

**DESCRIPTION OF H.R. 6306,
A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO
INCREASE THE CONTRIBUTION LIMITATION FOR HEALTH
SAVINGS ACCOUNTS, AND FOR OTHER PURPOSES**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
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Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

The House Committee on Ways and Means has scheduled a markup of H.R. 6306, a bill to amend the Internal Revenue Code of 1986 to Increase the Contribution Limitation for Health Savings Accounts, and for other purposes, on July 11, 2018 which provides that the maximum contribution limit to health savings accounts is increased to the amount of the deductible and out-of-pocket limitation under a high deductible health plan, which permits both spouses to make catch-up contributions to the same health savings account, and which permits amounts to be paid for qualified medical expenses from a health savings account that is established during the 60-day period beginning on the date that coverage under a high deductible health plan begins. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 6306, A Bill to Amend the Internal Revenue Code of 1986 to Increase the Contribution Limitation for Health Savings Accounts, and for Other Purposes* (JCX-53-18), July 10, 2018. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references herein are to the Internal Revenue Code of 1986, as amended, unless otherwise stated.

A. Maximum Contribution Limit to Health Savings Account Increased to Amount of Deductible and Out-of-Pocket Limitation

Present Law

Health savings accounts

An individual may establish a health savings account (“HSA”) only if the individual is covered under a plan that meets the requirements for a high deductible health plan, as described below. In general, HSAs provide tax-favored treatment for current medical expenses as well as the ability to save on a tax-favored basis for future medical expenses. In general, an HSA is a tax-exempt trust or custodial account created exclusively to pay for the qualified medical expenses of the account holder and his or her spouse and dependents.

Within limits,² contributions to an HSA made by or on behalf of an eligible individual are deductible by the individual. Contributions to an HSA are excludible from income and employment taxes if made by the employer. Earnings in HSAs are not taxable. Distributions from an HSA for qualified medical expenses are not includible in gross income. Distributions from an HSA that are not used for qualified medical expenses are includible in gross income and are subject to an additional tax of 20 percent. The 20-percent additional tax does not apply if the distribution is made after death or disability, or after the individual attains the age of Medicare eligibility (age 65).

High deductible health plans

A high deductible health plan is a health plan that has a minimum annual deductible of \$1,350 (for 2018) for self-only coverage and twice this amount for family coverage, and for which the sum of the annual deductible and other annual out-of-pocket expenses (other than premiums) for covered benefits does not exceed \$6,650 (for 2018) for self-only coverage and twice this amount for family coverage.³ These dollar thresholds are subject to inflation adjustment, based on chained CPI.⁴

An individual who is covered under a high deductible health plan is eligible to establish an HSA, provided that while such individual is covered under the high deductible health plan, the individual is not covered under any health plan that (1) is not a high deductible health plan

² For 2018, the basic limit on annual contributions that can be made to an HSA is \$3,450 in the case of self-only coverage and \$6,900 in the case of family coverage. (The 2018 limitation for family coverage was revised by the IRS to permit taxpayers to disregard the \$6,850 limitation under the modified inflation adjustment of Pub. L. No. 115-97. Rev. Rul. 2018-27, 2018-20 I.R.B. 591, May 14, 2018.) The basic annual contributions limits are increased by \$1,000 for individuals who have attained age 55 by the end of the taxable year (referred to as “catch-up” contributions).

³ Sec. 223(c)(2).

⁴ Sec. 223(g).

and (2) provides coverage for any benefit (subject to certain exceptions) covered under the high deductible health plan.⁵

Various types of coverage are disregarded for this purpose, including coverage of any benefit provided by permitted insurance, coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care, as well as certain limited coverage through health flexible savings accounts.⁶ Permitted insurance means insurance under which substantially all of the coverage provided relates to liabilities incurred under workers' compensation laws, tort liabilities, liabilities relating to ownership or use of property, or such other similar liabilities as specified by the Secretary under regulations. Permitted insurance also means insurance for a specified disease or illness, and insurance paying a fixed amount per day (or other period) of hospitalization.⁷

Description of Proposal

The proposal increases the basic limit on aggregate HSA contributions for a year to equal the maximum of the sum of the annual deductible and out-of-pocket expenses permitted under a high deductible health plan. Thus, for 2018, the basic limit is \$6,650 in the case of self-only coverage and \$13,300 in the case of family coverage. As under present law, basic contribution limits are increased by \$1,000 for an eligible individual who has attained age 55 by the end of the taxable year. In addition, as under present law, the annual HSA contribution limit for an individual is generally the sum of the limits determined separately for each month (that is, 1/12 of the limit for the year, including the catch-up limit, if applicable), based on the individual's status and health plan coverage as of the first day of the month.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2018.

