

109TH CONGRESS
1ST SESSION

H. R. 3873

To amend the Internal Revenue Code of 1986 to permit rollovers from retirement plans to health savings accounts.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2005

Mr. FORTENBERRY 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 permit rollovers from retirement plans to health savings accounts.

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. ROLLOVERS FROM RETIREMENT PLANS TO**
4 **HEALTH SAVINGS ACCOUNTS.**

5 (a) IN GENERAL.—Part III of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 is amended
7 by inserting after section 139A the following new section:

1 **“SEC. 139B. HSA FUNDING DISTRIBUTIONS.**

2 “(a) IN GENERAL.—In the case of an eligible indi-
3 vidual, gross income does not include a qualified HSA
4 funding distribution.

5 “(b) QUALIFIED HSA FUNDING DISTRIBUTION.—
6 For purposes of this section, the term ‘qualified HSA
7 funding distribution’ means any distribution from an eligi-
8 ble retirement plan of an eligible individual to the extent
9 that such distribution is contributed to a health savings
10 account of such individual (or of the surviving spouse, a
11 dependent of the surviving spouse, or alternate payee (as
12 defined in section 414(p)(8)) of such individual) not later
13 than the 60th day after the day on which such individual
14 (or such surviving spouse, dependent, or alternate payee)
15 receives such distribution or in a direct trustee-to-trustee
16 transfer.

17 “(c) DISTRIBUTION TREATED AS ROLLOVER TO
18 HSA.—For purposes of sections 223 and 4973(g), a
19 qualified HSA funding distribution shall be treated as a
20 rollover contribution described in section 223(f)(5).

21 “(d) DEFINITIONS.—For purposes of this section—

22 “(1) ELIGIBLE RETIREMENT PLAN.—The term
23 ‘eligible retirement plan’ has the meaning given such
24 term by section 402(c)(8)(B), except that such term
25 shall also include an eligible deferred compensation

1 plan maintained by an eligible employer described in
 2 section 457(e)(1)(B).

3 “(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible
 4 individual’ has the meaning given such term by sec-
 5 tion 223(c)(1).”.

6 (b) 10-PERCENT PENALTY ON EARLY DISTRIBUTIONS NOT TO APPLY.—Section 72(t)(2)(A) of such Code
 7 (relating to subsection not to apply to certain distribu-
 8 tions) is amended by striking “or” at the end of clause
 9 (vi), by striking the period at the end of clause (vii) and
 10 inserting “, or”, and by inserting after clause (vii) the fol-
 11 lowing new clause:

12 “(viii) a qualified HSA funding dis-
 13 tribution (as defined by section
 14 139B(b)).”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 401(k)(2)(B)(i) of such Code (relat-
 17 ing to cash or deferred arrangements) is amended by
 18 striking “or” at the end of subclause (III), by strik-
 19 ing “and” at the end of subclause (IV) and inserting
 20 “or”, and by inserting after subclause (IV) the fol-
 21 lowing new subclause:

22 “(V) the funding of a health sav-
 23 ings account under section 139B,
 24 and”.

(2) Section 402(c)(4) of such Code (relating to rules applicable to rollovers from exempt trusts) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) any qualified HSA funding distribution (as defined by section 139B(b)).”.

(3) Section 403(a) of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by inserting after paragraph (1) the following new paragraph:

“(2) SPECIAL RULE FOR QUALIFIED HSA FUNDING DISTRIBUTION.—To the extent provided in section 139B, paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.”.

(4) Section 403(b) of such Code (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by inserting after paragraph (1) the following new paragraph:

1 “(2) SPECIAL RULE FOR QUALIFIED HSA FUND-
2 ING DISTRIBUTION.—To the extent provided in sec-
3 tion 139B, paragraph (1) shall not apply to the
4 amount distributed under the contract which is oth-
5 erwise includible in gross income under this sub-
6 section.”.

7 (5) Section 457(a) of such Code (relating to
8 year of inclusion in gross income) is amended by
9 adding at the end the following new paragraph:

10 “(3) SPECIAL RULE FOR QUALIFIED HSA FUND-
11 ING DISTRIBUTION.—To the extent provided in sec-
12 tion 139B, paragraph (1) shall not apply to amounts
13 otherwise includible in gross income under this sub-
14 section.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to distributions in taxable years
17 beginning after December 31, 2004.

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