

109TH CONGRESS
2^D SESSION

H. R. 6065

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

SEPTEMBER 13, 2006

Mr. CANTOR 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 tax incentives for the payment of premiums for high deductible health plans, 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, ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Tax Free Health Savings Act of 2006”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 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.

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

3 (a) IN GENERAL.—Part VII of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 additional itemized deductions for individuals) is amended
 6 by redesignating section 224 as section 225 and by insert-
 7 ing after section 223 the following new section:

8 **“SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH**
 9 **PLANS.**

10 “(a) DEDUCTION ALLOWED.—In the case of an indi-
 11 vidual, there shall be allowed as a deduction for the tax-
 12 able year the aggregate amount paid by the taxpayer as
 13 premiums under a high deductible health plan with respect
 14 to months during such year for which such individual is
 15 an eligible individual with respect to such health plan.

16 “(b) DEFINITIONS.—For purposes of this section—

17 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
 18 individual’ means an individual who—

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

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

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

6 “(c) SPECIAL RULES.—

7 “(1) DEDUCTION LIMITS.—

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

15 “(B) PLANS COVERING INELIGIBLE INDI-
16 VIDUALS.—If 2 or more individuals are covered
17 by a high deductible health plan for any month
18 but only 1 of such individuals is an eligible indi-
19 vidual for such month, only 50 percent of the
20 aggregate amount paid by such eligible indi-
21 vidual as premiums under the plan with respect
22 to such month shall be taken into account for
23 purposes of this section.

24 “(2) GROUP HEALTH PLAN COVERAGE.—

1 “(A) IN GENERAL.—No deduction shall be
2 allowed for an individual under subsection (a)
3 for any amount paid for coverage under a high
4 deductible health plan for a month if that indi-
5 vidual participates in any coverage under a
6 group health plan (within the meaning of sec-
7 tion 5000 without regard to section 5000(d)).
8 For purposes of the preceding sentence, an ar-
9 rangement which constitutes individual health
10 insurance shall not be treated as a group health
11 plan if such arrangement is a high deductible
12 health plan (as defined in section 223(c)(2)), or
13 is a payment by an employer or employee orga-
14 nization with respect to such high deductible
15 health plan, notwithstanding that an employer
16 or employee organization negotiates the cost or
17 benefits of such arrangement.

18 “(B) EXCEPTION FOR PLANS ONLY PRO-
19 VIDING CONTRIBUTIONS TO HEALTH SAVINGS
20 ACCOUNTS.—Subparagraph (A) shall not apply
21 to an individual if the individual’s only coverage
22 under a group health plan for a month consists
23 of contributions by an employer to a health sav-
24 ings account with respect to which the indi-
25 vidual is the account beneficiary.

1 “(C) EXCEPTION FOR CERTAIN PER-
2 MITTED COVERAGE.—Subparagraph (A) shall
3 not apply to an individual if the individual’s
4 only coverage under a group health plan for a
5 month is coverage described in clause (i) or (ii)
6 of section 223(c)(1)(B).

7 “(3) MEDICAL AND HEALTH SAVINGS AC-
8 COUNTS.—Subsection (a) shall not apply with re-
9 spect to any amount which is paid or distributed out
10 of an Archer MSA or a health savings account which
11 is not included in gross income under section 220(f)
12 or 223(f), as the case may be.

13 “(4) COORDINATION WITH DEDUCTION FOR
14 HEALTH INSURANCE OF SELF-EMPLOYED INDIVID-
15 UALS.—Any amount taken into account by the tax-
16 payer in computing the deduction under section
17 162(l) shall not be taken into account under this
18 section.

19 “(5) COORDINATION WITH MEDICAL EXPENSE
20 DEDUCTION.—Any amount taken into account by
21 the taxpayer in computing the deduction under this
22 section shall not be taken into account under section
23 213.”.

24 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-
25 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)

1 of section 62 of such Code is amended by inserting before
 2 the last sentence at the end the following new paragraph:

3 “(21) PREMIUMS FOR HIGH DEDUCTIBLE
 4 HEALTH PLANS.—The deduction allowed by section
 5 224.”.

6 (c) COORDINATION WITH SECTION 35 HEALTH IN-
 7 SURANCE COSTS CREDIT.—Section 35(g)(2) of such Code
 8 is amended by striking “or 213” and inserting “, 213,
 9 or 224”.

