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I. SUMMARY AND BACKGROUND

A. Purpose and Summary

The bill, H.R. 2351, as amended, provides for the creation of health savings accounts, which provide for tax-favored savings for health care. The bill also allows for rollovers of limited amounts in flexible spending arrangements and provides an exception from generally applicable information reporting requirements.

B. Background and Need for Legislation

The provisions approved by the Committee reflect the need for individuals to accumulate assets for future health care costs and to make cost-conscious spending decisions about health care expenses to help reduce the rising cost of health care.

C. Legislative History

The House Committee on Ways and Means marked up the Health Savings Account Availability Act on June 19, 2003, and ordered the bill, as amended, favorably reported by a roll call vote of 23 yeas to 16 nays (with a quorum being present).

II. EXPLANATION OF THE BILL

A. Health Savings Accounts
(sec. 2 of the bill and new sec. 223 of the Code)

Present Law

Overview

Under present law, the Federal tax treatment of health expenses and health coverage depends on the individual's circumstances (e.g., whether the individual is covered under an employer-provided health plan).

Employer-provided health coverage

In general, employer contributions to an accident or health plan are excludable from an employee's gross income (and wages for employment tax purposes).[1] This exclusion for employer-provided health coverage generally applies to coverage provided to employees (including former employees) and their spouses, dependents, and survivors. Benefits paid under employer-provided accident or health plans are also generally excludable from income to the extent they are reimbursements for medical care.[2] If certain requirements are satisfied, employer-provided accident or health coverage offered under a cafeteria plan is also excludable from an employee's gross income and wages.[3]

Present law provides for two general employer-provided arrangements that can be used to pay for or reimburse medical expenses of employees on a tax-favored basis; flexible spending arrangements ("FSAs") and health reimbursement arrangements ("HRAs"). While these arrangements provide similar tax benefits (i.e., the amounts paid under the arrangements for medical care are excludable from gross income and wages for employment tax purposes), they are subject to different rules. A main distinguishing feature between the two arrangements is that while FSAs are generally part of a cafeteria plan and contributions to FSAs are made on a salary

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[1] Sec. 106. All "section," "sec.," and "Code" references are to the Internal Revenue Code of 1986, as amended.

[2] Sec. 105. In the case of a self-insured medical reimbursement arrangement, the exclusion applies to highly compensated employees only if certain nondiscrimination rules are satisfied. Sec. 105(h). Medical care is defined under section 213(d) and generally includes amounts paid for qualified long-term care insurance and services.

[3] Sec. 125. Long-term care insurance and services may not be provided through a cafeteria plan.

reduction basis, HRAs cannot be part of a cafeteria plan and contributions cannot be made on a salary-reduction basis.[4]

Amounts paid or accrued by an employer within a taxable year for a sickness, accident, hospitalization, medical expense, or similar health plan for its employees are generally deductible as ordinary and necessary business expenses.[5]

Self-employed individuals

The exclusion for employer-provided health coverage does not apply to self-employed individuals. However, under present law, self-employed individuals (i.e., sole proprietors or partners in a partnership)[6] are entitled to deduct 100 percent of the amount paid for health insurance for themselves and their spouse and dependents.[7]

Itemized deduction for medical expenses

Under present law, individuals who itemize deductions may deduct amounts paid during the taxable year (to the extent not reimbursed by insurance or otherwise) for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent that the total of such expenses exceeds 7.5 percent of the taxpayer's adjusted gross income.[8]

Archer medical savings accounts

In general

In general, an Archer medical savings account ("MSA") is a tax-exempt trust or custodial account created exclusively for the benefit of the account holder that is subject to rules similar to those applicable to individual retirement arrangements.[9]

Within limits, contributions to an Archer MSA are deductible in determining adjusted gross income if made by an eligible individual and are excludable from gross income and wages

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[4] Notice 2002-45, 2002-28 I.R.B. 93 (July 15, 2002); Rev. Rul. 2002-41, 2002-28 I.R.B. 75 (July 15, 2002).

