection, the term ‘employment compensation’ means, with respect to any individual for any taxable year, the sum of—

“(A) the wages (as defined in section 3121(a)) and compensation (as defined in section 3231(e)) received by such individual during the calendar year in which such taxable year begins, and

“(B) the self-employment income (as defined in section 1402(b)) of such individual for such taxable year.”.

(b) INCREASE IN ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

Paragraph (4) of section 223(f) of such Code (relating to additional tax on distributions not used for qualified medical expenses) is amended to read as follows:

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

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

“(B) Exception for disability or death.—In the case of payments or distributions made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies, subparagraph (A) shall be applied by substituting ‘15 percent’ for ‘30 percent’.

“(C) Exception for distributions after Medicare eligibility.—In the case of payments or distributions made after the date on which the account beneficiary attains the age specified in section 1811 of the Social Security Act, subparagraph (A) shall be applied by substituting ‘15 percent’ for ‘30 percent’.

(c) Conforming Amendments.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting “or section 36” after “section 35”.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item
relating to section 36 and by inserting after the item relating to section 35 the following new items:

“Sec. 36. Employment taxes paid with respect to premiums for high deductible health plans and contributions to health savings accounts.
“Sec. 37. Overpayments of tax.”.

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

SEC. 4. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE UNDER HIGH DEDUCTIBLE HEALTH PLAN.

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

“SEC. 36A. HEALTH INSURANCE COVERAGE UNDER HIGH DEDUCTIBLE HEALTH PLAN.
“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the aggregate amount paid in cash by the taxpayer for qualified coverage under a high deductible health plan for the taxpayer and the taxpayer’s spouse and dependents.
“(b) LIMITATIONS.—
“(1) IN GENERAL.—The amount allowable as a credit under subsection (a) for the taxable year shall not exceed the sum of the monthly limitations for
months during such taxable year that the taxpayer or the taxpayer’s spouse or dependents is an eligible individual.

“(2) MONTHLY LIMITATION.—

“(A) IN GENERAL.—The monthly limitation for any month is the credit percentage of \( \frac{1}{12} \) of—

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

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

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

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

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

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

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

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

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

the 90 percent in paragraph (3) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as such excess bears to $15,000.
“(B) Special rule for married filing separate return.—In the case of a married individual who has coverage described in paragraph (2)(A)(i) for any month in the taxable year and who files a separate return for the taxable year, subparagraph (A) shall be applied by substituting for each dollar amount therein one-half of such dollar amount.

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

“(i) the taxpayer has modified adjusted gross income in excess of $15,000 for the taxable year but not in excess of $20,000, the 90 percent in paragraph (3) shall be reduced by the number of percentage points which bears the same ratio to 40 percentage points as—

“(I) the excess of modified adjusted gross income in excess of $15,000, bears to

“(II) $5,000, or

“(ii) the taxpayer has modified adjusted gross income in excess of $20,000
for the taxable year, the 90 percent in paragraph (3) shall be reduced by the sum of 40 percentage points plus the number of percentage points which bears the same ratio to 50 percentage points as—

“(I) the excess of modified adjusted gross income in excess of $20,000, bears to

“(II) $10,000.

“(5) PHASEOUT OF CREDIT PERCENTAGE FOR COVERAGE OF 2 OR MORE ADULTS AND CHILDREN.—

“(A) IN GENERAL.— If—

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

“(ii) the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year,

the 90 percent in paragraph (3) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as such excess bears to $35,000.
"(B) Special rule for married filing separate return.—In the case of a married individual filing a separate return, subparagraph (A) shall be applied by substituting for each dollar amount therein one-half of such dollar amount.

"(6) Rounding.—Any percentage resulting from a reduction under paragraphs (4) and (5) shall be rounded to the nearest one-tenth of a percent.

"(7) Modified adjusted gross income.—For purposes of this subsection, the term ‘modified adjusted gross income’ means adjusted gross income determined—

"(A) without regard to this section and sections 911, 931, and 933, and

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

"(8) Adult.—For purposes of this subsection, the term ‘adult’ means an individual who is the taxpayer, the taxpayer’s spouse, or a dependent of the taxpayer who has attained age 24 as of the close of the taxable year.

"(9) Child.—For purposes of this subsection, the term ‘child’ means a dependent of the taxpayer
who has not attained age 24 as of the close of the taxable year.