10 (d) CLERICAL AMENDMENT.—The table of sections
 11 for part VII of subchapter B of chapter 1 of such Code
 12 is amended by redesignating the item relating to section
 13 224 as an item relating to section 225 and by inserting
 14 before such item the following new item:

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

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

18 **SEC. 3. CREDIT FOR CERTAIN EMPLOYMENT TAXES PAID**
 19 **WITH RESPECT TO PREMIUMS FOR HIGH DE-**
 20 **DUCTIBLE HEALTH PLANS AND CONTRIBU-**
 21 **TIONS TO HEALTH SAVINGS ACCOUNTS.**

22 (a) ALLOWANCE OF CREDIT.—Subpart C of part IV
 23 of subchapter A of chapter 1 of the Internal Revenue Code
 24 of 1986 (relating to refundable credits) is amended by re-

1 designating section 36 as section 37 and by inserting after
2 section 35 the following new section:

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

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

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

15 “(2) the sum of—

16 “(A) the aggregate amount paid by such
17 individual as premiums under a high deductible
18 health plan which is allowed as a deduction
19 under section 224 for the taxable year, and

20 “(B) the aggregate amount paid to a
21 health savings account of such individual which
22 is allowed as a deduction under section 223 for
23 the taxable year.

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

1 “(1) IN GENERAL.—The credit allowed under
2 subsection (a) with respect to any individual for any
3 taxable year shall not exceed the specified employ-
4 ment taxes with respect to such individual for such
5 taxable year.

6 “(2) SPECIFIED EMPLOYMENT TAXES.—For
7 purposes of this subsection, the term ‘specified em-
8 ployment taxes’ means, with respect to any indi-
9 vidual for any taxable year, the sum of—

10 “(A) the taxes imposed under sections
11 3101(a), 3101(b), 3111(a), 3111(b), 3201(a),
12 3211(a), and 3221(a) (taking into account any
13 adjustments or refunds under section 6413)
14 with respect to wages and compensation re-
15 ceived by such individual during the calendar
16 year in which such taxable year begins, and

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

21 “(c) SPECIAL RULE FOR EMPLOYMENT COMPENSA-
22 TION IN EXCESS OF SOCIAL SECURITY CONTRIBUTION
23 BASE.—

24 “(1) IN GENERAL.—If the aggregate amount of
25 employment compensation received by any individual

1 during the calendar year in which the taxable year
2 begins exceeds the contribution and benefit base (as
3 determined under section 230 of the Social Security
4 Act), the amount of the credit determined under
5 subsection (a) (determined before application of sub-
6 section (b)) shall be equal to the sum of—

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

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

20 “(2) EMPLOYMENT COMPENSATION.—For pur-
21 poses of this subsection, the term ‘employment com-
22 pensation’ means, with respect to any individual for
23 any taxable year, the sum of—

24 “(A) the wages (as defined in section
25 3121(a)) and compensation (as defined in sec-

1 tion 3231(e)) received by such individual during
2 the calendar year in which such taxable year
3 begins, and

4 “(B) the self-employment income (as de-
5 fined in section 1402(b)) of such individual for
6 such taxable year.

7 “(d) RECAPTURE OF CONTRIBUTION CREDIT IN
8 CASE OF CERTAIN NONQUALIFIED DISTRIBUTIONS FROM
9 HEALTH SAVINGS ACCOUNTS.—

10 “(1) IN GENERAL.—In the case of a taxpayer
11 whose gross income for any taxable year includes a
12 payment or distribution from a health savings ac-
13 count of the taxpayer by reason of section 223(f)(2)
14 and with respect to whom there is a contribution
15 credit recapture amount for such taxable year, the
16 tax imposed by this chapter on such taxpayer for
17 such taxable year shall be increased by the lesser
18 of—

19 “(A) the product of—

20 “(i) the sum of the rates of tax in ef-
21 fect under sections 3101(a), 3101(b),
22 3111(a), and 3111(b) for the calendar year
23 in which such taxable year begins, multi-
24 plied by

1 “(ii) the amount which is so includ-
2 ible, or

3 “(B) the contribution credit recapture
4 amount for such taxable year.

5 “(2) CONTRIBUTION CREDIT RECAPTURE
6 AMOUNT.—For purposes of this subsection, the term
7 ‘contribution credit recapture amount’ means, with
8 respect to any taxpayer for any taxable year, the ex-
9 cess (if any) of—

10 “(A) the aggregate HSA contribution cred-
11 its allowed to the taxpayer for such taxable year
12 and the three preceding taxable years, over

13 “(B) the aggregate tax imposed under this
14 subsection with respect to such taxpayer for
15 such three preceding taxable years.