[5] Sec. 162.

[6] Self-employed individuals include more than two-percent shareholders of S corporations who are treated as partners for purposes of fringe benefit rules pursuant to section 1372.

[7] Sec. 162(l).

[8] Sec. 213. The adjusted gross income percentage is 10 percent for purposes of the alternative minimum tax.

[9] Sec. 220.

for employment tax purposes if made by the employer of an eligible individual. Earnings on amounts in an Archer MSA are not currently includible in gross income. Distributions from an Archer MSA for qualified medical expenses are not includible in gross income. Distributions not used for qualified medical expenses are includible in gross income and subject to an additional 15-percent tax unless the distribution is made after death, disability, or the individual attains the age of Medicare eligibility (i.e., age 65).

Qualified medical expenses are generally defined as under section 213(d) except that qualified medical expenses do not include expenses for health insurance other than long-term care insurance, premiums for health coverage during any period of continuation coverage required by Federal law, and premiums for health care coverage while an individual is receiving unemployment compensation under Federal or State law.

Eligible individuals

Archer MSAs are available only to employees of a small employer who are covered under an employer-sponsored high deductible health plan and to self-employed individuals covered under a high deductible health plan.[10] An employer is a small employer if it employed, on average, no more than 50 employees on business days during either of the two preceding calendar years. An individual is not eligible for an Archer MSA if he or she is covered under any other health plan that is not a high deductible health plan (other than a plan providing certain limited types of coverage). Individuals entitled to benefits under Medicare are not eligible individuals. Eligible individuals do not include individuals who may be claimed as a dependent on another person's tax return.

Treatment of contributions

Individual contributions to an Archer MSA are deductible (within limits) in determining adjusted gross income (i.e., "above-the-line"). In addition, employer contributions are excludable from gross income and wages for employment tax purposes (within the same limits), except that this exclusion does not apply to contributions made through a cafeteria plan. In the case of an employee, contributions can be made to an Archer MSA either by the individual or by the individual's employer, but not by both.

The maximum annual contribution that can be made to an Archer MSA for a year is 65 percent of the annual deductible under the high deductible health plan in the case of self-only coverage and 75 percent of the annual deductible in the case of family coverage.

If an employer provides a high deductible health plan coupled with Archer MSAs for employees and makes employer contributions to the Archer MSAs, the employer must make available a comparable contribution on behalf of all employees with comparable coverage during the same period. Contributions are considered comparable if they are either of the same amount or the same percentage of the deductible under the high deductible health plan. If employer

[10] Self-employed individuals include more than two-percent shareholders of S corporations who are treated as partners for purposes of fringe benefit rules pursuant to section 1372.

contributions do not satisfy the comparability rule during a period, then the employer is subject to an excise tax equal to 35 percent of the aggregate amount contributed by the employer to Archer MSAs of the employer for that period.

Definition of high deductible health plan

A high deductible health plan is a health plan with an annual deductible of at least $1,700 and no more than $2,500 in the case of self-only coverage and at least $3,350 and no more than $5,050 in the case of family coverage. In addition, the maximum out-of-pocket expenses with respect to allowed costs (including the deductible) must be no more than $3,350 in the case of self-only coverage and no more than $6,150 in the case of family coverage.[11] A plan does not fail to qualify as a high deductible health plan merely because it does not have a deductible for preventive care as required by State law. A plan does not qualify as a high deductible health plan if substantially all of the coverage under the plan is certain permitted insurance or is coverage (whether provided through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

