To amend the Internal Revenue Code of 1986 to eliminate limitations on contributions to health savings accounts.

A BILL

To amend the Internal Revenue Code of 1986 to eliminate limitations on contributions 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
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Health Savings Ac-
6 counts For All Act of 2020”.
7
8 SEC. 2. REPEAL OF CONTRIBUTION LIMITATIONS.
9 (a) IN GENERAL.—Subsection (b) of section 223 of
10 the Internal Revenue Code of 1986 is amended to read
11 as follows:
“(b) Denial of Deduction to Dependents.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.”.

(b) Conforming Amendments.—

(1) Subparagraph (A) of section 223(d)(1) of the Internal Revenue Code of 1986 is amended—

(A) by striking “subsection (f)(5)” and inserting “subsection (f)(4)”, and

(B) by striking “accepted—” and all that follows and inserting “accepted unless it is in cash.”.

(2) Subsection (f) of section 223 of such Code is amended by striking paragraph (3) and by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(3) Subsection (g) of section 223 of such Code is amended—

(A) by striking “subsections (b)(2) and (c)(2)(A)” both places it appears and inserting “subsection (e)(2)(A)”, and

(B) by amending subparagraph (B) to read as follows:
“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins determined by substituting ‘calendar year 2003’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.”.

(4) Section 26(b)(2) of such Code is amended—

(A) by striking “, 223(b)(8)(B)(i)(II),” in subparagraph (S), and

(B) by striking “223(f)(4)” in subparagraph (U) and inserting “223(f)(3)”.

(5) Paragraph (1) of section 106(d) of such Code is amended by striking “under an accident or health plan” and all that follows and inserting “under an accident or health plan.”.

(6) Subparagraph (C) of section 106(e)(4) of such Code is amended by striking “223(f)(5)” and inserting “223(f)(4)”.

(7) Subparagraph (C) of section 408(d)(9) of such Code is amended—

(A) by striking “LIMITATIONS.—” in the heading and all that follows through “(ii) ONE-TIME TRANSFER.—” in clause (ii), and inserting “ONE-TIME TRANSFER.—”,
(B) by redesignating subclauses (I) and (II) as clauses (i) and (ii) and moving such clauses 2 ems to the left, and

(C) by striking “subclause (II)” in clause (i), as so redesignated, and inserting “clause (ii)”.

(8) Section 4973 of such Code is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. FREEDOM FROM MANDATE.

(a) In General.—Section 223 of the Internal Revenue Code of 1986, as amended by section 2, is further amended by striking subsections (e) and (g) and by redesignating subsections (d), (e), (f), and (h) as subsections (e), (d), (e), and (f), respectively.

(b) Conforming Amendments.—

(1) Subsection (a) of section 223 of the Internal Revenue Code of 1986 is amended to read as follows:

“(a) Deduction Allowed.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid
in cash during such taxable year by or on behalf of such
individual to a health savings account of such individual.”.

(2) Subsection (c)(1)(A) of section 223 of such
Code, as amended by section 2 and redesignated by
subsection (a), is further amended by striking “sub-
section (f)(4)” and inserting “subsection (e)(4)”.

(3) Subparagraph (U) of section 26(b)(2) of
such Code, as amended by section 2, is further
amended by striking “section 223(f)(3)” and insert-
ing “section 223(e)(3)”.

(4) Sections 35(g)(3), 220(f)(5)(A),
848(e)(1)(B)(v), 4973(a)(5), and 6051(a)(12) of
such Code are each amended by striking “section
223(d)” each place it appears and inserting “section
223(e)”.

(5) Section 106(d)(1) of such Code is amend-
ed—

(A) by striking “who is an eligible indi-
vidual (as defined in section 223(e)(1))”, and

(B) by striking “section 223(d)” and in-
serting “section 223(e)”.

(6) Section 106(e) of such Code is amended—

(A) by striking paragraphs (3) and (4) and
by redesignating paragraph (5) as paragraph
(4),
(B) by inserting after paragraph (2) the following new paragraph:

“(3) Treatment as Rollover Contribution.—A qualified HSA distribution shall be treated as a rollover contribution described in section 223(e)(4),” and

(C) by striking “to any eligible individual covered under a high deductible health plan of the employer” in paragraph (4)(B)(ii) (as so redesignated) and inserting “to any employee with respect to whom a health savings account has been established”.

(7) Section 408(d)(9)(A) of such Code is amended by striking “who is an eligible individual (as defined in section 223(c)) and”.

