H. R. 6288

To amend the Internal Revenue Code of 1986 to provide for tax-favored retirement health savings accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2008

Mr. MCHUGH (for himself, Mr. KUHL of New York, Mr. KING of New York, and Mr. WALSH of New York) introduced the following bill; which was referred to the Committee on Ways and Means:

A BILL

To amend the Internal Revenue Code of 1986 to provide for tax-favored retirement health savings accounts, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Retiree Health Account Act of 2008”.

SEC. 2. RETIREMENT HEALTH ARRANGEMENT.

(a) In General.—Section 401 of the Internal Revenue Code of 1986 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesig-
nating subsection (o) as subsection (p) and inserting after subsection (n) the following new subsection:

“(o) 

RETIRED HEALTH PLAN.—

“(1) IN GENERAL.—

“(A) TREATED IN SAME MANNER AS 401(k).—Except as provided in this subsection, a retirement health arrangement shall be treat-
ed for purposes of this title in the same manner as an qualified cash or deferred arrangement described in section 401(k)(2).

“(B) SEPARATE APPLICATION OF APPLICA-

BLE RULES.—Rules made applicable by reason of this paragraph shall be applied separately with respect to retirement health arrangements and other qualified cash or deferred arrange-
ments of the individual.

“(2) RETIREMENT HEALTH ARRANGEMENT.—

For purposes of this subsection, the term ‘retirement health arrangement’ means a cash or deferred ar-

rangement described in section 401(k)(2) which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as a retirement health arrangement.

“(3) CONTRIBUTIONS AFTER MEDICARE ELIGI-

BILITY.—Except in the case of a rollover contribu-
tion described in paragraph (5)(A), no contributions may be made to an employee’s retirement health arrangement during calendar years beginning after the first month such employee is entitled to benefits under title XVIII of the Social Security Act.

“(4) TREATMENT OF DISTRIBUTIONS.—

“(A) IN GENERAL.—Any amounts distributed from a retirement health arrangement shall be included in gross income, unless such amount is used exclusively to pay qualified medical retirement expenses of the employee.

“(B) QUALIFIED RETIREMENT MEDICAL EXPENSE.—For purposes of this section, the term ‘qualified retirement medical expense’ means, with respect to an individual, amounts paid by such individual for medical care (as defined in section 213(d)) of the individual, the individual’s spouse, or a dependent of the individual, but only if such payments are made on or after the date that the individual attains age 55.

“(C) HARDSHIP DISTRIBUTIONS.—Subparagraph (A) shall not apply to any amount paid or distributed—
“(i) on or after disability of the employee,

“(ii) if such amount is used exclusively to pay for insurance covering medical care with respect to the individual, the individual’s spouse, or a dependent of the individual during a period of unemployment of the individual, or

“(iii) if such amount is used exclusively to pay for medical care under circumstances that, to the extent provided in regulations, constitute a hardship.

“(D) OTHER DISTRIBUTION RULES.—

“(i) PLAN TERMINATION.—Subparagraph (A) shall not apply to amounts paid or distributed on or after an event described in paragraph (10) of subsection (k).

“(ii) EXCESS CONTRIBUTIONS.—Rules similar to the rules of section 401(k)(8) shall apply for purposes of this subsection.

“(iii) NO MINIMUM DISTRIBUTION REQUIREMENT PRIOR TO DEATH.—Section 401(a)(9) and the incidental death benefit
requirement of section 401(a) shall not apply for purposes of this subsection.

“(iv) AFTER DEATH OF EMPLOYEE.—

Rules similar to the rules of paragraph (8) of section 223(f) shall apply for purposes of this section.

“(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) ROLLOVER CONTRIBUTIONS.—An amount is described in this subparagraph as a rollover contribution if it meets the requirements of clauses (i) and (ii).

“(i) IN GENERAL.—Paragraph (4)(A) shall not apply to any amount paid or distributed from a retirement health arrangement to the account holder to the extent the amount received is paid into a retirement health arrangement or individual health account (as defined in section 408B) for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

“(ii) LIMITATION.—This subparagraph shall not apply to any amount de-
scribed in clause (i) received by an individual from a retirement health arrangement if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in clause (i) from a retirement health arrangement which was not includible in the individual’s gross income because of the application of this subparagraph.

“(B) Coordination with Medical Expense Deduction.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a retirement health arrangement shall not be treated as an expense paid for medical care, to the extent such payment or distribution was not included in gross income.

“(C) No Exclusive Plan Requirement.—Section 401(k)(11)(A)(ii) shall not apply with respect to a retirement health arrangement.

“(D) Application of Participation and Discrimination Standards.—An employer may elect, at such time and in such form and
manner as the Secretary shall by regulation prescribe, to treat any qualified cash or de-
ferred arrangement and retirement health ar-
rangement maintained by the employer as 1 ar-
rangement for purposes of meeting the require-
ments of section 401(k)(3)(A)(ii).”.

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 2008.

SEC. 3. INDIVIDUAL HEALTH ACCOUNTS.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (re-
lating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408A the following new section:

“SEC. 408B. INDIVIDUAL HEALTH ACCOUNTS.

“(a) In General.—

“(1) Treated in same manner as IRA.—Ex-
cept as provided in this section, an individual health account shall be treated for purposes of this title in the same manner as an individual retirement plan.

“(2) Separate application of rules.— Rules made applicable by reason of this paragraph shall be applied separately with respect to individual
health accounts and individual retirement plans of
the individual.