16 “(3) HSA CONTRIBUTION CREDIT.—For pur-
17 poses of this subsection, the term ‘HSA contribution
18 credit’ means, with respect to any taxable year, the
19 credit which would have been allowed under this sec-
20 tion for such taxable year if the amount described
21 in subsection (a)(2)(A) for such taxable year were
22 zero.”.

23 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (f) of section 223 of the Internal
2 Revenue Code of 1986 is amended by adding at the
3 end the following new paragraph:

4 “(9) CROSS REFERENCE.—For rules providing
5 for the recapture of the HSA contribution credit in
6 the case of certain nonqualified distributions from
7 health savings accounts, see section 36(d).”.

8 (2) Paragraph (2) of section 1324(b) of title
9 31, United States Code, is amended by inserting “or
10 section 36” after “section 35”.

11 (3) The table of sections for subpart C of part
12 IV of subchapter A of chapter 1 of the Internal Rev-
13 enue Code of 1986 is amended by striking the item
14 relating to section 36 and by inserting after the item
15 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.”.

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

19 **SEC. 4. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
20 **COVERAGE UNDER HIGH DEDUCTIBLE**
21 **HEALTH PLAN.**

22 (a) ALLOWANCE OF CREDIT.—Subpart C of part IV
23 of subchapter A of chapter 1 of the Internal Revenue Code

1 of 1986 (as amended by this Act) is amended by inserting
2 after section 36 the following new section:

3 **“SEC. 36A. HEALTH INSURANCE COVERAGE UNDER HIGH**
4 **DEDUCTIBLE HEALTH PLAN.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
6 dividual, there shall be allowed as a credit against the tax
7 imposed by this subtitle for the taxable year the aggregate
8 amount paid in cash by the taxpayer for qualified coverage
9 under a high deductible health plan for the taxpayer and
10 the taxpayer’s spouse and dependents.

11 “(b) LIMITATIONS.—

12 “(1) IN GENERAL.—The amount allowable as a
13 credit under subsection (a) for the taxable year shall
14 not exceed the sum of the monthly limitations for
15 months during such taxable year that the taxpayer
16 or the taxpayer’s spouse or dependents is an eligible
17 individual.

18 “(2) MONTHLY LIMITATION.—

19 “(A) IN GENERAL.—The monthly limita-
20 tion for any month is the credit percentage of
21 $\frac{1}{12}$ of—

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

1 “(ii) \$2,222 in the case of qualified
2 health insurance covering only 2 adults or
3 1 adult and 1 or more children, and

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

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

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

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

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

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

5 “(ii) taxpayer is a married individual,
6 surviving spouse (as defined in section
7 2(a)), or head of household (as defined in
8 section 2(b)) and has modified adjusted
9 gross income in excess of \$25,000 for the
10 taxable year,

11 the 90 percent in paragraph (3) shall be re-
12 duced by the number of percentage points
13 which bears the same ratio to 90 percentage
14 points as such excess bears to \$15,000.

15 “(B) SPECIAL RULE FOR MARRIED FILING
16 SEPARATE RETURN.—In the case of a married
17 individual who has coverage described in para-
18 graph (2)(A)(i) for any month in the taxable
19 year and who files a separate return for the
20 taxable year, subparagraph (A) shall be applied
21 by substituting for each dollar amount therein
22 one-half of such dollar amount.

23 “(C) SINGLE RETURN.—In the case of any
24 other return by an individual who has coverage

1 described in paragraph (2)(A)(i) for any month
2 in the taxable year, and if—

3 “(i) the taxpayer has modified ad-
4 justed gross income in excess of \$15,000
5 for the taxable year but not in excess of
6 \$20,000, the 90 percent in paragraph (3)
7 shall be reduced by the number of percent-
8 age points which bears the same ratio to
9 40 percentage points as—

10 “(I) the excess of modified ad-
11 justed gross income in excess of
12 \$15,000, bears to

13 “(II) \$5,000, or

14 “(ii) the taxpayer has modified ad-
15 justed gross income in excess of \$20,000
16 for the taxable year, the 90 percent in
17 paragraph (3) shall be reduced by the sum
18 of 40 percentage points plus the number of
19 percentage points which bears the same
20 ratio to 50 percentage points as—

21 “(I) the excess of modified ad-
22 justed gross income in excess of
23 \$20,000, bears to

24 “(II) \$10,000.