Treatment of death of account holder

Upon death, any balance remaining in the decedent's Archer MSA is includible in his or her gross estate. If the account holder's surviving spouse is the named beneficiary of the Archer MSA, then, after the death of the account holder, the Archer MSA becomes the Archer MSA of the surviving spouse and the amount of the Archer MSA balance may be deducted in computing the decedent's taxable estate, pursuant to the estate tax marital deduction.[12] If, upon the account holder's death, the Archer MSA passes to a named beneficiary other than the decedent's surviving spouse, the Archer MSA ceases to be an Archer MSA as of the date of the decedent's death, and the beneficiary is required to include the fair market value of the Archer MSA assets as of the date of death in gross income for the taxable year that includes the date of death. The amount includible in gross income is reduced by the amount in the Archer MSA used, within one year after death, to pay qualified medical expenses incurred prior to the death. If there is no named beneficiary for the decedent's Archer MSA, the Archer MSA ceases to be an Archer MSA as of the date of death, and the fair market value of the assets in the Archer MSA as of such date is includible in the decedent's gross income for the year of the death.

Limit on number of MSAs; termination of MSA availability

The number of taxpayers benefiting annually from an Archer MSA contribution is limited to a threshold level (generally 750,000 taxpayers). The number of Archer MSAs established has not exceeded the threshold level.

[11] The deductible and out-of-pocket expenses dollar amounts are for 2003. These amounts are indexed for inflation in $50 increments.

[12] Sec. 2056.

After 2003, no new contributions may be made to Archer MSAs except by or on behalf of individuals who previously had Archer MSA contributions and employees who are employed by a participating employer.

Reasons for Change

The Committee believes that individuals should be encouraged to save for future medical care expenses and that individuals should be allowed to save for such expenses on a tax-favored basis. The Committee believes that it is important for individuals to accumulate assets for health care expenses, such as retiree health and prescription drug costs. The Committee also believes that uninsured individuals should be encouraged to set aside funds for future health costs. The Committee believes that consumers who spend their own savings on health care will make cost-conscious decisions, thus reducing the rising cost of health care.

Explanation of Provision

In general

The provision creates health savings accounts ("HSAs") which provide for tax-favored savings for health care 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 and that is subject to rules similar to those applicable to individual retirement arrangements.[13] Within limits, contributions to an HSA are deductible if made by an eligible individual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual to the extent otherwise deductible (e.g., subject to the AGI limits). Family members may also make nondeductible contributions to an HSA on behalf of an eligible individual. Distributions from an HSA for qualified medical expenses are not includible in gross income. Distributions that are not for qualified medical expenses are includible in gross income and subject to an additional 15 percent tax. The additional 15 percent tax does not apply after the individual attains age 65, death or disability.

Eligible individuals

Eligible individuals are individuals who (1) are covered under a health plan meeting minimum deductible requirements and no other health plan that does not meet the minimum deductible requirements, or (2) are uninsured. Individuals entitled to benefits under Medicare are not eligible individuals. Eligible individuals do not include individuals who may be claimed as a dependent on another person's tax return.

An individual with other coverage in addition to a plan with minimum deductible requirements is still eligible for an HSA if such other coverage is certain permitted insurance or permitted coverage. In addition, an individual is treated as uninsured if his or her only coverage is permitted insurance or coverage. Permitted insurance is: (1) insurance if substantially all of

[13] The provision provides that the present-law requirement applicable to insurance companies that certain policy acquisition expenses must be capitalized and amortized (sec. 848) does not apply in the case of any contract that is an HSA.

the coverage provided under such insurance relates to (a) liabilities incurred under worker's compensation law, (b) tort liabilities, (c) liabilities relating to ownership or use of property (e.g., auto insurance), or (d) such other similar liabilities as the Secretary may prescribe by regulations; (2) insurance for a specified disease or illness; and (3) insurance that provides a fixed payment for hospitalization. Permitted coverage is coverage (whether provided through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

A plan meets the minimum deductible requirements if the plan is a health plan with an annual deductible of at least $500 in the case of self-only coverage and at least $1,000 in the case of family coverage. These dollar amounts are indexed for inflation. Under the provision, there are no maximum deductible requirements and no limits on out-of-pocket expenses. A plan is not a minimum deductible plan if it is permitted insurance or is coverage (whether provided through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

