

110TH CONGRESS  
2D SESSION

# H. R. 6288

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2008

Mr. MCHUGH (for himself, Mr. KUHLMANN 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

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for tax-favored retirement 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 “Retiree Health Ac-  
5 count Act of 2008”.

6 **SEC. 2. RETIREMENT HEALTH ARRANGEMENT.**

7 (a) IN GENERAL.—Section 401 of the Internal Rev-  
8 enue Code of 1986 (relating to qualified pension, profit-  
9 sharing, and stock bonus plans) is amended by redesign-

1 nating subsection (o) as subsection (p) and inserting after  
2 subsection (n) the following new subsection:

3 “(o) RETIREMENT HEALTH PLAN.—

4 “(1) IN GENERAL.—

5 “(A) TREATED IN SAME MANNER AS  
6 401(k).—Except as provided in this subsection,  
7 a retirement health arrangement shall be treat-  
8 ed for purposes of this title in the same manner  
9 as an qualified cash or deferred arrangement  
10 described in section 401(k)(2).

11 “(B) SEPARATE APPLICATION OF APPLICA-  
12 BLE RULES.—Rules made applicable by reason  
13 of this paragraph shall be applied separately  
14 with respect to retirement health arrangements  
15 and other qualified cash or deferred arrange-  
16 ments of the individual.

17 “(2) RETIREMENT HEALTH ARRANGEMENT.—

18 For purposes of this subsection, the term ‘retirement  
19 health arrangement’ means a cash or deferred ar-  
20 rangement described in section 401(k)(2) which is  
21 designated (in such manner as the Secretary may  
22 prescribe) at the time of establishment of the plan  
23 as a retirement health arrangement.

24 “(3) CONTRIBUTIONS AFTER MEDICARE ELIGI-  
25 BILITY.—Except in the case of a rollover contribu-

1       tion described in paragraph (5)(A), no contributions  
2       may be made to an employee's retirement health ar-  
3       rangement during calendar years beginning after the  
4       first month such employee is entitled to benefits  
5       under title XVIII of the Social Security Act.

6               “(4) TREATMENT OF DISTRIBUTIONS.—

7               “(A) IN GENERAL.—Any amounts distrib-  
8       uted from a retirement health arrangement  
9       shall be included in gross income, unless such  
10      amount is used exclusively to pay qualified med-  
11      ical retirement expenses of the employee.

12              “(B) QUALIFIED RETIREMENT MEDICAL  
13      EXPENSE.—For purposes of this section, the  
14      term ‘qualified retirement medical expense’  
15      means, with respect to an individual, amounts  
16      paid by such individual for medical care (as de-  
17      fined in section 213(d)) of the individual, the  
18      individual's spouse, or a dependent of the indi-  
19      vidual, but only if such payments are made on  
20      or after the date that the individual attains age  
21      55.

22              “(C) HARDSHIP DISTRIBUTIONS.—Sub-  
23      paragraph (A) shall not apply to any amount  
24      paid or distributed—

1           “(i) on or after disability of the em-  
2           ployee,

3           “(ii) if such amount is used exclu-  
4           sively to pay for insurance covering med-  
5           ical care with respect to the individual, the  
6           individual’s spouse, or a dependent of the  
7           individual during a period of unemploy-  
8           ment of the individual, or

9           “(iii) if such amount is used exclu-  
10          sively to pay for medical care under cir-  
11          cumstances that, to the extent provided in  
12          regulations, constitute a hardship.

13          “(D) OTHER DISTRIBUTION RULES.—

14          “(i) PLAN TERMINATION.—Subpara-  
15          graph (A) shall not apply to amounts paid  
16          or distributed on or after an event de-  
17          scribed in paragraph (10) of subsection  
18          (k).

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

22          “(iii) NO MINIMUM DISTRIBUTION RE-  
23          QUIREMENT PRIOR TO DEATH.—Section  
24          401(a)(9) and the incidental death benefit

1 requirement of section 401(a) shall not  
2 apply for purposes of this subsection.

3 “(iv) AFTER DEATH OF EMPLOYEE.—  
4 Rules similar to the rules of paragraph (8)  
5 of section 223(f) shall apply for purposes  
6 of this section.

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

9 “(A) ROLLOVER CONTRIBUTIONS.—An  
10 amount is described in this subparagraph as a  
11 rollover contribution if it meets the require-  
12 ments of clauses (i) and (ii).

13 “(i) IN GENERAL.—Paragraph (4)(A)  
14 shall not apply to any amount paid or dis-  
15 tributed from a retirement health arrange-  
16 ment to the account holder to the extent  
17 the amount received is paid into a retire-  
18 ment health arrangement or individual  
19 health account (as defined in section  
20 408B) for the benefit of such holder not  
21 later than the 60th day after the day on  
22 which the holder receives the payment or  
23 distribution.

