

109TH CONGRESS
1ST SESSION

S. 978

To amend the Internal Revenue Code of 1986 to provide tax incentives for the purchase of qualified health insurance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2005

Mr. SANTORUM (for himself and Mr. DEMINT) 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 provide tax incentives for the purchase of qualified health insurance, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Healthcare Tax Relief for the Uninsured Act of 2005”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Deduction of premiums for high deductible health plans.

Sec. 3. Refundable credit for contributions to health savings accounts of small
business employees.

Sec. 4. Refundable health insurance costs credit.

Sec. 5. Advance payment of credit to issuers of qualified health insurance.

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 such individual
 13 as premiums under a high deductible health plan with re-
 14 spect to months during such year for which such indi-
 15 vidual is an eligible individual with respect to such health
 16 plan.

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

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

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

24 “(c) SPECIAL RULES.—

1 “(1) DEDUCTION ALLOWABLE FOR ONLY 1
2 PLAN.—For purposes of this section, in the case of
3 an individual covered by more than 1 high deductible
4 health plan for any month, the individual may only
5 take into account amounts paid for 1 of such plans
6 for such month.

7 “(2) GROUP HEALTH PLAN COVERAGE.—

8 “(A) IN GENERAL.—No deduction shall be
9 allowed to an individual under subsection (a)
10 for any amount paid for coverage under a high
11 deductible health plan for a month if that indi-
12 vidual participates in any coverage under a
13 group health plan (within the meaning of sec-
14 tion 5000 without regard to section 5000(d)).

15 “(B) EXCEPTION FOR CERTAIN PER-
16 MITTED COVERAGE.—Subparagraph (A) shall
17 not apply to an individual if the individual’s
18 only coverage under a group health plan for a
19 month is coverage described in clause (i) or (ii)
20 of section 223(c)(1)(B).

21 “(3) CONTRIBUTIONS TO HEALTH SAVINGS AC-
22 COUNT REQUIRED.—A deduction shall not be al-
23 lowed under subsection (a) for a taxable year with
24 respect to such individual if a deduction is not allow-

1 able under section 223 with respect to such indi-
2 vidual for the taxable year.

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

9 “(5) COORDINATION WITH DEDUCTION FOR
10 HEALTH INSURANCE OF SELF-EMPLOYED INDIVID-
11 UALS.—The amount taken into account by the tax-
12 payer in computing the deduction under section
13 162(l) shall not be taken into account under this
14 section.

15 “(6) COORDINATION WITH MEDICAL EXPENSE
16 DEDUCTION.—The amount taken into account by
17 the taxpayer in computing the deduction under this
18 section shall not be taken into account under section
19 213.”.

20 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-
21 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
22 of section 62 of such Code is amended by inserting before
23 the last sentence at the end the following new paragraph:

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

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

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

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

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2005.

16 **SEC. 3. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO**
17 **HEALTH SAVINGS ACCOUNTS OF SMALL BUSI-**
18 **NESS EMPLOYEES.**

19 (a) IN GENERAL.—Subpart C of part IV of sub-
20 chapter A of chapter 1 of the Internal Revenue Code of
21 1986 is amended by redesignating section 36 as section
22 37 and by inserting after section 35 the following new sec-
23 tion:

1 **“SEC. 36. SMALL EMPLOYER CONTRIBUTIONS TO HEALTH**
 2 **SAVINGS ACCOUNTS.**

3 “(a) GENERAL RULE.—In the case of an eligible em-
 4 ployer, there shall be allowed as a credit against the tax
 5 imposed by this subtitle an amount equal to the lesser of—

6 “(1) the amount contributed by the employer to
 7 any qualified health savings account of any employee
 8 who is an eligible individual (as defined in section
 9 223(c)(1)) during the taxable year and who is cov-
 10 ered by a high deductible health plan maintained by
 11 the employer, or

12 “(2) an amount equal to the product of—

13 “(A) \$200 (\$500 if coverage for all months
 14 described in subparagraph (B)(i) is family cov-
 15 erage), and

16 “(B) a fraction—

17 “(i) the numerator of which is the
 18 number of months that the employee was
 19 covered under a high deductible health
 20 plan maintained by the employer, and

21 “(ii) the denominator of which is the
 22 number of months in the taxable year.