“(c) QUALIFIED COVERAGE UNDER A HIGH DEDUCTIBLE HEALTH PLAN.—For purposes of this section, the term ‘qualified coverage under a high deductible health plan’ means coverage under a high deductible health plan (as defined in section 223(c)(2)) for any month for which each individual covered under such plan is an eligible individual.

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

“(1) IN GENERAL.—The term ‘eligible individual’ means, with respect to any month, an individual who—

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

“(B) does not have other specified coverage.

“(2) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term by section 5000 without regard to subsection (d) thereof. For purposes of the preceding sentence, an arrangement which constitutes individual health insurance shall not be treated as a group health plan if such arrangement is a high deductible health plan.
(as defined in section 223(c)(2)), or is a payment by
an employer or employee organization with respect
to such high deductible health plan, notwithstanding
that an employer or employee organization negoti-
tiates the cost or benefits of such arrangement.

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

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

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

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

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

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

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

“(e) Other Definitions.—

“(1) Dependants.—For purposes of this
section—

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

“(B) Special rule for dependent
child of divorced parents.—An individual
who is a child to whom section 152(e) applies
shall be treated as a dependent of the custodial
parent for a coverage month unless the custo-
dial and nonecustodial parent provide otherwise.

“(C) Denial of credit to depend-
ents.—No credit shall be allowed under this
section to any individual with respect to whom
a deduction under section 151(c) is allowable to
another taxpayer for a taxable year beginning
in the calendar year in which such individual’s
taxable year begins.

“(f) Inflation Adjustments.—

“(1) Credit and health insurance
amounts.—In the case of any taxable year begin-
ning after 2007, each dollar amount referred to in subsection (b)(2)(A) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

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

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

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

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2006’ for ‘calendar year 1992’ in subparagraph (B) thereof.
If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

“(g) **Special Rules.—**

“(1) **Coordination with deduction for premiums for high deductible health plans.**—No credit shall be allowable under this section for a taxable year if a deduction is allowed under section 224 for the taxable year.

“(2) **Coordination with deduction for health insurance costs of self-employed individuals.**—No credit shall be allowable under this section for a taxable year if a deduction is allowed under section 162(l) for the taxable year.

“(3) **Coordination with advance payment.**—Rules similar to the rules of section 35(g)(1) shall apply to any credit to which this section applies.

“(4) **Coordination with section 35.**—If a taxpayer is eligible for the credit allowed under this section and section 35 for any month, the taxpayer shall elect which credit is to be allowed with respect to such month.

“(h) **Expenses Must Be Substantiated.**—A payment for insurance to which subsection (a) applies may
be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

“(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”.

(b) Conforming Amendments.—

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

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (as amended by this Act) is amended by inserting after the item relating to section 36 the following new item:

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

(c) Effective Dates.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 5. ADVANCE PAYMENT OF CREDIT AS PREMIUM PAYMENT FOR HIGH DEDUCTIBLE HEALTH INSURANCE.

(a) In General.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following:
“SEC. 7529. ADVANCE PAYMENT OF CREDIT AS PREMIUM PAYMENT FOR HIGH DEDUCTIBLE HEALTH INSURANCE.

“Not later than January 1, 2008, the Secretary shall establish a program for making payments to providers of qualified coverage under a high deductible health plan (as defined by subsection (e) of section 36A) on behalf of individuals eligible for the credit under section 36A. Such payments shall be made on the basis of modified adjusted gross income of eligible individuals for the preceding taxable year.”.

(b) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF ADVANCE PAYMENT OF CREDIT AS PREMIUMS FOR HIGH DEDUCTIBLE HEALTH INSURANCE.—

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

“(21) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF ADVANCE PAYMENT OF CREDIT AS PREMIUMS FOR HIGH DEDUCTIBLE HEALTH INSURANCE.—The Secretary may, on behalf of individuals eligible for the credit under section 36A, disclose to a provider of qualified coverage under a high deductible health plan (as defined by subsection (e) of section 36A), and persons acting on behalf of such provider, return information with respect to
any such individual and the spouse and dependents of such individual only to the extent necessary (as prescribed by regulations issued by the Secretary) to carry out the program established by section 7529 (relating to advance payment of credit as premium payment for high deductible health insurance).

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

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

(c) INFORMATION REPORTING.—

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

“SEC. 6050U. RETURNS RELATING TO CREDIT FOR HEALTH INSURANCE COVERAGE UNDER HIGH DEDUCTIBLE HEALTH PLAN.