(8) Section 877A(g)(6) of such Code is amended by striking “223(f)(4)” and inserting “223(e)(4)”.

(9) Section 4975 of such Code is amended—

(A) in subsection (e)(6)—

(i) by striking “section 223(d)” and inserting “section 223(e)”, and

(ii) by striking “section 223(e)(2)” and inserting “section 223(d)(2)”,
(B) in subsection (c)(1)(E), by striking “section 223(d)” and inserting “section 223(c)”.

(10) Subsection (b) of section 4980G of such Code is amended to read as follows:

“(b) RULES AND REQUIREMENTS.—

“(1) IN GENERAL.—An employer meets the requirements of this subsection for any calendar year if the employer makes available comparable contributions to the health savings accounts of all comparable participating employees for each coverage period during such calendar year.

“(2) COMPARABLE CONTRIBUTIONS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the term ‘comparable contributions’ means contributions—

“(i) which are the same amount, or

“(ii) if the employees are covered by a health plan, which are the same percentage of the annual deductible limit under the plan covering the employees.

“(B) PART-YEAR EMPLOYEES.—In the case of an employee who is employed by the employer for only a portion of the calendar year, a contribution to the health savings account of
such employee shall be treated as comparable if it is an amount which bears the same ratio to
the comparable amount (determined without re-
gard to this subparagraph) as such portion bears to the entire calendar year.

“(3) COMPARABLE PARTICIPATING EMPLOY-
EES.—For purposes of paragraph (1), the term ‘comparable participating employees’ means all em-
ployees who are covered (if at all) under the same health plan of the employer and have the same cat-
egory of coverage. For purposes of the preceding sentence, the categories of coverage are self-only and family coverage.

“(4) PART-TIME EMPLOYEES.—

“(A) IN GENERAL.—Paragraph (3) shall be applied separately with respect to part-time employees and other employees.

“(B) PART-TIME EMPLOYEE.—For pur-
poses of subparagraph (A), the term ‘part-time employee’ means any employee who is custom-
arily employed for fewer than 30 hours per week.”.

(11) Section 4980G(d) of such Code is amended by striking “section 4980E” and inserting “this sec-
tion”.
(12) Section 6693(a)(2)(C) of such Code is amended by striking “section 223(h)” and inserting “section 223(f)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. ALLOWANCE OF DISTRIBUTIONS FOR PRESCRIPTION AND OVER-THE-COUNTER MEDICINES AND DRUGS.

(a) HSAs.—Paragraph (2)(A) of section 223(c) of the Internal Revenue Code of 1986, as redesignated by section 3, is amended by adding at the end the following: “The term ‘qualified medical expenses’ shall include an amount paid for any prescription or over-the-counter medicine or drug.”.

(b) ARCHER MSAs.—Section 220(d)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking “section 223(d)(2)(D)” and inserting “section 223(c)(2)(B)”, and

(2) by adding at the end the following: “The term ‘qualified medical expenses’ shall include an amount paid for any prescription or over-the-counter medicine or drug.”.

(c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sub-
section (f) of section 106 of the Internal Revenue Code of 1986 is amended to read as follows:

“(f) Reimbursements for All Medicines, Drugs, and Menstrual Care Products.—For purposes of this section and section 105—

“(1) reimbursement for expenses incurred for any prescription or over-the-counter medicine or drug shall be treated as a reimbursement for medical expenses, and

“(2) expenses incurred for menstrual care products (as defined in section 223(c)(2)(B)) shall be treated as incurred for medical care.”.

(d) Effective Dates.—

(1) Distributions from Savings Accounts.—The amendments made by subsections (a) and (b) shall apply to amounts paid in taxable years beginning after the date of the enactment of this Act.

(2) Reimbursements.—The amendment made by subsection (c) shall apply to expenses incurred in plan years beginning after the date of the enactment of this Act.
SEC. 5. PURCHASE OF HEALTH INSURANCE FROM HSA.

(a) In General.—Paragraph (2) of section 223(c) of the Internal Revenue Code of 1986, as redesignated by section 3, is amended—

(1) by striking subparagraphs (B) and (C), and

(2) by redesignating subparagraph (D) as subparagraph (B).

(b) Conforming Amendment.—Paragraph (2) of section 223(c) of the Internal Revenue Code of 1986, as amended by the preceding sections of this Act, is further amended by striking “and any dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual” and inserting “any dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual, and any child (as defined in section 152(f)(1)) of such individual who has not attained the age of 27 before the end of such individual’s taxable year”.