23 “(b) ELIGIBLE EMPLOYER.—For purposes of this
 24 section—

1 “(1) IN GENERAL.—The term ‘eligible em-
2 ployer’ means, with respect to any taxable year, an
3 employer which—

4 “(A) is a small employer, and

5 “(B) maintains a high deductible health
6 plan under which all employees of the employer
7 reasonably expected to receive at least \$5,000
8 of compensation during the taxable year are eli-
9 gible to participate.

10 An employer may exclude from consideration under
11 subparagraph (B) employees who are covered by an
12 agreement described in section 410(b)(3)(A) if there
13 is evidence that health benefits were the subject of
14 good faith bargaining.

15 “(2) EXCEPTION FOR GOVERNMENTAL AND
16 TAX-EXEMPT EMPLOYERS.—The term ‘eligible em-
17 ployer’ shall not include the Federal Government or
18 any employer described in section 457(e)(1).

19 “(3) SMALL EMPLOYER.—

20 “(A) IN GENERAL.—The term ‘small em-
21 ployer’ means, with respect to any calendar
22 year, any employer if such employer employed
23 an average of 100 or fewer employees on busi-
24 ness days during either of the 2 preceding cal-
25 endar years. For purposes of the preceding sen-

1 tence, a preceding calendar year may be taken
2 into account only if the employer was in exist-
3 ence throughout such year.

4 “(B) EMPLOYERS NOT IN EXISTENCE IN
5 PRECEDING YEAR.—In the case of an employer
6 which was not in existence throughout the 1st
7 preceding calendar year, the determination
8 under subparagraph (A) shall be based on the
9 average number of employees that it is reason-
10 ably expected such employer will employ on
11 business days in the current calendar year.

12 “(C) SPECIAL RULE.—Any reference in
13 this paragraph to an employer shall include a
14 reference to any predecessor of such employer.

15 “(c) DEFINITIONS.—For purposes of this section—

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

19 “(2) QUALIFIED HEALTH SAVINGS ACCOUNT.—

20 “(A) IN GENERAL.—The term ‘qualified
21 health savings account’ means a health savings
22 account (as defined in section 223(d))—

23 “(i) which is designated (in such form
24 as the Secretary may prescribe) as a quali-

1 fied account for purposes of this section or
2 section 36A,

3 “(ii) which may not include any
4 amount other than contributions described
5 in subsection (a) or section 36A(e), and
6 earnings on such contributions, and

7 “(iii) with respect to which section
8 223(f)(4)(A) is applied by substituting
9 ‘100 percent’ for ‘10 percent’.

10 “(B) SUBACCOUNTS AND SEPARATE AC-
11 COUNTING.—The Secretary may prescribe rules
12 under which a subaccount within a health sav-
13 ings account, or separate accounting with re-
14 spect to contributions and earnings described in
15 subparagraph (A)(ii), may be treated in the
16 same manner as a qualified health savings ac-
17 count for purposes of this section and section
18 36A.

19 “(C) ROLLOVERS.—A contribution of a
20 distribution from a qualified health savings ac-
21 count to another health savings account shall be
22 treated as a rollover contribution for purposes
23 of section 223(f)(5) only if the other account is
24 a qualified health savings account.

1 “(d) SPECIAL RULES.—For purposes of this sec-
2 tion—

3 “(1) AGGREGATION RULES.—All persons treat-
4 ed as a single employer under subsection (a) or (b)
5 of section 52, or subsection (n) or (o) of section 414,
6 shall be treated as one person.

7 “(2) DISALLOWANCE OF DEDUCTION.—No de-
8 duction shall be allowed for that portion of contribu-
9 tions to any health savings accounts for the taxable
10 year which is equal to the credit determined under
11 subsection (a).

12 “(3) ELECTION NOT TO CLAIM CREDIT.—This
13 section shall not apply to a taxpayer for any taxable
14 year if such taxpayer elects to have this section not
15 apply for such taxable year.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Paragraph (2) of section 1324(b) of title
18 31, United States Code, is amended by inserting be-
19 fore the period “, or from section 36 of such Code”.