1 “(5) PHASEOUT OF CREDIT PERCENTAGE FOR
2 COVERAGE OF 2 OR MORE ADULTS AND CHIL-
3 DREN.—

4 “(A) IN GENERAL.—If—

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

9 “(ii) the taxpayer has modified ad-
10 justed gross income in excess of \$25,000
11 for the taxable year,

12 the 90 percent in paragraph (3) shall be re-
13 duced by the number of percentage points
14 which bears the same ratio to 90 percentage
15 points as such excess bears to \$35,000.

16 “(B) SPECIAL RULE FOR MARRIED FILING
17 SEPARATE RETURN.—In the case of a married
18 individual filing a separate return, subpara-
19 graph (A) shall be applied by substituting for
20 each dollar amount therein one-half of such dol-
21 lar amount.

22 “(6) ROUNDING.—Any percentage resulting
23 from a reduction under paragraphs (4) and (5) shall
24 be rounded to the nearest one-tenth of a percent.

1 “(7) MODIFIED ADJUSTED GROSS INCOME.—
2 For purposes of this subsection, the term ‘modified
3 adjusted gross income’ means adjusted gross income
4 determined—

5 “(A) without regard to this section and
6 sections 911, 931, and 933, and

7 “(B) after application of sections 86, 135,
8 137, 219, 221, and 469.

9 “(8) ADULT.—For purposes of this subsection,
10 the term ‘adult’ means an individual who is the tax-
11 payer, the taxpayer’s spouse, or a dependent of the
12 taxpayer who has attained age 24 as of the close of
13 the taxable year.

14 “(9) CHILD.—For purposes of this subsection,
15 the term ‘child’ means a dependent of the taxpayer
16 who has not attained age 24 as of the close of the
17 taxable year.

18 “(c) QUALIFIED COVERAGE UNDER A HIGH DE-
19 DUCTIBLE HEALTH PLAN.—For purposes of this section,
20 the term ‘qualified coverage under a high deductible health
21 plan’ means coverage under a high deductible health plan
22 (as defined in section 223(c)(2)) for any month for which
23 each individual covered under such plan is an eligible indi-
24 vidual.

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

3 “(1) IN GENERAL.—The term ‘eligible indi-
4 vidual’ means, with respect to any month, an indi-
5 vidual who—

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

8 “(B) does not have other specified cov-
9 erage.

10 “(2) GROUP HEALTH PLAN.—The term ‘group
11 health plan’ has the meaning given such term by
12 section 5000 without regard to subsection (d) there-
13 of. For purposes of the preceding sentence, an ar-
14 rangement which constitutes individual health insur-
15 ance shall not be treated as a group health plan if
16 such arrangement is a high deductible health plan
17 (as defined in section 223(c)(2)), or is a payment by
18 an employer or employee organization with respect
19 to such high deductible health plan, notwithstanding
20 that an employer or employee organization nego-
21 tiates the cost or benefits of such arrangement.

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

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

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

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

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

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

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

19 “(e) OTHER DEFINITIONS.—

20 “(1) DEPENDENTS.—For purposes of this sec-
21 tion—

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

1 “(B) SPECIAL RULE FOR DEPENDENT
2 CHILD OF DIVORCED PARENTS.—An individual
3 who is a child to whom section 152(e) applies
4 shall be treated as a dependent of the custodial
5 parent for a coverage month unless the custo-
6 dial and noncustodial parent provide otherwise.

7 “(C) DENIAL OF CREDIT TO DEPEND-
8 ENTS.—No credit shall be allowed under this
9 section to any individual with respect to whom
10 a deduction under section 151(c) is allowable to
11 another taxpayer for a taxable year beginning
12 in the calendar year in which such individual’s
13 taxable year begins.

14 “(f) INFLATION ADJUSTMENTS.—

15 “(1) CREDIT AND HEALTH INSURANCE
16 AMOUNTS.—In the case of any taxable year begin-
17 ning after 2007, each dollar amount referred to in
18 subsection (b)(2)(A) shall be increased by an
19 amount equal to—

20 “(A) such dollar amount, multiplied by

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

1 If any amount as adjusted under the preceding sen-
2 tence is not a multiple of \$10, such amount shall be
3 rounded to the nearest multiple of \$10.

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

9 “(A) such dollar amount, multiplied by

10 “(B) the cost-of-living adjustment deter-
11 mined under section 1(f)(3) for the calendar
12 year in which the taxable year begins, deter-
13 mined by substituting ‘calendar year 2006’ for
14 ‘calendar year 1992’ in subparagraph (B)
15 thereof.

16 If any amount as adjusted under the preceding sen-
17 tence is not a multiple of \$50, such amount shall be
18 rounded to the next lowest multiple of \$50.