“(b) Individual Health Account.—For purposes of this title, the term ‘individual health account’ means an individual retirement plan (as defined in section 7701(a)(37)) which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as an individual health account.

“(c) Contributions.—

“(1) Retirement Health Savings Refund Payment.—Section 408(a)(1) shall not apply with respect to a payment under section 6431.

“(2) Contributions after Medicare Eligibility.—Except in the case of a rollover contribution described in subsection (e)(1), no contributions may be made to an employee’s retirement health arrangement during calendar years beginning after the first month such employee is entitled to benefits under title XVIII of the Social Security Act.

“(d) Treatment of Distributions.—

“(1) In General.—Any amounts distributed from an individual health account shall be included in gross income, unless such amount is used exclusively to pay qualified medical retirement expenses of the account beneficiary.
“(2) Qualified retirement medical expense.—For purposes of this section, the term ‘qualified retirement medical expense’ shall have the meaning given such term by section 401(o)(4) (relating to retirement health arrangements).

“(3) Hardship distributions.—Paragraph (1) shall not apply to any amount paid or distributed—

“(A) on or after disability (within the meaning of section 72(m)(7)) of the account beneficiary,

“(B) if such amount is used exclusively to pay for insurance covering medical care with respect to the individual, the individual’s spouse, or a dependent of the individual during a period of unemployment of the account beneficiary, or

“(C) if such amount is used exclusively to pay for medical care under circumstances that, to the extent provided in regulations, constitute a hardship.

“(4) Other distribution rules.—

“(A) Excess contributions; transfer of account incident to divorce.—Rules similar to the rules of paragraphs (4) through
(6) of section 408(d) shall apply for purposes of this section.

“(B) No minimum distribution requirement prior to death.—Notwithstanding subsections (a)(6) and (b)(6), section 401(a)(9) and the incidental death benefit requirement of section 401(a) shall not apply for purposes of this subsection.

“(C) Treatment after death of account beneficiary.—Rules similar to the rules of paragraph (8) of section 223(f) shall apply for purposes of this section.

“(e) Definitions and special rules.—For purposes of this section—

“(1) Rollover contributions.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of clauses (i) and (ii).

“(A) In general.—Paragraph (1) shall not apply to any amount paid or distributed from an individual health account to the account holder to the extent the amount received is paid into an individual health account or retirement health arrangement (as defined in section 401(o)(2)) for the benefit of such holder
not later than the 60th day after the day on
which the holder receives the payment or dis-
tribution.

“(B) LIMITATION.—This paragraph shall
not apply to any amount described in para-
graph (A) received by an individual from an in-
dividual health account if, at any time during
the 1-year period ending on the day of such re-
ceipt, such individual received any other amount
described in subparagraph (A) from an indi-
vidual health account which was not includible
in the individual’s gross income because of the
application of this paragraph.

“(2) COORDINATION WITH MEDICAL EXPENSE
DEDUCTION.—For purposes of determining the
amount of the deduction under section 213, any pay-
ment or distribution out of an individual health ac-
count shall not be treated as an expense paid for
medical care, to the extent such payment or distribu-
tion was not included in gross income.

“(3) ACCOUNT BENEFICIARY.—The term ‘ac-
count beneficiary’ means the individual on whose be-
half the retiree health savings account is estab-
lished.”.
(b) Clerical Amendment.—The table of sections for subpart A of part I of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 408A the following new item:

“Sec. 408B. Individual health accounts.”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 4. PORTION OF SAVER’S CREDIT REFUNDABLE.

(a) In General.—Section 25B of such Code (relating to elective deferrals and IRA contributions by certain individuals) is amended by adding at the end the following new subsection:

“(h) Portion of Credit Refundable.—

“(1) In General.—The aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

“(A) $1,000, or

“(B) the amount of the credit attributable to qualified retirement savings contributions made by the individual to individual health accounts and retirement health arrangements which would be allowed under this section (without regard to this subsection and the limitation under section 26(a)(2) or subsection (g), as the case may be).
The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a)(2) or subsection (g), as the case may be.

“(2) LIMITATION.—The amount of the credit allowed under this subsection for any taxable year shall not exceed an amount equal to the excess (if any) of—

“(A) $5,000, over

“(B) the aggregate amount of credits allowed under this subsection for all prior taxable years.

“(3) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2009, the $1,000 amount contained in paragraph (1)(A) 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 2008’ for ‘calendar year 1992’ in subparagraph (B) thereof.
Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $10.’’.

(b) Refund Payable to Health Account.—

(1) In General.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“Sec. 6431. Retirement Health Savings Refund Payment.

“(a) In General.—In the case of a credit allowed to an individual which is attributable to an increase under section 25B(h), the Secretary shall pay the amount of such credit into the designated retirement account of the individual.

“(b) Designated Retirement Account.—The term ‘designated retirement account’ means any individual health account or retirement health arrangement of the individual—

“(1) which is designated (in such form and manner as the Secretary may provide) on the individual’s return of tax for the taxable year to receive the payment under subsection (a), and

“(2) which, under the terms of the account or arrangement, accepts the payment described in paragraph (1).
“(c) Payment Not Treated as an Annual Addition.—For purposes of section 415(c) (relating to limitation for defined contribution plans), a payment under section 6431 shall not be treated as an annual addition.”.

(2) Clerical Amendment.—The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end the following new item:

“Sec. 6431. Retirement health savings refund payment.”.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.