20 (2) The table of sections for subpart C of part
21 IV of chapter 1 of the Internal Revenue Code of
22 1986 is amended by redesignating the item relating
23 to section 36 as an item relating to section 37 and
24 by inserting before the item relating to section 37
25 the following new item:

“Sec. 36. Small employer contributions to health savings accounts.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made in taxable
3 years beginning after December 31, 2005.

4 **SEC. 4. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.**

5 (a) ALLOWANCE OF CREDIT.—

6 (1) IN GENERAL.—Subpart C of part IV of sub-
7 chapter A of chapter 1 of the Internal Revenue Code
8 of 1986 (relating to refundable personal credits) is
9 amended by inserting after section 36 the following
10 new section:

11 **“SEC. 36A. HEALTH INSURANCE COSTS FOR UNINSURED IN-
12 DIVIDUALS.**

13 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
14 dividual, there shall be allowed as a credit against the tax
15 imposed by this subtitle for the taxable year an amount
16 equal to the amount paid by the taxpayer during such tax-
17 able year for qualified health insurance for the taxpayer
18 and the taxpayer’s spouse and dependents.

19 “(b) LIMITATIONS.—

20 “(1) IN GENERAL.—The amount allowed as a
21 credit under subsection (a) to the taxpayer for the
22 taxable year shall not exceed the lesser of—

23 “(A) 90 percent of the sum of the amounts
24 paid by the taxpayer for qualified health insur-
25 ance for each individual referred to in sub-

1 section (a) for coverage months of such indi-
2 vidual during the taxable year, or

3 “(B) \$3,000.

4 “(2) MONTHLY LIMITATION.—

5 “(A) IN GENERAL.—For purposes of para-
6 graph (1), amounts paid by the taxpayer for
7 qualified health insurance for an individual for
8 any coverage month of such individual during
9 the taxable year shall not be taken into account
10 to the extent such amounts exceed the amount
11 equal to $\frac{1}{12}$ of—

12 “(i) \$1,111 if such individual is the
13 taxpayer,

14 “(ii) \$1,111 if—

15 “(I) such individual is the spouse
16 of the taxpayer,

17 “(II) the taxpayer and such
18 spouse are married as of the first day
19 of such month, and

20 “(III) the taxpayer files a joint
21 return for the taxable year, and

22 “(iii) \$1,111 if such individual has at-
23 tained the age of 24 as of the close of the
24 taxable year and is a dependent of the tax-
25 payer for such taxable year,

1 “(iv) one-half of the amount described
2 in clause (i) if such individual has not at-
3 tained the age of 24 as of the close of the
4 taxable year and is a dependent of the tax-
5 payer for such taxable year.

6 “(B) LIMITATION TO 2 YOUNG DEPEND-
7 ENTS.—If there are more than 2 individuals de-
8 scribed in subparagraph (A)(iv) with respect to
9 the taxpayer for any coverage month, the aggre-
10 gate amounts paid by the taxpayer for qualified
11 health insurance for such individuals which may
12 be taken into account under paragraph (1) shall
13 not exceed $\frac{1}{12}$ of the dollar amount in effect
14 under subparagraph (A)(i) for the coverage
15 month.

16 “(C) SPECIAL RULE FOR MARRIED INDI-
17 VIDUALS.—In the case of a taxpayer—

18 “(i) who is married (within the mean-
19 ing of section 7703) as of the close of the
20 taxable year but does not file a joint return
21 for such year, and

22 “(ii) who does not live apart from
23 such taxpayer’s spouse at all times during
24 the taxable year,

1 any dollar limitation imposed under this para-
2 graph on amounts paid for qualified health in-
3 surance for individuals described in subpara-
4 graph (A)(iv) shall be divided equally between
5 the taxpayer and the taxpayer's spouse unless
6 they agree on a different division.