19 “(g) SPECIAL RULES.—

20 “(1) COORDINATION WITH DEDUCTION FOR
21 PREMIUMS FOR HIGH DEDUCTIBLE HEALTH
22 PLANS.—No credit shall be allowable under this sec-
23 tion for a taxable year if a deduction is allowed
24 under section 224 for the taxable year.

1 “(2) COORDINATION WITH DEDUCTION FOR
2 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-
3 DIVIDUALS.—No credit shall be allowable under this
4 section for a taxable year if a deduction is allowed
5 under section 162(1) for the taxable year.

6 “(3) COORDINATION WITH ADVANCE PAY-
7 MENT.—Rules similar to the rules of section
8 35(g)(1) shall apply to any credit to which this sec-
9 tion applies.

10 “(4) COORDINATION WITH SECTION 35.—If a
11 taxpayer is eligible for the credit allowed under this
12 section and section 35 for any month, the taxpayer
13 shall elect which credit is to be allowed with respect
14 to such month.

15 “(h) EXPENSES MUST BE SUBSTANTIATED.—A pay-
16 ment for insurance to which subsection (a) applies may
17 be taken into account under this section only if the tax-
18 payer substantiates such payment in such form as the Sec-
19 retary may prescribe.

20 “(i) REGULATIONS.—The Secretary shall prescribe
21 such regulations as may be necessary to carry out the pur-
22 poses of this section.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Paragraph (2) of section 1324(b) of title
25 31, United States Code, as amended by this Act, is

1 amended by inserting “or section 36A” after “sec-
2 tion 36”.

3 (2) The table of sections for subpart C of part
4 IV of subchapter A of chapter 1 of the Internal Rev-
5 enue Code of 1986 (as amended by this Act) is
6 amended by inserting after the item relating to sec-
7 tion 36 the following new item:

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

8 (c) EFFECTIVE DATES.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2006.

11 **SEC. 5. ADVANCE PAYMENT OF CREDIT AS PREMIUM PAY-**
12 **MENT FOR HIGH DEDUCTIBLE HEALTH IN-**
13 **SURANCE.**

14 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
15 enue Code of 1986 (relating to miscellaneous provisions)
16 is amended by adding at the end the following:

17 **“SEC. 7529. ADVANCE PAYMENT OF CREDIT AS PREMIUM**
18 **PAYMENT FOR HIGH DEDUCTIBLE HEALTH**
19 **INSURANCE.**

20 “Not later than January 1, 2008, the Secretary shall
21 establish a program for making payments to providers of
22 qualified coverage under a high deductible health plan (as
23 defined by subsection (c) of section 36A) on behalf of indi-
24 viduals eligible for the credit under section 36A. Such pay-
25 ments shall be made on the basis of modified adjusted

1 gross income of eligible individuals for the preceding tax-
2 able year.”.

3 (b) DISCLOSURE OF RETURN INFORMATION FOR
4 PURPOSES OF ADVANCE PAYMENT OF CREDIT AS PRE-
5 MIUMS FOR HIGH DEDUCTIBLE HEALTH INSURANCE.—

6 (1) IN GENERAL.—Subsection (l) of section
7 6103 of such Code is amended by adding at the end
8 the following new paragraph:

9 “(21) DISCLOSURE OF RETURN INFORMATION
10 FOR PURPOSES OF ADVANCE PAYMENT OF CREDIT
11 AS PREMIUMS FOR HIGH DEDUCTIBLE HEALTH IN-
12 SURANCE.—The Secretary may, on behalf of individ-
13 uals eligible for the credit under section 36A, dis-
14 close to a provider of qualified coverage under a high
15 deductible health plan (as defined by subsection (c)
16 of section 36A), and persons acting on behalf of
17 such provider, return information with respect to
18 any such individual and the spouse and dependents
19 of such individual only to the extent necessary (as
20 prescribed by regulations issued by the Secretary) to
21 carry out the program established by section 7529
22 (relating to advance payment of credit as premium
23 payment for high deductible health insurance).”.

24 (2) CONFIDENTIALITY OF INFORMATION.—
25 Paragraph (3) of section 6103(a) of such Code is

1 amended by striking “or (20)” and inserting “(20),
2 or (21)”.