Tax treatment of and limits on contributions

Contributions to an HSA made by an eligible individual are deductible (within limits) in determining adjusted gross income (i.e., "above-the-line"). Nondeductible contributions can be made by a family member of an eligible individual. In addition, employer contributions to an HSA (including salary reduction contributions made through a cafeteria plan) are excludable from gross income and wages for employment tax purposes to the extent otherwise deductible (e.g., subject to the AGI limits). In the case of an employee, contributions can be made to an HSA by both the individual (and family members) and the individual's employer. Individual, employer, and family contributions are aggregated for purposes of the maximum annual contribution limit.

The maximum aggregate annual contribution that can be made to an HSA (for all contributions) for a year is $2,000 for persons with self-only coverage and uninsured unmarried individuals with no dependents[14] and $4,000 for individuals with family coverage and uninsured individuals with a spouse or dependents.[15] In the case of individuals age 55 and older, the $2,000 and $4,000 contribution limits are increased to the following amounts respectively: $2,500 in 2004, $2,600 in 2005, $2,700 in 2006, $2,800 in 2007, $2,900 in 2008, and $3,000 in 2009 and thereafter; $4,500 in 2004, $4,600 in 2005, $4,700 in 2006, $4,800 in 2007, $4,900 in 2008, and $5,000 in 2009 and thereafter.

The maximum allowable contribution is phased out for taxpayers with adjusted gross income[16] above certain levels. In the case of single individuals, the phase-out range is $45,000

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[14] Written declarations releasing claim to a dependency exemption under section 152 (e)(2) are disregarded in determining whether an individual has dependents.

[15] The annual contribution limit is the sum of the limits determined separately for each month, based on the individual's status and health plan coverage as of the first day of the month.

[16] Adjusted gross income is defined generally as under the rules relating to individual retirement arrangements ("IRAs"), and is computed after the deduction for contributions to IRAs and before the deduction provided by the provision.

to $50,000 for 2004, and $50,000 to $60,000 for 2005 and thereafter. For married taxpayers filing a joint return, the phase-out range is $65,000 to $75,000 for 2004, $70,000 to $80,000 for 2005, $75,000 to $85,000 for 2006, and $80,000 to $100,000 for 2007 and thereafter.[17]

An excise tax applies to contributions in excess of the maximum deductible amount. The excise tax is generally equal to six percent of the cumulative amount of excess contributions that are not distributed from the HSA to the contributor.[18]

Amounts can be rolled over into an HSA from another HSA, an Archer MSA, or a health FSA on a tax-free basis. Rollovers from a flexible spending account are limited to up to $500 annually under section three of the bill and are taken into account under the annual contribution limit. Amounts transferred from another HSA or from an Archer MSA are not taken into account under the annual contribution limit.

If an employer makes contributions to employees' HSAs, the employer must make available a comparable contribution on behalf of all employees with comparable coverage during the same period.[19] Contributions are considered comparable if they are either of the same amount or the same percentage of the deductible under the minimum deductible plan. The comparability rule is applied separately to part-time employees (i.e., employees who are customarily employed for fewer than 30 hours per week). The comparability rule does not apply to amounts transferred from an employee's health FSA, Archer MSA, or another HSA.

For example, suppose an employer maintains two plans that meet the minimum deductible requirements, Plan A, with a deductible of $500 for individual coverage and $1,000 for family coverage, and Plan B, with a deductible of $1,000 for individual coverage and $2,000 for family coverage. The employer offers an HSA contribution to full-time employees in Plan A of $250 for individual coverage and $500 for family coverage. In order to satisfy the comparability rule, the employer would have to offer full-time employees covered under Plan B one of the following HSA contributions: (1) $250 for employees with individual coverage and $500 for employees with family coverage or (2) $500 for employees with individual coverage and $1,000 for employees with family coverage. Different contributions (or no contributions) could be made for part-time employees covered under either plan.