24 “(ii) LIMITATION.—This subpara-  
25 graph shall not apply to any amount de-

1           scribed in clause (i) received by an indi-  
2           vidual from a retirement health arrange-  
3           ment if, at any time during the 1-year pe-  
4           riod ending on the day of such receipt,  
5           such individual received any other amount  
6           described in clause (i) from a retirement  
7           health arrangement which was not includ-  
8           ible in the individual's gross income be-  
9           cause of the application of this subpara-  
10          graph.

11           “(B) COORDINATION WITH MEDICAL EX-  
12          PENSE DEDUCTION.—For purposes of deter-  
13          mining the amount of the deduction under sec-  
14          tion 213, any payment or distribution out of a  
15          retirement health arrangement shall not be  
16          treated as an expense paid for medical care, to  
17          the extent such payment or distribution was not  
18          included in gross income.

19           “(C) NO EXCLUSIVE PLAN REQUIRE-  
20          MENT.—Section 401(k)(11)(A)(ii) shall not  
21          apply with respect to a retirement health ar-  
22          rangement.

23           “(D) APPLICATION OF PARTICIPATION AND  
24          DISCRIMINATION STANDARDS.—An employer  
25          may elect, at such time and in such form and

1 manner as the Secretary shall by regulation  
2 prescribe, to treat any qualified cash or de-  
3 ferred arrangement and retirement health ar-  
4 rangement maintained by the employer as 1 ar-  
5 rangement for purposes of meeting the require-  
6 ments of section 401(k)(3)(A)(ii).”.

7 (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to years beginning after December  
9 31, 2008.

10 **SEC. 3. INDIVIDUAL HEALTH ACCOUNTS.**

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

16 **“SEC. 408B. INDIVIDUAL HEALTH ACCOUNTS.**

17 “(a) IN GENERAL.—

18 “(1) TREATED IN SAME MANNER AS IRA.—Ex-  
19 cept as provided in this section, an individual health  
20 account shall be treated for purposes of this title in  
21 the same manner as an individual retirement plan.

22 “(2) SEPARATE APPLICATION OF RULES.—  
23 Rules made applicable by reason of this paragraph  
24 shall be applied separately with respect to individual

1 health accounts and individual retirement plans of  
2 the individual.

3 “(b) INDIVIDUAL HEALTH ACCOUNT.—For purposes  
4 of this title, the term ‘individual health account’ means  
5 an individual retirement plan (as defined in section  
6 7701(a)(37)) which is designated (in such manner as the  
7 Secretary may prescribe) at the time of establishment of  
8 the plan as an individual health account.

9 “(c) CONTRIBUTIONS.—

10 “(1) RETIREMENT HEALTH SAVINGS REFUND  
11 PAYMENT.—Section 408(a)(1) shall not apply with  
12 respect to a payment under section 6431.

13 “(2) CONTRIBUTIONS AFTER MEDICARE ELIGI-  
14 BILITY.—Except in the case of a rollover contribu-  
15 tion described in subsection (e)(1), no contributions  
16 may be made to an employee’s retirement health ar-  
17 rangement during calendar years beginning after the  
18 first month such employee is entitled to benefits  
19 under title XVIII of the Social Security Act.

20 “(d) TREATMENT OF DISTRIBUTIONS.—

21 “(1) IN GENERAL.—Any amounts distributed  
22 from an individual health account shall be included  
23 in gross income, unless such amount is used exclu-  
24 sively to pay qualified medical retirement expenses  
25 of the account beneficiary.



1           “(2) QUALIFIED RETIREMENT MEDICAL EX-  
2           PENSE.—For purposes of this section, the term  
3           ‘qualified retirement medical expense’ shall have the  
4           meaning given such term by section 401(o)(4) (relat-  
5           ing to retirement health arrangements).

6           “(3) HARDSHIP DISTRIBUTIONS.—Paragraph  
7           (1) shall not apply to any amount paid or distrib-  
8           uted—

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

12                   “(B) if such amount is used exclusively to  
13                   pay for insurance covering medical care with re-  
14                   spect to the individual, the individual’s spouse,  
15                   or a dependent of the individual during a period  
16                   of unemployment of the account beneficiary, or

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

21           “(4) OTHER DISTRIBUTION RULES.—

22                   “(A) EXCESS CONTRIBUTIONS; TRANSFER  
23                   OF ACCOUNT INCIDENT TO DIVORCE.—Rules  
24                   similar to the rules of paragraphs (4) through

1 (6) of section 408(d) shall apply for purposes of  
2 this section.

