vided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1976." Amendment by section 1901(c)(2) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

**Effective Date of 1964 Amendment**

Section 205(b) of Pub. L. 88–272 provided that: "The amendment made by subsection (a) [amending this section] shall apply to amounts attributable to periods of absence commencing after December 31, 1963."

**Effective Date of 1962 Amendment**

Amendment by Pub. L. 87–792 applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87–792, set out as a note under section 22 of this title.

**Nonenforcement of Amendment Made by Section 1151 of Pub. L. 99–514 for Fiscal Year 1990**

No monies appropriated by Pub. L. 101–136 to be used to implement or enforce section 1151 of Pub. L. 99–514 or the amendments made by such section, see section 528 of Pub. L. 101–136, set out as a note under section 49 of this title.

**Revocation of Election**

Pub. L. 95–30, title III, § 301(c), May 23, 1977, 91 Stat. 151; as amended by Pub. L. 95–600, title VII, § 701(c)(2)(B), Nov. 6, 1976, 92 Stat. 2900; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "(1) retired before January 1, 1977, "(2) either retired on disability or was entitled to retire on disability, and "(3) on January 1, 1976, or January 1, 1977, was permanently and totally disabled (within the meaning of section 105(d)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]), such individual shall be deemed to have met the requirements of section 105(d)(1)(B) of such Code (as amended by subsection (a) of this section)."

**Special Rule for Coordination With Section 72 of this Title**

Section 505(d) of Pub. L. 94–455, as amended by Pub. L. 95–30, title III, § 301(b)(3)–(5), May 23, 1977, 91 Stat. 151; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "(1) retired on disability before January 1, 1977, and "(2) on December 31, 1975, or December 31, 1976, was entitled to exclude any amount with respect to such retirement disability from gross income under section 105(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of such section 105(d) for such year and all subsequent years."
§ 106

(3) Special rule for deduction of employer contributions
Any employer contribution to an Archer MSA, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

(4) Employer MSA contributions required to be shown on return
Every individual required to file a return under section 6012 for the taxable year shall include on such return the aggregate amount contributed by employers to the Archer MSAs of such individual or such individual’s spouse for such taxable year.

(5) MSA contributions not part of COBRA coverage
Paragraph (1) shall not apply for purposes of section 4980B.

(6) Definitions
For purposes of this subsection, the terms “eligible individual” and “Archer MSA” have the respective meanings given to such terms by section 220.

(7) Cross reference
For penalty on failure by employer to make comparable contributions to the Archer MSAs of comparable employees, see section 4980E.

(c) Inclusion of long-term care benefits provided through flexible spending arrangements

(1) In general
Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

(2) Flexible spending arrangement
For purposes of this subsection, a flexible spending arrangement to the extent that such arrangement on September 21, 2006, or as of the date of such arrangement, and

(B) the maximum amount of reimbursements permitted under section 105 merely because such plan provides

(c) FSA and HRA terminations to fund HSAs

(1) In general
A plan shall not fail to be treated as a health flexible spending arrangement or health reimbursement arrangement under this section or section 105 merely because such plan provides for a qualified HSA distribution.

(2) Qualified HSA distribution
The term “qualified HSA distribution” means a distribution from a health flexible spending arrangement or health reimbursement arrangement to the extent that such distribution—

(A) does not exceed the lesser of the balance in such arrangement on September 21, 2006, or as of the date of such distribution, and

(B) is contributed by the employer directly to the health savings account of the employee before January 1, 2012.

Such term shall not include more than 1 distribution with respect to any arrangement.

(3) Additional tax for failure to maintain high deductible health plan coverage

(A) In general
If, at any time during the testing period, the employee is not an eligible individual, then the amount of the qualified HSA distribution—

(i) shall be includible in the gross income of the employee for the taxable year in which occurs the first month in the testing period for which such employee is not an eligible individual, and

(ii) the tax imposed by this chapter for such taxable year on the employee shall be increased by 10 percent of the amount which is so includible.