If employer contributions do not satisfy the comparability rule during a period, then the employer is subject to an excise tax equal to 35 percent of the aggregate amount contributed by the employer to HSAs of the employer for that period. The excise tax is designed as a proxy for the denial of the deduction for employer contributions. In the case of a failure to comply with

[17] In the case of married taxpayers filing separate returns, the phase-out range is $0 to $10,000. These phase-out ranges are the same as those that apply to deductible contributions to IRAs.

[18] Ordering rules apply to determine the nature of any distributed excess contributions (e.g., nondeductible family contributions or employer contributions).

[19] The comparable contribution rule does not apply to contributions made through a cafeteria plan.

the comparability rule which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed to the extent that the payment of the tax would be excessive relative to the failure involved. For purposes of the comparability rule, employers under common control are aggregated.

Taxation of distributions

Distributions from an HSA for qualified medical expenses of the individual and his or her spouse or dependents generally are excludable from gross income. Amounts in an HSA can be used for qualified medical expenses even if the individual is not currently eligible for contributions to the HSA.

Qualified medical expenses generally are defined as under section 213(d) and include expenses for diagnosis, cure, mitigation, treatment, or prevention of disease, including prescription drugs, transportation primarily for and essential to such care, and qualified long-term care expenses. Qualified medical expenses do not include expenses for insurance other than for (1) long-term care insurance, (2) premiums for health coverage during any period of continuation coverage required by Federal law, (3) premiums for health care coverage while an individual is receiving unemployment compensation under Federal or State law, (4) health insurance meeting the minimum deductible requirements if no portion of the cost of the insurance is paid by the employer or former employer of the individual or the individual's spouse,[20] and (5) health insurance for individuals who are older than age 65 (including Medicare Part B premiums).

Distributions that are not for medical expenses are includible in gross income (except to the extent that the distribution is attributable to a return of nondeductible family contributions).[21] Distributions includible in gross income are also subject to an additional 15-percent tax unless made after death, disability, or the individual attains the age in which eligible for Medicare (i.e., age 65).

Tax treatment of HSAs after death

Upon death, any balance remaining in the decedent's HSA is includible in his or her gross estate.

If the account holder's surviving spouse is the named beneficiary of the HSA, then, after the death of the account holder, the HSA becomes the HSA of the surviving spouse and the amount of the HSA balance may be deducted in computing the decedent's taxable estate, pursuant to the estate tax marital deduction.[22] The surviving spouse is not required to include any amount in gross income as a result of the death; the general rules applicable to HSAs apply

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[20] Amounts paid by the employer include salary reduction contributions.

[21] Ordering rules apply to determine the extent to which distributions are attributable to nondeductible contributions.

[22] Sec. 2056.

to the surviving spouse's HSA (e.g., the surviving spouse is subject to income tax only on distributions from the HSA for nonmedical purposes). The surviving spouse can exclude from gross income amounts withdrawn from the HSA for expenses incurred by the decedent prior to death, to the extent they otherwise are qualified medical expenses.

If, upon death, the HSA passes to a named beneficiary other than the decedent's surviving spouse, the HSA ceases to be an HSA as of the date of the decedent's death, and the beneficiary is required to include the fair market value of HSA assets as of the date of death in gross income for the taxable year that includes the date of death. The amount includible in income is reduced by the amount in the HSA used, within one year after death, to pay qualified medical expenses incurred by the decedent prior to the death. As is the case with other HSA distributions, whether the expenses are qualified medical expenses is determined as of the time the expenses were incurred. In computing taxable income, the beneficiary may claim a deduction for that portion of the Federal estate tax on the decedent's estate that was attributable to the amount of the HSA balance (calculated in accordance with the present-law rules relating to income in respect of a decedent set forth in sec. 691(c)).