7 “(3) INCOME PHASEOUT OF CREDIT PERCENT-
8 AGE FOR ONE-PERSON COVERAGE.—

9 “(A) PHASEOUT FOR UNMARRIED INDIVID-
10 UALS (OTHER THAN SURVIVING SPOUSES AND
11 HEADS OF HOUSEHOLDS).—In the case of an
12 individual (other than a surviving spouse, the
13 head of a household, or a married individual)
14 with one-person coverage, if such individual has
15 modified adjusted gross income—

16 “(i) in excess of \$15,000 for a taxable
17 year but not in excess of \$20,000, the 90
18 percent under paragraph (1)(B) shall be
19 reduced by the number of percentage
20 points which bears the same ratio to 40
21 percentage points as—

22 “(I) the excess of modified ad-
23 justed gross income in excess of
24 \$15,000, bears to

25 “(II) \$5,000, or

1 “(ii) in excess of \$20,000 for a tax-
2 able year, the 90 percent under paragraph
3 (1)(B) shall be reduced by the sum of 40
4 percentage points plus the number of per-
5 centage points which bears the same ratio
6 to 50 percentage points as—

7 “(I) the excess of modified ad-
8 justed gross income in excess of
9 \$20,000, bears to

10 “(II) \$10,000.

11 “(B) PHASEOUT FOR OTHER INDIVID-
12 UALS.—In the case of a taxpayer (other than
13 an individual described in subparagraph (A) or
14 (C)) with one-person coverage, if the taxpayer
15 has modified adjusted gross income in excess of
16 \$25,000 for a taxable year, the 90 percent
17 under paragraph (1)(B) shall be reduced by the
18 number of percentage points which bears the
19 same ratio to 90 percentage points as—

20 “(i) the excess of modified adjusted
21 gross income in excess of \$25,000, bears to

22 “(ii) \$15,000.

23 “(C) MARRIED FILING SEPARATE RE-
24 TURN.—In the case of a taxpayer who is mar-
25 ried filing a separate return for the taxable year

1 and who has one-person coverage, if the tax-
2 payer has modified adjusted gross income in ex-
3 cess of \$12,500 for the taxable year, the 90
4 percent under paragraph (1)(B) shall be re-
5 duced by the number of percentage points
6 which bears the same ratio to 90 percentage
7 points as—

8 “(i) the excess of modified adjusted
9 gross income in excess of \$12,500, bears to

10 “(ii) \$7,500.

11 “(4) INCOME PHASEOUT OF CREDIT PERCENT-
12 AGE FOR COVERAGE OF MORE THAN ONE PERSON.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), in the case of a taxpayer
15 with coverage of more than one person, if the
16 taxpayer has modified adjusted gross income in
17 excess of \$25,000 for a taxable year, the 90
18 percent under paragraph (1)(B) shall be re-
19 duced by the number of percentage points
20 which bears the same ratio to 90 percentage
21 points as—

22 “(i) the excess of modified adjusted
23 gross income in excess of \$25,000, bears to

24 “(ii) \$35,000.

1 “(B) MARRIED FILING SEPARATE RE-
 2 TURN.—In the case of a taxpayer who is mar-
 3 ried filing a separate return for the taxable year
 4 and who has coverage of more than one person,
 5 if the taxpayer has modified adjusted gross in-
 6 come in excess of \$12,500 for the taxable year,
 7 the 90 percent under paragraph (1)(B) shall be
 8 reduced by the number of percentage points
 9 which bears the same ratio to 90 percentage
 10 points as—

11 “(i) the excess of modified adjusted
 12 gross income in excess of \$12,500, bears to

13 “(ii) \$17,500.

14 “(5) ROUNDING.—Any percentage resulting
 15 from a reduction under paragraphs (3) and (4) shall
 16 be rounded to the nearest one-tenth of a percent.

17 “(6) MODIFIED ADJUSTED GROSS INCOME.—
 18 The term ‘modified adjusted gross income’ means
 19 adjusted gross income determined—

20 “(A) without regard to this section and
 21 sections 911, 931, and 933, and

22 “(B) after application of sections 86, 135,
 23 137, 219, 221, and 469.

24 “(c) COVERAGE MONTH.—For purposes of this sec-
 25 tion—

1 “(1) IN GENERAL.—The term ‘coverage month’
2 means, with respect to an individual, any month if—

3 “(A) as of the first day of such month
4 such individual is covered by qualified health in-
5 surance, and

6 “(B) the premium for coverage under such
7 insurance for such month is paid by the tax-
8 payer.

