112th Congress
2d Session

H. R. 5858

To amend the Internal Revenue Code of 1986 to improve health savings accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HERGER introduced the following bill; which was referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to improve 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. TABLE OF CONTENTS.

4. The table of contents for this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. Saver's credit for contributions to health savings accounts.
Sec. 3. Special rule for certain medical expenses incurred before establishment
of account.
Sec. 4. Allow both spouses to make catch-up contributions to the same health
savings account.
Sec. 5. Individuals eligible for veterans benefits for a service-connected dis-
ability.
Sec. 6. Distributions by certain early retirees for health coverage treated as
qualified medical expense.
SEC. 2. SAVERS CREDIT FOR CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.

(a) ALLOWANCE OF CREDIT.—Subsection (a) of section 25B of the Internal Revenue Code of 1986 is amended by inserting “aggregate qualified HSA contributions and” after “so much of the”.

(b) QUALIFIED HSA CONTRIBUTIONS.—Subsection (d) of section 25B of such Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

“(2) QUALIFIED HSA CONTRIBUTIONS.—The term ‘qualified HSA contribution’ means, with respect to any taxable year, any contribution to a health savings account (as defined in section 223(d)(1)) if—

“(A) such contribution is allowable as a deduction to the taxpayer under section 223(a) for such taxable year, or

“(B) such contribution is made by an employer of the taxpayer at the election of the taxpayer under a cafeteria plan (as defined in section 125(d)) and is not includible in the gross income of the taxpayer by reason of section 125.”.
(c) REPORTING OF HSA ELECTIVE CONTRIBUTIONS.—Paragraph (12) of section 6051(a) of such Code is amended to read as follows:

“(12) the total amount contributed to health savings accounts (as defined in section 223(d)) of the employee or the employee’s spouse and the portion of such total amount contributed at the election of the employee under any cafeteria plan (as defined in section 125(d)),”.

(d) CONFORMING AMENDMENTS.—Section 25B(d)(3) of such Code, as redesignated by subsection (b), is amended—

(1) by striking the first sentence of subparagraph (A) and inserting the following: “The aggregate qualified retirement savings contributions determined under paragraph (1) and qualified HSA contributions determined under paragraph (2) shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) or paragraph (2) (as the case may be) may be made.”, and

(2) by inserting “223(f)(1) or (3),” after “section 72(p)” in subparagraph (C)(i).
(e) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

**Sec. 3. Special Rule for Certain Medical Expenses Incurred Before Establishment of Account.**

(a) **In General.**—Paragraph (2) of section 223(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(D) Treatment of Certain Medical Expenses Incurred Before Establishment of Account.—If a health savings account is established during the 60-day period beginning on the date that coverage of the account beneficiary under a high deductible health plan begins, then, solely for purposes of determining whether an amount paid is used for a qualified medical expense, such account shall be treated as having been established on the date that such coverage begins."

(b) **Effective Date.**—The amendment made by this section shall apply with respect to coverage beginning after the date of the enactment of this Act.
SEC. 4. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CONTRIBUTIONS TO THE SAME HEALTH SAVINGS ACCOUNT.

(a) IN GENERAL.—Paragraph (5) of section 223(b) of the Internal Revenue Code of 1986 is amended to read as follows:

“(5) SPECIAL RULE FOR MARRIED INDIVIDUALS WITH FAMILY COVERAGE.—

“(A) IN GENERAL.—In the case of individuals who are married to each other, if both spouses are eligible individuals and either spouse has family coverage under a high deductible health plan as of the first day of any month—

“(i) the limitation under paragraph (1) shall be applied by not taking into account any other high deductible health plan coverage of either spouse (and if such spouses both have family coverage under separate high deductible health plans, only one such coverage shall be taken into account),

“(ii) such limitation (after application of clause (i)) shall be reduced by the aggregate amount paid to Archer MSAs of such spouses for the taxable year, and
“(iii) such limitation (after application of clauses (i) and (ii)) shall be divided equally between such spouses unless they agree on a different division.

“(B) TREATMENT OF ADDITIONAL CONTRIBUTION AMOUNTS.—If both spouses referred to in subparagraph (A) have attained age 55 before the close of the taxable year, the limitation referred to in subparagraph (A)(iii) which is subject to division between the spouses shall include the additional contribution amounts determined under paragraph (3) for both spouses. In any other case, any additional contribution amount determined under paragraph (3) shall not be taken into account under subparagraph (A)(iii) and shall not be subject to division between the spouses.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 5. INDIVIDUALS ELIGIBLE FOR VETERANS BENEFITS FOR A SERVICE-CONNECTED DISABILITY.

(a) IN GENERAL.—Paragraph (1) of section 223(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:
“(C) Special rule for individuals eligible for certain veterans benefits.—An individual shall not fail to be treated as an eligible individual for any period merely because the individual receives hospital care or medical services under any law administered by the Secretary of Veterans Affairs for a service-connected disability (within the meaning of section 101(16) of title 38, United States Code).”.

(b) Effective Date.—The amendment made by this section shall apply to months beginning after December 31, 2012.

SEC. 6. DISTRIBUTIONS BY CERTAIN EARLY RETIREES FOR HEALTH COVERAGE TREATED AS QUALIFIED MEDICAL EXPENSE.

(a) In General.—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 an account beneficiary who has attained age 55 but not the age specified in section 1811 of the Social Security Act, any group health plan (as defined in section 5000(b)(1)) in which such
account beneficiary is enrolled by reason of being a former employee or a surviving spouse of a former employee.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid for coverage for periods after December 31, 2012.