

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 436

---

## AN ACT

To amend the Internal Revenue Code of 1986 to repeal  
the excise tax on medical devices.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Health Care Cost Reduction Act of 2012”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Repeal of medical device excise tax.

Sec. 3. Repeal of disqualification of expenses for over-the-counter drugs under  
certain accounts and arrangements.

Sec. 4. Taxable distributions of unused balances under health flexible spending  
arrangements.

Sec. 5. Recapture of overpayments resulting from certain federally-subsidized  
health insurance.

6 **SEC. 2. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

7 (a) IN GENERAL.—Chapter 32 of the Internal Rev-  
8 enue Code of 1986 is amended by striking subchapter E.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Subsection (a) of section 4221 of such Code  
11 is amended by striking the last sentence.

12 (2) Paragraph (2) of section 6416(b) of such  
13 Code is amended by striking the last sentence.

14 (c) CLERICAL AMENDMENT.—The table of sub-  
15 chapters for chapter 32 of such Code is amended by strik-  
16 ing the item relating to subchapter E.

17 **SEC. 3. REPEAL OF DISQUALIFICATION OF EXPENSES FOR**  
18 **OVER-THE-COUNTER DRUGS UNDER CERTAIN**  
19 **ACCOUNTS AND ARRANGEMENTS.**

20 (a) HSAs.—Subparagraph (A) of section 223(d)(2)  
21 of the Internal Revenue Code of 1986 is amended by strik-  
22 ing the last sentence.

1 (b) ARCHER MSAS.—Subparagraph (A) of section  
2 220(d)(2) of such Code is amended by striking the last  
3 sentence.

4 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS  
5 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-  
6 tion 106 of such Code is amended by striking subsection  
7 (f).

8 (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to expenses incurred after Decem-  
10 ber 31, 2012.

11 **SEC. 4. TAXABLE DISTRIBUTIONS OF UNUSED BALANCES**  
12 **UNDER HEALTH FLEXIBLE SPENDING AR-**  
13 **RANGEMENTS.**

14 (a) IN GENERAL.—Section 125 of the Internal Rev-  
15 enue Code of 1986 is amended by redesignating sub-  
16 sections (k) and (l) as subsections (l) and (m), respec-  
17 tively, and by inserting after subsection (j) the following  
18 new subsection:

19 “(k) TAXABLE DISTRIBUTIONS OF UNUSED BAL-  
20 ANCES UNDER HEALTH FLEXIBLE SPENDING ARRANGE-  
21 MENTS.—

22 “(1) IN GENERAL.—For purposes of this sec-  
23 tion and sections 105(b) and 106, a plan or other  
24 arrangement which (but for any qualified distribu-  
25 tion) would be a health flexible spending arrange-

1       ment shall not fail to be treated as a cafeteria plan  
2       or health flexible spending arrangement (and shall  
3       not fail to be treated as an accident or health plan)  
4       merely because such arrangement provides for quali-  
5       fied distributions.

6               “(2) QUALIFIED DISTRIBUTIONS.—For pur-  
7       poses of this subsection, the term ‘qualified distribu-  
8       tion’ means any distribution to an individual under  
9       the arrangement referred to in paragraph (1) with  
10      respect to any plan year if—

11               “(A) such distribution is made after the  
12      last date on which requests for reimbursement  
13      under such arrangement for such plan year may  
14      be made and not later than the end of the 7th  
15      month following the close of such plan year,  
16      and

17               “(B) such distribution does not exceed the  
18      lesser of—

19                       “(i) \$500, or

20                       “(ii) the excess of—

21                               “(I) the salary reduction con-  
22                               tributions made under such arrange-  
23                               ment for such plan year, over

24                               “(II) the reimbursements for ex-  
25                               penses incurred for medical care made

1                   under such arrangement for such plan  
2                   year.

3                   “(3) TAX TREATMENT OF QUALIFIED DIS-  
4                   TRIBUTIONS.—Qualified distributions shall be in-  
5                   cludible in the gross income of the employee in the  
6                   taxable year in which distributed and shall be taken  
7                   into account as wages or compensation under the  
8                   applicable provisions of subtitle C when so distrib-  
9                   uted.

10                  “(4) COORDINATION WITH QUALIFIED RESERV-  
11                  IST DISTRIBUTIONS.—A qualified reservist distribu-  
12                  tion (as defined in subsection (h)(2)) shall not be  
13                  treated as a qualified distribution and shall not be  
14                  taken into account in applying the limitation of  
15                  paragraph (2)(B)(i).”.

16                  (b) CONFORMING AMENDMENT.—Paragraph (1) of  
17                  section 409A(d) of such Code is amended by striking  
18                  “and” at the end of subparagraph (A), by striking the  
19                  period at the end of subparagraph (B) and inserting “,  
20                  and”, and by adding at the end the following new subpara-  
21                  graph:

22                                 “(C) a health flexible spending arrange-  
23                                 ment to which subsection (h) or (k) of section  
24                                 125 applies.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to plan years beginning after De-  
3 cember 31, 2012.

4 **SEC. 5. RECAPTURE OF OVERPAYMENTS RESULTING FROM**  
5                   **CERTAIN FEDERALLY-SUBSIDIZED HEALTH**  
6                   **INSURANCE.**

7       (a) IN GENERAL.—Paragraph (2) of section 36B(f)  
8 of the Internal Revenue Code of 1986 is amended by strik-  
9 ing subparagraph (B).

10       (b) CONFORMING AMENDMENT.—So much of para-  
11 graph (2) of section 36B(f) of such Code, as amended by  
12 subsection (a), as precedes “advance payments” is amend-  
13 ed to read as follows:

14                   “(2) EXCESS ADVANCE PAYMENTS.—If the”.

15       (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years ending after De-  
17 cember 31, 2013.

Passed the House of Representatives June 7, 2012.

Attest:

*Clerk.*



112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 436

---

## AN ACT

To amend the Internal Revenue Code of 1986 to  
repeal the excise tax on medical devices.