9 “(2) GROUP HEALTH PLAN COVERAGE.—

10 “(A) IN GENERAL.—The term ‘coverage
11 month’ shall not include any month for which
12 such individual participates in any group health
13 plan (within the meaning of section 5000 with-
14 out regard to section 5000(d)).

15 “(B) EXCEPTION FOR CERTAIN PER-
16 MITTED COVERAGE.—Subparagraph (A) shall
17 not apply to an individual if the individual’s
18 only coverage under a group health plan for a
19 month is coverage described in clause (i) or (ii)
20 of section 223(c)(1)(B).

21 “(3) EMPLOYER-PROVIDED COVERAGE.—The
22 term ‘coverage month’ shall not include any month
23 during a taxable year if any amount is not includible
24 in the gross income of the taxpayer for such year

1 under section 106 (other than coverage described in
2 clause (i) or (ii) of section 223(c)(1)(B)).

3 “(4) MEDICARE, MEDICAID, AND SCHIP.—The
4 term ‘coverage month’ shall not include any month
5 with respect to an individual if, as of the first day
6 of such month, such individual—

7 “(A) is entitled to any benefits under part
8 A of title XVIII of the Social Security Act or
9 is enrolled under part B of such title, or

10 “(B) is enrolled in the program under title
11 XIX or XXI of such Act (other than under sec-
12 tion 1928 of such Act).

13 “(5) CERTAIN OTHER COVERAGE.—The term
14 ‘coverage month’ shall not include any month with
15 respect to an individual if, at any time during such
16 month, any benefit is provided to such individual
17 under—

18 “(A) chapter 89 of title 5, United States
19 Code, or

20 “(B) chapter 55 of title 10, United States
21 Code.

22 “(6) PRISONERS.—The term ‘coverage month’
23 shall not include any month with respect to an indi-
24 vidual if, as of the first day of such month, such in-

1 dividual is imprisoned under Federal, State, or local
2 authority.

3 “(7) INSUFFICIENT PRESENCE IN UNITED
4 STATES.—The term ‘coverage month’ shall not in-
5 clude any month during a taxable year with respect
6 to an individual if such individual is present in the
7 United States on fewer than 183 days during such
8 year (determined in accordance with section
9 7701(b)(7)).

10 “(d) QUALIFIED HEALTH INSURANCE.—For pur-
11 poses of this section—

12 “(1) IN GENERAL.—The term ‘qualified health
13 insurance’ means health insurance coverage (as de-
14 fined in section 9832(b)(1)) which—

15 “(A) is coverage described in paragraph
16 (2), and

17 “(B) meets the requirements of paragraph
18 (3).

19 “(2) ELIGIBLE COVERAGE.—Coverage described
20 in this paragraph is the following:

21 “(A) Coverage under individual health in-
22 surance.

23 “(B) Coverage through a private sector
24 health care coverage purchasing pool.

1 “(C) Coverage through a State health care
2 coverage purchasing pool.

3 “(D) Coverage under a State high risk
4 pool described in subparagraph (C) of section
5 35(e)(1).

6 “(E) Coverage, after December 31, 2006,
7 under an eligible State buyin program.

8 “(3) REQUIREMENTS.—The requirements of
9 this paragraph are as follows:

10 “(A) COST LIMITS.—The coverage meets
11 the requirements of section 223(c)(2)(A)(ii).

12 “(B) MAXIMUM BENEFITS.—Under the
13 coverage, the annual and lifetime maximum
14 benefits are not less than \$700,000.

15 “(C) BROAD COVERAGE.—The coverage in-
16 cludes inpatient and outpatient care, emergency
17 benefits, and physician care.

18 “(D) GUARANTEED RENEWABILITY.—Such
19 coverage is guaranteed renewable by the pro-
20 vider.

21 “(4) ELIGIBLE STATE BUYIN PROGRAM.—For
22 purposes of paragraph (2)(E)—

23 “(A) IN GENERAL.—The term ‘eligible
24 State buyin program’ means a State program
25 under which an individual who—

1 “(i) is not eligible for assistance under
2 the State medicaid program under title
3 XIX of the Social Security Act,

4 “(ii) is not eligible for assistance
5 under the State children’s health insurance
6 program under title XXI of such Act, or

7 “(iii) is not a State employee,
8 is able to buy health insurance coverage
9 through a purchasing arrangement entered into
10 between the State and a private sector health
11 care purchasing group or health plan.