“(a) REQUIREMENT OF REPORTING.—Every person who is entitled to receive payments for any month of any calendar year under section 7529 (relating to advance pay-
ment of credit as premium payment for high deductible health insurance) with respect to any individual shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each such individual.

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

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

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

“(B) the number of months for which amounts were entitled to be received with respect to such individual under section 7529 (relating to advance payment of credit as premium payment for high deductible health insurance),

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

“(D) such other information as the Secretary may prescribe.

“(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name
is required to be set forth in such return a written state-
ment showing—

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

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

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

(2) **Assessable Penalties.**—

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

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

(B) Paragraph (2) of section 6724(d) of
such Code is amended by striking “or” at the
end of subparagraph (AA), by striking the pe-
period at the end of subparagraph (BB) and inserting "", or", and by adding after subparagraph (BB) the following new subparagraph:

"(CC) section 6050U (relating to returns relating to credit for health insurance coverage under high deductible health plan)."

(d) CLERICAL AMENDMENTS.—

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

"Sec. 7529. Advance payment of credit as premium payment for high deductible health insurance.”.

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

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

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

SEC. 6. INCREASE IN CONTRIBUTION LIMITS FOR HEALTH SAVINGS ACCOUNTS.

(a) INCREASE IN MONTHLY LIMIT.—

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

(A) IN GENERAL.—In the case of an eligible individual who has coverage under a high deductible health plan, the monthly limitation for any month of such coverage is $\frac{1}{12}$ of the lesser of—

(ii) the sum of the annual deductible and the other annual out-of-pocket expenses (other than for premiums) required to be paid under the plan by the eligible individual for covered benefits, or

(i) in the case of an eligible individual with—

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

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

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

(i) REDUCTION FOR SEPARATE PLAN.—The annual out-of-pocket expenses
taken into account under subparagraph (A)(i) with respect to any eligible individual shall be reduced by any out-of-pocket expense payable under a separate plan covering the individual.

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

(2) CONFORMING AMENDMENTS.—

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

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

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

“(ii) CERTAIN ITEMS DISREGARDED IN COMPUTING MONTHLY LIMITATION.—

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

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

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

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

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

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

“(i) the lesser of—

“(I) subject to subparagraph (C),
the sum of the limitations computed
32

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

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

“(ii) the aggregate amount paid to Archer MSAs of such spouses for the taxable year.

“(C) Special rule where both spouses have family coverage under same plan.—For purposes of subparagraph (B)(i)(I), if either spouse has family coverage which covers both spouses, both spouses shall be treated as having only such coverage (and if both spouses each have such coverage under different plans, shall be treated as having only family coverage with the plan with respect to which the lowest amount is determined under paragraph (2)(A)(i)).

“(D) Applicable share.—For purposes of subparagraph (A), a spouse’s applicable share is one-half of the combined marital limit
unless both spouses agree on a different division.

“(E) COUPLES NOT MARRIED ENTIRE YEAR.—The Secretary shall prescribe rules for the application of this paragraph in the case of any taxable year for which the individuals were not married to each other during all months included in the taxable year, including rules which allow individuals in appropriate cases to take into account coverage prior to marriage in computing the combined marital limit for purposes of this paragraph.”.

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

“(4) COVERAGE.—

“(A) FAMILY COVERAGE.—The term ‘family coverage’ means any coverage other than self-only coverage.

“(B) SELF-ONLY COVERAGE.—If more than 1 individual is covered by a high deductible health plan but only 1 of the individuals is an eligible individual, the coverage shall be treated as self-only coverage.”.
(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 7. HEALTH REIMBURSEMENT ARRANGEMENTS AND SPENDING ARRANGEMENTS IN COMBINATION WITH HEALTH SAVINGS ACCOUNTS.

(a) In General.—Subparagraph (B) of section 223(c)(1) of the Internal Revenue Code of 1986 (relating to certain coverage disregarded) is amended by striking “and” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, and”, and by inserting after clause (ii) the following new clause:

“(iii) coverage under a flexible spending arrangement or a health reimbursement arrangement, or both, which meets the requirements of paragraph (6).”.