3 “(B) NO MINIMUM DISTRIBUTION RE-  
4 QUIREMENT PRIOR TO DEATH.—Notwith-  
5 standing subsections (a)(6) and (b)(6), section  
6 401(a)(9) and the incidental death benefit re-  
7 quirement of section 401(a) shall not apply for  
8 purposes of this subsection.

9 “(C) TREATMENT AFTER DEATH OF AC-  
10 COUNT BENEFICIARY.—Rules similar to the  
11 rules of paragraph (8) of section 223(f) shall  
12 apply for purposes of this section.

13 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-  
14 poses of this section—

15 “(1) ROLLOVER CONTRIBUTIONS.—An amount  
16 is described in this paragraph as a rollover contribu-  
17 tion if it meets the requirements of clauses (i) and  
18 (ii).

19 “(A) IN GENERAL.—Paragraph (1) shall  
20 not apply to any amount paid or distributed  
21 from an individual health account to the ac-  
22 count holder to the extent the amount received  
23 is paid into an individual health account or re-  
24 tirement health arrangement (as defined in sec-  
25 tion 401(o)(2)) for the benefit of such holder

1 not later than the 60th day after the day on  
2 which the holder receives the payment or dis-  
3 tribution.

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

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

21 “(3) ACCOUNT BENEFICIARY.—The term ‘ac-  
22 count beneficiary’ means the individual on whose be-  
23 half the retiree health savings account is estab-  
24 lished.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
2 for subpart A of part I of subchapter D of chapter 1 of  
3 such Code is amended by inserting after the item relating  
4 to section 408A the following new item:

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

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 2008.

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

9 (a) IN GENERAL.—Section 25B of such Code (relat-  
10 ing to elective deferrals and IRA contributions by certain  
11 individuals) is amended by adding at the end the following  
12 new subsection:

13 “(h) PORTION OF CREDIT REFUNDABLE.—

14 “(1) IN GENERAL.—The aggregate credits al-  
15 lowed to a taxpayer under subpart C shall be in-  
16 creased by the lesser of—

17 “(A) \$1,000, or

18 “(B) the amount of the credit attributable  
19 to qualified retirement savings contributions  
20 made by the individual to individual health ac-  
21 counts and retirement health arrangements  
22 which would be allowed under this section  
23 (without regard to this subsection and the limi-  
24 tation under section 26(a)(2) or subsection (g),  
25 as the case may be).

1 The amount of the credit allowed under this subsection  
2 shall not be treated as a credit allowed under this subpart  
3 and shall reduce the amount of credit otherwise allowable  
4 under subsection (a) without regard to section 26(a)(2)  
5 or subsection (g), as the case may be.

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

10                   “(A) \$5,000, over

11                   “(B) the aggregate amount of credits al-  
12           lowed under this subsection for all prior taxable  
13           years.

14           “(3) INFLATION ADJUSTMENT.—In the case of  
15           any taxable year beginning in a calendar year after  
16           2009, the \$1,000 amount contained in paragraph  
17           (1)(A) shall be increased by an amount equal to—

18                   “(A) such dollar amount, multiplied by

19                   “(B) the cost-of-living adjustment deter-  
20           mined under section 1(f)(3) for the calendar  
21           year in which the taxable year begins, deter-  
22           mined by substituting ‘calendar year 2008’ for  
23           ‘calendar year 1992’ in subparagraph (B)  
24           thereof.

1 Any increase determined under the preceding sen-  
2 tence shall be rounded to the nearest multiple of  
3 \$10.”.

4 (b) REFUND PAYABLE TO HEALTH ACCOUNT.—

5 (1) IN GENERAL.—Subchapter B of chapter 65  
6 of the Internal Revenue Code of 1986 is amended by  
7 adding at the end the following new section:

8 **“SEC. 6431. RETIREMENT HEALTH SAVINGS REFUND PAY-**  
9 **MENT.**

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

15 “(b) DESIGNATED RETIREMENT ACCOUNT.—The  
16 term ‘designated retirement account’ means any individual  
17 health account or retirement health arrangement of the  
18 individual—

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

23 “(2) which, under the terms of the account or  
24 arrangement, accepts the payment described in para-  
25 graph (1).

1       “(c) PAYMENT NOT TREATED AS AN ANNUAL ADDI-  
2 TION.—For purposes of section 415(c) (relating to limita-  
3 tion for defined contribution plans), a payment under sec-  
4 tion 6431 shall not be treated as an annual addition.”.

5           (2) CLERICAL AMENDMENT.—The table of sec-  
6 tions for subchapter B of chapter 65 of such Code  
7 is amended by adding at the end the following new  
8 item:

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

9       (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to taxable years beginning after  
11 December 31, 2008.

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