12 “(B) REQUIREMENTS.—Subparagraph (A)
13 shall only apply to a State program if—

14 “(i) the program uses private sector
15 health care purchasing groups or health
16 plans, and

17 “(ii) the State maintains separate risk
18 pools for participants under the State pro-
19 gram.

20 “(C) SUBSIDIES.—

21 “(i) IN GENERAL.—A State program
22 shall not fail to be treated as an eligible
23 State buyin program merely because the
24 State subsidizes the costs of an individual

1 in buying health insurance coverage under
2 the program.

3 “(ii) EXCEPTION.—Clause (i) shall
4 not apply if the State subsidy under the
5 program for any adult for any consecutive
6 12-month period exceeds the applicable
7 dollar amount.

8 “(iii) APPLICABLE DOLLAR
9 AMOUNT.—

10 “(I) IN GENERAL.—For purposes
11 of clause (ii), the applicable dollar
12 amount is \$2,000.

13 “(II) REDUCTION.—In the case
14 of a family with annual income in ex-
15 cess of 133 percent of the applicable
16 poverty line (as determined in accord-
17 ance with criteria established by the
18 Director of the Office of Management
19 and Budget) but not in excess of 200
20 percent of such line, the dollar
21 amount under clause (i) shall be rat-
22 ably reduced (but not below \$500) for
23 each dollar of such excess. In the case
24 of a family with annual income in ex-

1 cess of 200 percent of such line, the
2 applicable dollar amount shall be zero.

3 “(e) ARRANGEMENTS UNDER WHICH INSURERS
4 CONTRIBUTE TO HSA.—

5 “(1) IN GENERAL.—For purposes of this sec-
6 tion, health insurance shall not be treated as quali-
7 fied health insurance if the insurer makes contribu-
8 tions to a health savings account of the taxpayer un-
9 less such insurance is provided under an arrange-
10 ment described in paragraph (2).

11 “(2) ARRANGEMENTS DESCRIBED.—

12 “(A) AMOUNTS PAID FOR COVERAGE EX-
13 CEED MONTHLY LIMITATION.—In the case of
14 amounts paid under an arrangement for health
15 insurance for a coverage month in excess of the
16 amount in effect under subsection (b)(2)(A) for
17 such month, an arrangement is described in
18 this subparagraph if under the arrangement—

19 “(i) the aggregate amount contributed
20 by the insurer to any health savings ac-
21 count of the taxpayer does not exceed 90
22 percent of the excess of—

23 “(I) the amount paid by the tax-
24 payer for qualified health insurance

1 under such arrangement for such
2 month, over

3 “(II) the amount in effect under
4 subsection (b)(2)(A) for such month,
5 and

6 “(ii) the amount contributed by the
7 insurer to a qualified health savings ac-
8 count of the taxpayer, reduced by the
9 amount of the excess under clause (i), does
10 not exceed 27 percent of the amount in ef-
11 fect under subsection (b)(2)(A) for such
12 month.

13 “(B) AMOUNTS PAID FOR COVERAGE LESS
14 THAN MONTHLY LIMITATION.—In the case of
15 an arrangement under which the amount paid
16 for qualified health insurance for a coverage
17 month does not exceed the amount in effect
18 under subsection (b)(2)(A) for such month, an
19 arrangement is described in this subparagraph
20 if—

21 “(i) under the arrangement the value
22 of the insured benefits (excluding over-
23 head) exceeds 65 percent of the amount
24 paid for qualified health insurance for such
25 month, and

1 “(ii) the amount contributed by the
2 insurer to a qualified health savings ac-
3 count of the taxpayer does not exceed 27
4 percent of the amount in effect under sub-
5 section (b)(2)(A) for such month.

6 “(3) QUALIFIED HEALTH SAVINGS ACCOUNT.—
7 The term ‘qualified health savings account’ has the
8 meaning given such term by section 36(c)(2).

9 “(f) DEPENDENTS.—For purposes of this section—

10 “(1) DEPENDENT DEFINED.—The term ‘de-
11 pendent’ has the meaning given to such term by sec-
12 tion 152 (determined without regard to subsections
13 (b)(1), (b)(2), and (d)(1)(B) thereof).

