

109TH CONGRESS
2D SESSION

S. 2494

To amend the Internal Revenue Code of 1986 to allow a deduction for the payment of premiums for high deductible health plans, to allow a credit for certain employment taxes paid with respect to premiums for high deductible health plans and contributions to health savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 3, 2006

Mr. BURNS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow a deduction for the payment of premiums for high deductible health plans, to allow a credit for certain employment taxes paid with respect to premiums for high deductible health plans and contributions to 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. DEDUCTION OF PREMIUMS FOR HIGH DEDUCT-**
4 **IBLE HEALTH PLANS.**

5 (a) IN GENERAL.—Part VII of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 (relating to

1 additional itemized deductions for individuals) is amended
 2 by redesignating section 224 as section 225 and by insert-
 3 ing after section 223 the following new section:

4 **“SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH**
 5 **PLANS.**

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

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

14 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
 15 individual’ has the meaning given such term by sec-
 16 tion 223(c)(1).

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

20 “(c) SPECIAL RULES.—

21 “(1) DEDUCTION LIMITS.—

22 “(A) DEDUCTION ALLOWABLE FOR ONLY 1
 23 PLAN.—For purposes of this section, in the
 24 case of an individual covered by more than 1
 25 high deductible health plan for any month, the

individual may only take into account amounts paid for such month for the plan with the lowest premium.

“(B) PLANS COVERING INELIGIBLE INDIVIDUALS.—If 2 or more individuals are covered by a high deductible health plan for any month but only 1 of such individuals is an eligible individual for such month, only 50 percent of the aggregate amount paid by such eligible individual as premiums under the plan with respect to such month shall be taken into account for purposes of this section.

“(2) GROUP HEALTH PLAN COVERAGE.—

“(A) IN GENERAL.—No deduction shall be allowed to an individual under subsection (a) for any amount paid for coverage under a high deductible health plan for a month if that individual participates in any coverage under a group health plan (within the meaning of section 5000 without regard to section 5000(d)).

“(B) EXCEPTION FOR PLANS ONLY PROVIDING CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.—Subparagraph (A) shall not apply to an individual if the individual’s only coverage under a group health plan for a month consists

1 of contributions by an employer to a health sav-
 2 ings account with respect to which the indi-
 3 vidual is the account beneficiary.

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

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

16 “(4) COORDINATION WITH DEDUCTION FOR
 17 HEALTH INSURANCE OF SELF-EMPLOYED INDIVID-
 18 UALS.—Any amount taken into account by the tax-
 19 payer in computing the deduction under section
 20 162(l) shall not be taken into account under this
 21 section.

22 “(5) COORDINATION WITH MEDICAL EXPENSE
 23 DEDUCTION.—Any amount taken into account by
 24 the taxpayer in computing the deduction under this

1 section shall not be taken into account under section
2 213.”.

3 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL
4 ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
5 of section 62 of such Code is amended by inserting before
6 the last sentence at the end the following new paragraph:

7 “(21) PREMIUMS FOR HIGH DEDUCTIBLE
8 HEALTH PLANS.—The deduction allowed by section
9 224.”.

10 (c) COORDINATION WITH SECTION 35 HEALTH INSURANCE
11 COSTS CREDIT.—Section 35(g)(2) of such Code
12 is amended by striking “or 213” and inserting “, 213,
13 or 224”.

14 (d) CLERICAL AMENDMENT.—The table of sections
15 for part VII of subchapter B of chapter 1 of such Code
16 is amended by redesignating the item relating to section
17 224 as an item relating to section 225 and by inserting
18 before such item the following new item:

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

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

1 **SEC. 2. CREDIT FOR CERTAIN EMPLOYMENT TAXES PAID**
 2 **WITH RESPECT TO PREMIUMS FOR HIGH DE-**
 3 **DUCTIBLE HEALTH PLANS AND CONTRIBU-**
 4 **TIONS TO HEALTH SAVINGS ACCOUNTS.**

5 (a) ALLOWANCE OF CREDIT.—Subpart C of part IV
 6 of subchapter A of chapter 1 of the Internal Revenue Code
 7 of 1986 (relating to refundable credits) is amended by re-
 8 designating section 36 as section 37 and by inserting after
 9 section 35 the following new section:

10 **“SEC. 36. EMPLOYMENT TAXES PAID WITH RESPECT TO**
 11 **PREMIUMS FOR HIGH DEDUCTIBLE HEALTH**
 12 **PLANS AND CONTRIBUTIONS TO HEALTH**
 13 **SAVINGS ACCOUNTS.**