(c) Effective Date.—The amendments made by this section shall apply with respect to insurance purchased after the date of the enactment of this Act in taxable years beginning after such date.
SEC. 6. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.

(a) In General.—Paragraph (2) of section 223(c) of the Internal Revenue Code of 1986, as amended and redesignated by the preceding sections of this Act, is further amended by adding at the end the following new sub-paragraph:

“(C) Certain medical expenses incurred before establishment of account treated as qualified.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

“(i) during either—

“(I) the taxable year in which the health savings account was established, or

“(II) the preceding taxable year, in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such
taxable year (not including extensions thereof), and

“(ii) for medical care which (but for the fact that it was incurred before the establishment of the account) otherwise meets the requirements of the preceding subparagraphs.”.

(b) **Effective Date.**—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 7. ADMINISTRATIVE ERROR CORRECTION BEFORE DUE DATE OF RETURN.**

(a) **In General.**—Paragraph (3) of section 223(e) of the Internal Revenue Code of 1986, as amended and redesignated by the preceding sections of this Act, is amended by adding at the end the following new subparagraph:

“(D) **Exception for Administrative Errors Corrected Before Due Date of Return.**—Subparagraph (A) shall not apply if any payment or distribution is made to correct an administrative, clerical, or payroll contribution error and if—

“(i) such distribution is received by the individual on or before the last day
prescribed by law (including extensions of time) for filing such individual’s return for such taxable year, and

“(ii) such distribution is accompanied by the amount of net income attributable to such contribution.

Any net income described in clause (ii) shall be included in the gross income of the individual for the taxable year in which it is received.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 8. ALLOWING HSA ROLLOVER TO CHILD OR PARENT OF ACCOUNT HOLDER.

(a) IN GENERAL.—Paragraph (7)(A) of section 223(e) of the Internal Revenue Code of 1986, as redesignated by the preceding sections of this Act, is amended—

(1) by inserting “, child, parent, or grandparent” after “surviving spouse”,

(2) by inserting “, child, parent, or grandparent, as the case may be,” after “the spouse”,

(3) by inserting “, CHILD, PARENT, OR GRANDPARENT” after “SPOUSE” in the heading thereof, and
(4) by adding at the end the following: “In the case of a child who acquires such beneficiary’s interest and with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins, such health savings account shall be treated as a health savings account of such child.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9. CREDIT FOR CONTRIBUTIONS TO AN HSA.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

“SEC. 25E. CONTRIBUTIONS TO A HEALTH SAVINGS ACCOUNT.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to so much of the qualified HSA contributions of the individual as does not exceed $5,000 ($10,000 in the case of a joint return).

“(b) QUALIFIED HSA CONTRIBUTION.—
“(1) IN GENERAL.—For purposes of this section, the term ‘qualified HSA contribution’ means an amount paid in cash during the taxable year by or on behalf of an individual to a health savings account (as defined in section 223(c)) of such individual.

“(2) EXCEPTION FOR AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—The amount taken into account as qualified HSA contributions of the individual under paragraph (1) for a taxable year shall be reduced by the amount of any distribution from such health savings account during such taxable year which is not used exclusively to pay the qualified medical expenses of the account beneficiary (within the meaning of section 223(e)(2)).

“(c) COORDINATION WITH DEDUCTION.—For coordination rule, see section 223(b)(1).”.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

“Sec. 25E. Contributions to a health savings account.”.

(e) CONFORMING AMENDMENT.—Subsection (b) of section 223 of the Internal Revenue Code of 1986,
amended by section 2, is further amended to read as follows:

“(b) Special Rules.—

“(1) Coordination with credit.—The amount taken into account under subsection (a) with respect to any individual shall be reduced (but not below zero) by the amount of any credit allowed under section 25E for qualified HSA contributions with respect to the individual.

“(2) Denial of deduction to dependents.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.”.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 10. EQUIVALENT BANKRUPTCY PROTECTIONS FOR HEALTH SAVINGS ACCOUNTS AS RETIREMENT FUNDS.

(a) In General.—Section 522 of title 11, United States Code, is amended by adding at the end the following new subsection:
“(r) Treatment of Health Savings Accounts.—For purposes of this section, any health savings account (as described in section 223 of the Internal Revenue Code of 1986) shall be treated in the same manner as an individual retirement account described in section 408 of such Code.”.

(b) Effective Date.—The amendment made by this section shall apply to cases commencing under title 11, United States Code, after the date of the enactment of this Act.