⁵ Sec. 223(c)(1).

⁶ Sec. 223(c)(1)(B).

⁷ Sec. 223(c)(3).

B. Allow Both Spouses to Make Catch-Up Contributions to the Same Health Savings Account

Present Law

An individual with a high deductible health plan and no other health plan (other than a plan that provides certain permitted insurance or permitted coverage) may establish an HSA. HSA contributions for a year are subject to basic dollar limits that are adjusted annually as needed to reflect annual cost-of-living increases. The basic contribution limits are increased by \$1,000 for an eligible individual who has attained age 55 by the end of the taxable year (referred to as “catch-up contributions”). If eligible individuals are married to each other and either spouse has family coverage, both spouses are treated as having only family coverage, so that the contribution limit for family coverage applies. The contribution limit (without regard to any catch-up contribution amounts) is divided equally between the spouses unless they agree on a different division.

If both spouses of a married couple are eligible individuals, each may contribute to an HSA, but they cannot have a joint HSA.⁸ Under the rule described above, however, the spouses may divide their basic contribution limit for the year by allocating the entire amount to one spouse to be contributed to that spouse’s HSA.⁹

This allocation rule does not apply to catch-up contribution amounts, however. Thus, if both spouses are at least age 55 and eligible to make catch-up contributions, each must make the catch-up contribution to his or her own HSA.¹⁰

Description of Proposal

Under the proposal, if both spouses of a married couple are eligible for catch-up contributions and either has family coverage under a high deductible health plan as of the first day of any month, the annual contribution limit that can be allocated between them includes catch-up contribution amounts of both spouses. Thus, for example, the spouses can agree that their combined basic and catch-up contribution amounts are allocated to one spouse to be contributed to that spouse’s HSA.¹¹

Effective Date

The proposal is effective for taxable years beginning after December 31, 2018.

⁸ Notice 2004-50, 2004-2 C.B. 196, Q&A-63.

⁹ Notice 2004-50, Q&A-32. Funds from that HSA can be used to pay qualified medical expenses for either spouse on a tax-free basis. Notice 2004-50, Q&A-36.

¹⁰ Notice 2008-59, 2008-2 C.B. 123, Q&A-22.

¹¹ Different allocation rules may apply in certain other cases.

C. Special Rule for Certain Medical Expenses Incurred Before Establishment of Health Savings Account

Present Law

Distributions from an HSA for qualified medical expenses are not includible in gross income. Distributions from an HSA that are not used for qualified medical expenses are includible in gross income and are subject to an additional tax of 20 percent. The 20-percent additional tax does not apply if the distribution is made after death, disability, or the individual attains the age of Medicare eligibility (that is, age 65).

In order for a distribution from an HSA to be excludible as a payment for a qualified medical expense, the medical expense must be incurred on or after the date that the HSA is established.¹² Thus, a distribution from an HSA is not excludible as a payment for a qualified medical expense if the medical expense is incurred after a taxpayer enrolls in a high deductible health plan but before the taxpayer establishes an HSA.

Description of Proposal

Under the proposal, if an HSA is established during the 60-day period beginning on the date that an individual's coverage under a high deductible health plan begins, then, solely for purposes of determining whether an amount paid is used for a qualified medical expense, the HSA is treated as having been established on the date coverage under the high deductible health plan begins. Thus, if a taxpayer establishes an HSA within 60 days of the date that the taxpayer's coverage under a high deductible health plan begins, any distribution from an HSA used as a payment for a qualified medical expense incurred during that 60-day period after the high deductible health plan coverage began is excludible from gross income as a payment for a qualified medical expense even though the expense was incurred before the date that the HSA was established.

Effective Date

The proposal is effective with respect to coverage beginning after December 31, 2018.

¹² Q&A-26 of Notice 2004-2, 2004-1 C.B. 269.