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

6 (c) INFORMATION REPORTING.—

7 (1) IN GENERAL.—Subpart B of part III of
8 subchapter A of chapter 61 of such Code (relating
9 to information concerning transactions with other
10 persons) is amended by inserting after section
11 6050T the following new section:

12 **“SEC. 6050U. RETURNS RELATING TO CREDIT FOR HEALTH**
13 **INSURANCE COVERAGE UNDER HIGH DE-**
14 **DUCTIBLE HEALTH PLAN.**

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

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

1 “(1) is in such form as the Secretary may pre-
2 scribe, and

3 “(2) contains—

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

6 “(B) the number of months for which
7 amounts were entitled to be received with re-
8 spect to such individual under section 7529 (re-
9 lating to advance payment of credit as premium
10 payment for high deductible health insurance),

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

13 “(D) such other information as the Sec-
14 retary may prescribe.

15 “(c) STATEMENTS TO BE FURNISHED TO INDIVID-
16 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
17 QUIRED.—Every person required to make a return under
18 subsection (a) shall furnish to each individual whose name
19 is required to be set forth in such return a written state-
20 ment showing—

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

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

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

5 (2) ASSESSABLE PENALTIES.—

6 (A) Subparagraph (B) of section
7 6724(d)(1) of such Code (relating to defini-
8 tions) is amended by redesignating clauses (xiii)
9 through (xviii) as clauses (xiv) through (xix),
10 respectively, and by inserting after clause (xii)
11 the following new clause:

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

16 (B) Paragraph (2) of section 6724(d) of
17 such Code is amended by striking “or” at the
18 end of subparagraph (AA), by striking the pe-
19 riod at the end of subparagraph (BB) and in-
20 serting “, or”, and by adding after subpara-
21 graph (BB) the following new subparagraph:

22 “(CC) section 6050U (relating to returns
23 relating to credit for health insurance coverage
24 under high deductible health plan).”.

25 (d) CLERICAL AMENDMENTS.—

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

“Sec. 7529. Advance payment of credit as premium payment for high deduct-
ible health insurance.”.

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

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

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

11 **SEC. 6. INCREASE IN CONTRIBUTION LIMITS FOR HEALTH**
12 **SAVINGS ACCOUNTS.**

13 (a) INCREASE IN MONTHLY LIMIT.—

14 (1) IN GENERAL.—Paragraph (2) of section
15 223(b) of the Internal Revenue Code of 1986 (relat-
16 ing to monthly limitation) is amended to read as fol-
17 lows:

18 “(2) MONTHLY LIMITATION.—

19 “(A) IN GENERAL.—In the case of an eligi-
20 ble individual who has coverage under a high
21 deductible health plan, the monthly limitation
22 for any month of such coverage is $\frac{1}{12}$ of the
23 lesser of—

1 “(i) the sum of the annual deductible
2 and the other annual out-of-pocket ex-
3 penses (other than for premiums) required
4 to be paid under the plan by the eligible
5 individual for covered benefits, or

6 “(ii) in the case of an eligible indi-
7 vidual with—

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

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

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

16 “(i) REDUCTION FOR SEPARATE
17 PLAN.—The annual out-of-pocket expenses
18 taken into account under subparagraph
19 (A)(i) with respect to any eligible indi-
20 vidual shall be reduced by any out-of-pock-
21 et expense payable under a separate plan
22 covering the individual.

23 “(ii) SECRETARIAL AUTHORITY.—The
24 Secretary may by regulations provide that
25 annual out-of-pocket expenses will not be

1 taken into account under subparagraph
2 (A)(i) to the extent that there is only a re-
3 mote likelihood that such amounts will be
4 required to be paid.”.

5 (2) CONFORMING AMENDMENTS.—

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

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

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

15 “(ii) CERTAIN ITEMS DISREGARDED
16 IN COMPUTING MONTHLY LIMITATION.—
17 Such plan’s annual deductible, and such
18 plan’s annual out-of-pocket limitation, for
19 services provided outside of such network
20 shall not be taken into account for pur-
21 poses of subsection (b)(2).”.

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

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

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

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

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

16 “(i) the lesser of—

17 “(I) subject to subparagraph (C),
18 the sum of the limitations computed
19 separately under paragraph (1) for
20 each spouse (including any additional
21 contribution amount under paragraph
22 (3)), or

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

1 “(ii) the aggregate amount paid to
2 Archer MSAs of such spouses for the tax-
3 able year.

4 “(C) SPECIAL RULE WHERE BOTH
5 SPOUSES HAVE FAMILY COVERAGE UNDER
6 SAME PLAN.—For purposes of subparagraph
7 (B)(i)(I), if either spouse has family coverage
8 which covers both spouses, both spouses shall
9 be treated as having only such coverage (and if
10 both spouses each have such coverage under
11 different plans, shall be treated as having only
12 family coverage with the plan with respect to
13 which the lowest amount is determined under
14 paragraph (2)(A)(i)).