(B) Exception for disability or death
Clauses (i) and (ii) of subparagraph (A) shall not apply if the employee ceases to be an eligible individual by reason of the death of the employee or the employee becoming disabled (within the meaning of section 72(m)(7)).

(4) Definitions and special rules
For purposes of this subsection—

(A) Testing period
The term “testing period” means the period beginning with the month in which the qualified HSA distribution is contributed to the health savings account and ending on the last day of the 12th month following such month.

(B) Eligible individual
The term “eligible individual” has the meaning given such term by section 223(c)(1).
(C) Treatment as rollover contribution
A qualified HSA distribution shall be treated as a rollover contribution described in section 223(f)(5).

(5) Tax treatment relating to distributions
For purposes of this title—

(A) In general
A qualified HSA distribution shall be treated as a payment described in subsection (d).

(B) Comparability excise tax
(i) In general
Except as provided in clause (ii), section 4980G shall not apply to qualified HSA distributions.

(ii) Failure to offer to all employees
In the case of a qualified HSA distribution to any employee, the failure to offer such distribution to any eligible individual covered under a high deductible health plan of the employer shall (notwithstanding section 4980G(d)) be treated for purposes of section 4980C as a failure to meet the requirements of section 4980G(b).

(f) Reimbursements for medicine restricted to prescribed drugs and insulin
For purposes of this section and section 105, reimbursement for expenses incurred for a medicine or a drug shall be treated as a reimbursement for medical expenses only if such medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin.


References in Text

Amendments

Effective Date of 2010 Amendment
Pub. L. 111–148, title IX, §9003(d)(2), Mar. 23, 2010, 124 Stat. 854, provided that: “The amendment made by subsection (c) [amending this section] shall apply to distributions on or after the date of the enactment of this Act [Dec. 20, 2006].”

Effective Date of 2006 Amendment
Pub. L. 109–432, div. A, title III, §302(c)(1), Dec. 20, 2006, 120 Stat. 2949, provided that: “The amendment made by subsection (a) [amending this section] shall apply to distributions on or after the date of the enactment of this Act [Dec. 20, 2006].”

Effective Date of 2003 Amendment

Effective Date of 1996 Amendment
Amendment by section 301(c)(1) of Pub. L. 104–191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104–191, set out as a note under section 62 of this title.

Amendment by section 321(c)(2) of Pub. L. 104–191 applicable to contracts issued after Dec. 31, 1996, see section 321(f) of Pub. L. 104–191, set out as an Effective Date note under section 7702B of this title.
§ 107  TITLE 26—INTERNAL REVENUE CODE

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99–514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101–136 to be used to implement or enforce section 1151 of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

§ 107. Rental value of parsonages

In the case of a minister of the gospel, gross income does not include—

(1) the rental value of a home furnished to him as part of his compensation; or

(2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities.


AMENDMENTS

2002—Par. (2). Pub. L. 107–181 inserted “and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities” before period at end.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–181, § 2(b), May 20, 2002, 116 Stat. 583, provided that:

“(1) IN GENERAL.—The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2001.

“(2) RETURNS POSITIONS.—The amendment made by this section also shall apply to any taxable year beginning after January 1, 2002, for which the taxpayer—

“(A) on a return filed before April 17, 2002, limited the exclusion under section 107 of the Internal Revenue Code of 1986 as provided in such amendment, or

“(B) filed a return after April 18, 2002.

“(3) OTHER YEARS BEFORE 2002.—Except as provided in paragraph (2), notwithstanding any prior regulation, revenue ruling, or other guidance issued by the Internal Revenue Service, no person shall be subject to the limitations added to section 107 of such Code by this Act for any taxable year beginning before January 1, 2002.”

§ 108. Income from discharge of indebtedness

(a) Exclusion from gross income

(1) In general

Gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if—

(A) the discharge occurs in a title 11 case, or

(B) the discharge occurs when the taxpayer is insolvent.