If there is no named beneficiary for the decedent's HSA, the HSA ceases to be an HSA as of the date of death, and the fair market value of the assets in the HSA as of such date is includible in the decedent's gross income for the year of the death. This rule applies in all cases in which there is no named beneficiary, even if the surviving spouse ultimately obtains the right to HSA assets (e.g., if the surviving spouse is the sole beneficiary of the decedent's estate).

Reporting requirements

Trustees of HSAs may be required to report to the Secretary amounts with respect to contributions, distributions, and other matters as determined appropriate.

Effective Date

The provision is effective for taxable years beginning after December 31, 2003.

B. Disposition of Unused Health Benefits in Flexible Spending Arrangements (sec. 3 of the bill and sec. 125 of the Code)

Present Law

A flexible spending arrangement ("FSA") is defined under the Code as a benefit program which provides employees with coverage under which specified incurred expenses may be reimbursed and the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.[23] A health FSA is an FSA that provides for reimbursement of medical expenses.[24] Health FSAs are

[23] Sec. 106(c).

[24] FSAs may also be used to provide certain other nontaxable benefits, such as dependent care.

typically part of a cafeteria plan and may be funded through salary reduction.[25] Health FSAs are commonly used, for example, to reimburse employees for medical expenses not covered by insurance. There is no special exclusion for benefits provided under an FSA. Thus, health benefits provided under an FSA are excludable from income only if they qualify for exclusion under sections 105 or 106.

FSAs that are part of a cafeteria plan must comply with the rules applicable to cafeteria plans generally. One of these rules is that a cafeteria plan may not offer deferred compensation except through a qualified cash or deferred arrangement.[26] Under proposed Treasury regulations, a cafeteria plan is considered to permit the deferral of compensation if it includes a health FSA which reimburses participants for medical expenses incurred beyond the end of the plan year.[27] Thus, amounts in an employee's account that are not used for medical expenses incurred before the end of a plan year must be forfeited. This rule is often referred to as the "use it or lose it" rule.

Reasons for Change

The Committee believes that individuals should not be required to forfeit all amounts reserved for health care expenses simply because the individual has inadequate expenses for that year. The Committee believes that the forfeiture rules cause individuals to make unnecessary medical expenditures at the end of the year to avoid forfeiting their balances.

Explanation of Provision

The provision allows up to $500 of unused health benefits in an employee's health FSA to be carried forward to the employee's account for the next plan year of the health FSA or transferred to a health savings account ("HSA") maintained for the benefit of the employee.[28] Amounts transferred to an HSA are treated as employer contributions for purposes of the HSA rules. Under the provision, if an individual is not eligible to contribute to an HSA for the taxable year, the individual may transfer up to $500 of unused health benefits in the employee's health FSA to a tax-qualified retirement plan, a tax-sheltered annuity (section 403(b)), an individual retirement arrangement ("IRA"), or an eligible deferred compensation plan of a State or local government (section 457). An employee's unused health benefit is the excess of the maximum amount of reimbursement allowable to the employee over the actual amount of reimbursement made during the year. Amounts transferred are subject to the rules and limits on contributions that would otherwise apply.

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[25] Long-term care insurance cannot be offered through a cafeteria plan. Sec. 125(f).

[26] Sec. 401(k).

[27] Prop. Treas. Reg. 1.125-2 Q&A-5(a).

[28] Section two of the bill provides the eligibility rules for contributions to an HSA.

Effective Date

The provision applies to taxable years beginning after December 31, 2003.

C. Exception to Information Reporting Requirements for Certain Health Arrangements (sec. 4 of the bill and sec. 6041 of the Code)

Present Law

Any person in a trade or business who, in the course of that trade or business, makes specified payments to another person totaling $600 or more in a year, must provide an information report to the IRS (as well as a copy to the recipient) on the payments.[29] Reporting is required to be done on Form 1099. In general, these information reports remind taxpayers of amounts of income that should be reflected on their tax returns and assist the IRS in verifying that taxpayers have correctly reported these amounts.