14 “(2) SPECIAL RULE FOR DEPENDENT CHILD OF
15 DIVORCED PARENTS.—An individual who is a child
16 to whom section 152(e) applies shall be treated as
17 a dependent of the custodial parent for a coverage
18 month unless the custodial and noncustodial parent
19 provide otherwise.

20 “(3) DENIAL OF CREDIT TO DEPENDENTS.—No
21 credit shall be allowed under this section to any indi-
22 vidual with respect to whom a deduction under sec-
23 tion 151(c) is allowable to another taxpayer for a
24 taxable year beginning in the calendar year in which
25 such individual’s taxable year begins.

1 “(g) INFLATION ADJUSTMENTS.—

2 “(1) CREDIT AND HEALTH INSURANCE
3 AMOUNTS.—In the case of any taxable year begin-
4 ning after 2006, each dollar amount referred to in
5 subsections (b)(1)(B), (b)(2)(A), (d)(3)(B), and
6 (d)(4)(C)(iii)(I) shall be increased by an amount
7 equal to—

8 “(A) such dollar amount, multiplied by

9 “(B) the cost-of-living adjustment deter-
10 mined under section 213(d)(10)(B)(ii) for the
11 calendar year in which the taxable year begins,
12 determined by substituting ‘2005’ for ‘1996’ in
13 subclause (II) thereof.

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

17 “(2) INCOME PHASEOUT AMOUNTS.—In the
18 case of any taxable year beginning after 2006, each
19 dollar amount referred to in paragraph (3) and (4)
20 of subsection (b) shall be increased by an amount
21 equal to—

22 “(A) such dollar amount, multiplied by

23 “(B) the cost-of-living adjustment deter-
24 mined under section 1(f)(3) for the calendar
25 year in which the taxable year begins, deter-

1 mined by substituting ‘calendar year 2005’ for
2 ‘calendar year 1992’ in subparagraph (B)
3 thereof.

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

7 “(h) SPECIAL RULES.—

8 “(1) COORDINATION WITH MEDICAL EXPENSE
9 DEDUCTION AND DEDUCTION FOR PREMIUMS FOR
10 HIGH DEDUCTIBLE HEALTH PLANS.—The amount
11 which would (but for this paragraph) be taken into
12 account by the taxpayer under section 213 or 224
13 for the taxable year shall be reduced by the credit
14 (if any) allowed by this section to the taxpayer for
15 such year.

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

21 “(3) COORDINATION WITH ADVANCE PAY-
22 MENT.—Rules similar to the rules of section
23 35(g)(1) shall apply to any credit to which this sec-
24 tion applies.

1 “(4) COORDINATION WITH SECTION 35.—If a
2 taxpayer is eligible for the credit allowed under this
3 section and section 35 for any month, the taxpayer
4 shall elect which credit is to be allowed with respect
5 to such month.

6 “(i) EXPENSES MUST BE SUBSTANTIATED.—A pay-
7 ment for insurance to which subsection (a) applies may
8 be taken into account under this section only if the tax-
9 payer substantiates such payment in such form as the Sec-
10 retary may prescribe.

11 “(j) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary to carry out the pur-
13 poses of this section.”.

14 (b) INFORMATION REPORTING.—

15 (1) IN GENERAL.—Subpart B of part III of
16 subchapter A of chapter 61 of the Internal Revenue
17 Code of 1986 (relating to information concerning
18 transactions with other persons) is amended by in-
19 serting after section 6050T the following:

20 **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**
21 **QUALIFIED HEALTH INSURANCE.**

22 “(a) IN GENERAL.—Any person who, in connection
23 with a trade or business conducted by such person, re-
24 ceives payments during any calendar year from any indi-
25 vidual for coverage of such individual or any other indi-

1 vidual under creditable health insurance, shall make the
2 return described in subsection (b) (at such time as the
3 Secretary may by regulations prescribe) with respect to
4 each individual from whom such payments were received.