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

18 “(1) the sum of the rates of tax in effect under
 19 sections 3101(a), 3101(b), 3111(a), and 3111(b) for
 20 the calendar year in which the taxable year begins,
 21 multiplied by

22 “(2) the sum of—

23 “(A) the aggregate amount paid by such
 24 individual as premiums under a high deductible
 25 health plan which is allowed as a deduction
 26 under section 224 for the taxable year, and

1 “(B) the aggregate amount paid to a
 2 health savings account of such individual which
 3 is allowed as a deduction under section 223 for
 4 the taxable year.

5 “(b) CREDIT LIMITED TO CERTAIN EMPLOYMENT
 6 TAXES.—

7 “(1) IN GENERAL.—The credit allowed under
 8 subsection (a) with respect to any individual for any
 9 taxable year shall not exceed the specified employ-
 10 ment taxes with respect to such individual for such
 11 taxable year.

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

16 “(A) the taxes imposed under sections
 17 3101(a), 3101(b), 3111(a), 3111(b), 3201(a),
 18 3211(a), and 3221(a) (taking into account any
 19 adjustments or refunds under section 6413)
 20 with respect to wages and compensation re-
 21 ceived by such individual during the calendar
 22 year in which such taxable year begins, and

23 “(B) the taxes imposed under subsections
 24 (a) and (b) of section 1401 with respect to the

1 self-employment income of such individual for
 2 such taxable year.

3 “(c) SPECIAL RULE FOR EMPLOYMENT COMPENSA-
 4 TION IN EXCESS OF SOCIAL SECURITY CONTRIBUTION
 5 BASE.—

6 “(1) IN GENERAL.—If the aggregate amount of
 7 employment compensation received by any individual
 8 during the calendar year in which the taxable year
 9 begins exceeds the contribution and benefit base (as
 10 determined under section 230 of the Social Security
 11 Act), the amount of the credit determined under
 12 subsection (a) (determined before application of sub-
 13 section (b)) shall be equal to the sum of—

14 “(A) the amount determined under sub-
 15 section (a) by only taking into account so much
 16 of the amount determined under subsection
 17 (a)(2) as does not exceed such excess and by
 18 only taking into account the rates of tax in ef-
 19 fect under section 3101(b) and 3111(b), and

20 “(B) the amount determined under sub-
 21 section (a) by only taking into account so much
 22 of the amount determined under subsection
 23 (a)(2) as is not taken into account under sub-
 24 paragraph (A) and by taking into account each

1 of the rates of tax referred to in subsection
 2 (a)(1).

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

7 “(A) the wages (as defined in section
 8 3121(a)) and compensation (as defined in sec-
 9 tion 3231(e)) received by such individual during
 10 the calendar year in which such taxable year
 11 begins, and

12 “(B) the self-employment income (as de-
 13 fined in section 1402(b)) of such individual for
 14 such taxable year.”.

15 (b) INCREASE IN ADDITIONAL TAX ON DISTRIBU-
 16 TIONS NOT USED FOR QUALIFIED MEDICAL EX-
 17 PENSES.—Paragraph (4) of section 223(f) of such Code
 18 (relating to additional tax on distributions not used for
 19 qualified medical expenses) is amended to read as follows:

20 “(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT
 21 USED FOR QUALIFIED MEDICAL EXPENSES.—

22 “(A) IN GENERAL.—The tax imposed by
 23 this chapter on the account beneficiary for any
 24 taxable year in which there is a payment or dis-
 25 tribution from a health savings account of such

beneficiary which is includible in gross income under paragraph (2) shall be increased by 30 percent of the amount which is so includible.

“(B) EXCEPTION FOR DISABILITY OR DEATH.—In the case of payments or distributions made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies, subparagraph (A) shall be applied by substituting ‘15 percent’ for ‘30 percent’.

“(C) EXCEPTION FOR DISTRIBUTIONS AFTER MEDICARE ELIGIBILITY.—In the case of payments or distributions made after the date on which the account beneficiary attains the age specified in section 1811 of the Social Security Act, subparagraph (A) shall be applied by substituting ‘15 percent’ for ‘30 percent’.”.

(c) CONFORMING AMENDMENTS.—

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

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item

- 1 relating to section 36 and by inserting after the item
2 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.”.

- 3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2006.