(b) Combination Health Reimbursement, Savings, and Spending Arrangements.—Subsection (c) of section 223 of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(6) Combined limit for contributions or credits to health reimbursement, arrangements and spending arrangements.—
“(A) IN GENERAL.—In the case of coverage under a flexible spending arrangement or a health reimbursement arrangement, or both, such coverage meets the requirements of this paragraph if, with respect to an individual—

“(i) the sum of—

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

“(II) the salary reduction amount elected by the individual and, if applicable, the employer contribution or credit allocated to the individual for the taxable year under the flexible spending arrangement (as defined in section 106(c)(2)), plus

“(III) the amounts that the individual is permitted, under the terms of the plan, to receive in reimbursements for the taxable year under the health reimbursement arrangement, does not exceed

“(ii) the sum of the annual deductible and the other annual out-of-pocket expenses (other than for premiums) required
to be paid under the plan by the eligible individual for covered benefits.

“(B) Exceptions for disregarded coverage.—For purposes of subparagraph (A)—

“(i) Certain flexible spending arrangements.—Any flexible spending arrangement salary reduction amounts or employer contributions or credits that are restricted by the employer to use for coverage described in paragraph (1)(B) shall not be taken into account under subparagraph (A)(i)(II).

“(ii) Certain health reimbursement arrangements.—Any reimbursements from a health reimbursement arrangement for coverage described in paragraph (1)(B) shall not be taken into account under subparagraph (A)(i)(III).

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

(e) One-Time FSA and HRA Rollovers to HSAs.—
(1) IN GENERAL.—A plan shall not fail to be treated as a flexible spending arrangement or health reimbursement arrangement under section 105 or 106 of the Internal Revenue Code of 1986 merely because—

(A) such plan provides for a contribution to the health savings account (as defined in section 223 of such Code) of the employee which meets the requirements of paragraph (2), and

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

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

(A) in the case of a flexible spending arrangement (as defined in section 106(c)(2) of such Code) in existence on April _____, 2006, such contribution is the remaining balance in such arrangement as of the last day of the plan year ending in or before the taxable year in which such contribution is made,

(B) in the case of a health reimbursement arrangement in existence on April _____, 2006, such contribution is the remaining balance of the amount to be received in reimbursements under such arrangement as of the last day of
the plan year ending in or before the taxable year in which such contribution is made, and

(C) such contribution is made by the employer directly to the health savings account of the employee not later than 60 days after the end of the plan year of such flexible spending arrangement or health reimbursement arrangement.

(3) TREATMENT AS ROLLOVER CONTRIBUTION.—For purposes of sections 223 and 4973 of such Code, a contribution which meets the requirements of paragraph (2) shall be treated as a rollover contribution described in section 223(f)(5) of such Code.

(4) TAX TREATMENT RELATING TO CONTRIBUTIONS.—For purposes of this title—

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

(B) EMPLOYMENT TAXES.—Amounts contributed to a health savings account under this subsection shall be treated as a payment described in section 106(d).
(C) COMPARABILITY EXCISE TAX.—Section 4980G shall not apply to contributions made under this subsection.

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

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

SEC. 8. CERTAIN EXPENSES TREATED AS QUALIFIED MEDICAL EXPENSES.

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

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

(b) SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF AC-
Paragraph (2) of section 223(d) of such Code is amended by adding at the end the following new sub-
paragraph:

“(E) Certain medical expenses incurred before establishment of account treated as qualified.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

“(i) during either—

“(I) the taxable year in which the health savings account was established, or

“(II) the preceding taxable year in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such taxable year (not including extensions thereof), and

“(ii) for medical care of an individual during a period that such individual was covered by a high deductible health plan
and met the requirements of subsection (c)(1)(A)(ii) (after application of subsection (c)(1)(B)).”.

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

SEC. 9. EXCEPTION TO REQUIREMENT FOR EMPLOYERS TO MAKE COMPARABLE HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.

(a) IN GENERAL.—Section 4980G of the Internal Revenue Code of 1986 (relating to failure of employer to make comparable health savings account contributions) is amended by adding at the end the following new subsection:

“(d) EXCEPTION.—

“(1) IN GENERAL.—To the extent that an employer’s contributions to the health savings accounts of qualified employees exceed the employer’s comparable contributions to the health savings accounts of other employees, this section shall not apply with respect to the employer’s contributions to the health savings accounts of qualified employees.

“(2) QUALIFIED EMPLOYEE.—For purposes of this subsection, with respect to an employer, the term ‘qualified employee’ means an individual—
“(A) reasonably expected to incur a higher level of medical expenses than the majority of the employer’s other employees due to a disease, illness, or other medical condition, and

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

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