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

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

9 “(2) contains—

10 “(A) the name, address, and TIN of the
11 individual from whom payments described in
12 subsection (a) were received,

13 “(B) the name, address, and TIN of each
14 individual who was provided by such person
15 with coverage under creditable health insurance
16 by reason of such payments and the period of
17 such coverage,

18 “(C) the aggregate amount of payments
19 described in subsection (a), and

20 “(D) such other information as the Sec-
21 retary may reasonably prescribe.

22 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
23 poses of this section, the term ‘creditable health insurance’
24 means qualified health insurance (as defined in section
25 36A(d)).

1 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
2 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
3 QUIRED.—Every person required to make a return under
4 subsection (a) shall furnish to each individual whose name
5 is required under subsection (b)(2)(A) to be set forth in
6 such return a written statement showing—

7 “(1) the name and address of the person re-
8 quired to make such return and the phone number
9 of the information contact for such person,

10 “(2) the aggregate amount of payments de-
11 scribed in subsection (a) received by the person re-
12 quired to make such return from the individual to
13 whom the statement is required to be furnished, and

14 “(3) the information required under subsection
15 (b)(2)(B) with respect to such payments.

16 The written statement required under the preceding sen-
17 tence shall be furnished on or before January 31 of the
18 year following the calendar year for which the return
19 under subsection (a) is required to be made.

20 “(e) RETURNS WHICH WOULD BE REQUIRED TO BE
21 MADE BY 2 OR MORE PERSONS.—Except to the extent
22 provided in regulations prescribed by the Secretary, in the
23 case of any amount received by any person on behalf of
24 another person, only the person first receiving such

1 amount shall be required to make the return under sub-
2 section (a).”.

3 (2) ASSESSABLE PENALTIES.—

4 (A) Subparagraph (B) of section
5 6724(d)(1) of such Code (relating to defini-
6 tions) is amended by redesignating clauses (xiii)
7 through (xviii) as clauses (xiv) through (xix),
8 respectively, and by inserting after clause (xii)
9 the following:

10 “(xiii) section 6050U (relating to re-
11 turns relating to payments for qualified
12 health insurance),”.

13 (B) Paragraph (2) of section 6724(d) of
14 such Code is amended by striking “or” at the
15 end of subparagraph (AA), by striking the pe-
16 riod at the end of the subparagraph (BB) and
17 inserting “, or”, and by adding at the end the
18 following:

19 “(CC) section 6050U(d) (relating to re-
20 turns relating to payments for qualified health
21 insurance).”.

22 (3) CLERICAL AMENDMENT.—The table of sec-
23 tions for subpart B of part III of subchapter A of
24 chapter 61 of such Code is amended by inserting

1 after the item relating to section 6050T the fol-
 2 lowing:

“Sec. 6050U. Returns relating to payments for qualified health insur-
 ance.”.

3 (c) **CRIMINAL PENALTY FOR FRAUD.**—Subchapter B
 4 of chapter 75 of the Internal Revenue Code of 1986 (relat-
 5 ing to other offenses) is amended by adding at the end
 6 the following:

7 **“SEC. 7276. PENALTIES FOR OFFENSES RELATING TO**
 8 **HEALTH INSURANCE TAX CREDIT.**

9 “Any person who knowingly misuses Department of
 10 the Treasury names, symbols, titles, or initials to convey
 11 the false impression of association with, or approval or en-
 12 dorsement by, the Department of the Treasury of any in-
 13 surance products or health coverage in connection with the
 14 credit for health insurance costs under section 36A shall
 15 on conviction thereof be fined not more than \$10,000, or
 16 imprisoned not more than 1 year, or both.”.

17 (d) **CONFORMING AMENDMENTS.**—

18 (1) Paragraph (2) of section 1324(b) of title
 19 31, United States Code, is amended by inserting be-
 20 fore the period “, or from section 36A of such
 21 Code”.

22 (2) The table of sections for subpart C of part
 23 IV of subchapter A of chapter 1 of the Internal Rev-

1 on behalf of individuals eligible for the credit under section
2 36A. Such payments shall be made on the basis of modi-
3 fied adjusted gross income of eligible individuals for the
4 preceding taxable year.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for chapter 77 of the Internal Revenue Code of 1986 is
7 amended by adding at the end the following:

“Sec. 7529. Advance payment of credit for health insurance costs of eligi-
ble individuals.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on July 1, 2007.

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