15 “(D) APPLICABLE SHARE.—For purposes
16 of subparagraph (A), a spouse’s applicable
17 share is one-half of the combined marital limit
18 unless both spouses agree on a different divi-
19 sion.

20 “(E) COUPLES NOT MARRIED ENTIRE
21 YEAR.—The Secretary shall prescribe rules for
22 the application of this paragraph in the case of
23 any taxable year for which the individuals were
24 not married to each other during all months in-
25 cluded in the taxable year, including rules

1 which allow individuals in appropriate cases to
2 take into account coverage prior to marriage in
3 computing the combined marital limit for pur-
4 poses of this paragraph.”.

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

8 “(4) COVERAGE.—

9 “(A) FAMILY COVERAGE.—The term ‘fam-
10 ily coverage’ means any coverage other than
11 self-only coverage.

12 “(B) SELF-ONLY COVERAGE.—If more
13 than 1 individual is covered by a high deduct-
14 ible health plan but only 1 of the individuals is
15 an eligible individual, the coverage shall be
16 treated as self-only coverage.”.

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

20 **SEC. 7. HEALTH REIMBURSEMENT ARRANGEMENTS AND**
21 **SPENDING ARRANGEMENTS IN COMBINATION**
22 **WITH HEALTH SAVINGS ACCOUNTS.**

23 (a) IN GENERAL.—Subparagraph (B) of section
24 223(c)(1) of the Internal Revenue Code of 1986 (relating
25 to certain coverage disregarded) is amended by striking

1 “and” at the end of clause (i), by striking the period at
 2 the end of clause (ii) and inserting “, and”, and by insert-
 3 ing after clause (ii) the following new clause:

4 “(iii) coverage under a flexible spend-
 5 ing arrangement or a health reimburse-
 6 ment arrangement, or both, which meets
 7 the requirements of paragraph (6).”.

8 (b) COMBINATION HEALTH REIMBURSEMENT, SAV-
 9 INGS, AND SPENDING ARRANGEMENTS.—Subsection (c) of
 10 section 223 of such Code (relating to definitions and spe-
 11 cial rules) is amended by adding at the end the following
 12 new paragraph:

13 “(6) COMBINED LIMIT FOR CONTRIBUTIONS OR
 14 CREDITS TO HEALTH REIMBURSEMENT, ARRANGE-
 15 MENTS AND SPENDING ARRANGEMENTS.—

16 “(A) IN GENERAL.—In the case of cov-
 17 erage under a flexible spending arrangement or
 18 a health reimbursement arrangement, or both,
 19 such coverage meets the requirements of this
 20 paragraph if, with respect to an individual—

21 “(i) the sum of—

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

24 “(II) the salary reduction
 25 amount elected by the individual and,

1 if applicable, the employer contribu-
2 tion or credit allocated to the indi-
3 vidual for the taxable year under the
4 flexible spending arrangement (as de-
5 fined in section 106(c)(2)), plus

6 “(III) the amounts that the indi-
7 vidual is permitted, under the terms
8 of the plan, to receive in reimburse-
9 ments for the taxable year under the
10 health reimbursement arrangement,
11 does not exceed

12 “(ii) the sum of the annual deductible
13 and the other annual out-of-pocket ex-
14 penses (other than for premiums) required
15 to be paid under the plan by the eligible
16 individual for covered benefits.

17 “(B) EXCEPTIONS FOR DISREGARDED COV-
18 ERAGE.—For purposes of subparagraph (A)—

19 “(i) CERTAIN FLEXIBLE SPENDING
20 ARRANGEMENTS.—Any flexible spending
21 arrangement salary reduction amounts or
22 employer contributions or credits that are
23 restricted by the employer to use for cov-
24 erage described in paragraph (1)(B) shall

1 not be taken into account under subpara-
2 graph (A)(i)(II).

3 “(ii) CERTAIN HEALTH REIMBURSE-
4 MENT ARRANGEMENTS.—Any reimburse-
5 ments from a health reimbursement ar-
6 rangement for coverage described in para-
7 graph (1)(B) shall not be taken into ac-
8 count under subparagraph (A)(i)(III).

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

13 (c) ONE-TIME FSA AND HRA ROLLOVERS TO
14 HSAs.—

15 (1) IN GENERAL.—A plan shall not fail to be
16 treated as a flexible spending arrangement or health
17 reimbursement arrangement under section 105 or
18 106 of the Internal Revenue Code of 1986 merely
19 because—

20 (A) such plan provides for a contribution
21 to the health savings account (as defined in sec-
22 tion 223 of such Code) of the employee which
23 meets the requirements of paragraph (2), and

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

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

3 (A) in the case of a flexible spending ar-
4 rangement (as defined in section 106(c)(2) of
5 such Code) in existence on April ____, 2006,
6 such contribution is the remaining balance in
7 such arrangement as of the last day of the plan
8 year ending in or before the taxable year in
9 which such contribution is made,

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

17 (C) such contribution is made by the em-
18 ployer directly to the health savings account of
19 the employee not later than 60 days after the
20 end of the plan year of such flexible spending
21 arrangement or health reimbursement arrange-
22 ment.

23 (3) TREATMENT AS ROLLOVER CONTRIBU-
24 TION.—For purposes of sections 223 and 4973 of
25 such Code, a contribution which meets the require-

1 ments of paragraph (2) shall be treated as a rollover
2 contribution described in section 223(f)(5) of such
3 Code.

4 (4) TAX TREATMENT RELATING TO CONTRIBU-
5 TIONS.—For purposes of this title—

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

9 (B) EMPLOYMENT TAXES.—Amounts con-
10 tributed to a health savings account under this
11 subsection shall be treated as a payment de-
12 scribed in section 106(d).

13 (C) COMPARABILITY EXCISE TAX.—Section
14 4980G shall not apply to contributions made
15 under this subsection.

16 (5) TERMINATION.—This paragraph shall not
17 apply to any taxable year beginning after December
18 31, 2011.

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

22 **SEC. 8. CERTAIN EXPENSES TREATED AS QUALIFIED MED-**
23 **ICAL EXPENSES.**

24 (a) PREMIUMS FOR NON-GROUP HIGH DEDUCTIBLE
25 HEALTH PLANS TREATED AS QUALIFIED MEDICAL EX-

1 PENSES.—Subparagraph (C) of section 223(d)(2) of the
2 Internal Revenue Code of 1986 is amended by striking
3 “or” at the end of clause (iii), by striking the period at
4 the end of clause (iv) and inserting “, or”, and by adding
5 at the end the following new clause:

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

11 (b) SPECIAL RULE FOR CERTAIN MEDICAL EX-
12 PENSES INCURRED BEFORE ESTABLISHMENT OF AC-
13 COUNT.—Paragraph (2) of section 223(d) of such Code
14 is amended by adding at the end the following new sub-
15 paragraph:

16 “(E) CERTAIN MEDICAL EXPENSES IN-
17 CURRED BEFORE ESTABLISHMENT OF ACCOUNT
18 TREATED AS QUALIFIED.—An expense shall not
19 fail to be treated as a qualified medical expense
20 solely because such expense was incurred before
21 the establishment of the health savings account
22 if such expense was incurred—

23 “(i) during either—

1 “(I) the taxable year in which the
2 health savings account was estab-
3 lished, or

4 “(II) the preceding taxable year
5 in the case of a health savings ac-
6 count established after the taxable
7 year in which such expense was in-
8 curred but before the time prescribed
9 by law for filing the return for such
10 taxable year (not including extensions
11 thereof), and

12 “(ii) for medical care of an individual
13 during a period that such individual was
14 covered by a high deductible health plan
15 and met the requirements of subsection
16 (c)(1)(A)(ii) (after application of sub-
17 section (c)(1)(B)).”.

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

21 **SEC. 9. EXCEPTION TO REQUIREMENT FOR EMPLOYERS TO**
22 **MAKE COMPARABLE HEALTH SAVINGS AC-**
23 **COUNT CONTRIBUTIONS.**

24 (a) IN GENERAL.—Section 4980G of the Internal
25 Revenue Code of 1986 (relating to failure of employer to

1 make comparable health savings account contributions) is
2 amended by adding at the end the following new sub-
3 section:

4 “(d) EXCEPTION.—

5 “(1) IN GENERAL.—To the extent that an em-
6 ployer’s contributions to the health savings accounts
7 of qualified employees exceed the employer’s com-
8 parable contributions to the health savings accounts
9 of other employees, this section shall not apply with
10 respect to the employer’s contributions to the health
11 savings accounts of qualified employees.

12 “(2) QUALIFIED EMPLOYEE.—For purposes of
13 this subsection, with respect to an employer, the
14 term ‘qualified employee’ means an individual—

15 “(A) reasonably expected to incur a higher
16 level of medical expenses than the majority of
17 the employer’s other employees due to a dis-
18 ease, illness, or other medical condition, and

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

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

○