Treasury regulations specify that fees for professional services, including the services of physicians, must be reported.[30] Treasury regulations also provide a general exception from these information reporting requirements for payments made to corporations, except that this exception is inapplicable if the corporation is "engaged in providing medical and health care services."[31]

Earlier this year, IRS issued a revenue ruling describing whether employer-provided expense reimbursements made through debit or credit cards or other electronic media are excludible from gross income.[32] The ruling states that "payments made to medical service providers through the use of debit, credit, and stored value cards are reportable by the employer on Form 1099-MISC under section 6041."[33]

Reasons for Change

The Committee wishes to encourage electronic reimbursement of medical expenses through the use of debit or store-valued cards. The Committee believes that the regulatory reporting requirement discourages the use of such cards and that such burden should be removed.

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[29] Section 6041.

[30] Treas. Reg. sec. 1.6041-1(d)(2).

[31] Treas. Reg. sec. 1.6041-3(p)(1). These regulations also provide an exception from these information reporting requirements if the payment is made to a hospital that is tax-exempt or that is owned and operated by a governmental entity.

[32] Rev. Rul. 2003-43, 2003-21 I.R.B. 935 (May 27, 2003).

[33] *Id.*

Explanation of Provision

The provision provides an exception from the generally applicable information reporting provisions for payments for medical care made under either: (1) a flexible spending arrangement,[34] or (2) a health reimbursement arrangement that is treated as employer-provided coverage.

Effective Date

The provision applies to payments made after December 31, 2002.

[34] This term is defined in section 106(c)(2).

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the vote of the Committee on Ways and Means in its consideration of the bill, H.R. 2351.

MOTION TO REPORT THE BILL

The bill, H.R. 2351, as amended, was ordered favorably reported by a roll call vote of 23 yeas to 16 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas................	Ö			Mr. Rangel..............		Ö	
Mr. Crane....................	Ö			Mr. Stark.................		Ö	
Mr. Shaw....................	Ö			Mr. Matsui..............		Ö	
Mrs. Johnson..............	Ö			Mr. Levin................		Ö	
Mr. Houghton.............	Ö			Mr. Cardin..............			
Mr. Herger..................	Ö			Mr. McDermott.......		Ö	
Mr. McCrery...............	Ö			Mr. Kleczka............		Ö	
Mr. Camp....................	Ö			Mr. Lewis (GA).......		Ö	
Mr. Ramstad...............	Ö			Mr. Neal..................		Ö	
Mr. Nussle..................	Ö			Mr. McNulty...........		Ö	
Mr. Johnson................				Mr. Jefferson...........		Ö	
Ms. Dunn....................	Ö			Mr. Tanner..............		Ö	
Mr. Collins..................	Ö			Mr. Becerra.............		Ö	
Mr. Portman................	Ö			Mr. Doggett............		Ö	
Mr. English.................	Ö			Mr. Pomeroy...........		Ö	
Mr. Hayworth.............	Ö			Mr. Sandlin………..		Ö	
Mr. Weller..................	Ö			Ms. Tubbs Jones….		Ö	
Mr. Hulshof................	Ö						
Mr. McInnis................	Ö						
Mr. Lewis (KY)..........	Ö						
Mr. Foley....................	Ö						
Mr. Brady...................	Ö						
Mr. Ryan....................	Ö						
Mr. Cantor…………..	Ö						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d)(2) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 2351 as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 2003-2008:

ESTIMATED REVENUE EFFECTS OF H.R. 2351,
THE "HEALTH SAVINGS ACCOUNT AVAILABILITY ACT,"
AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2004 - 2008

[Millions of Dollars]

Provision	Effective	2004	2005	2006	2007	2008	2004-08
1. Health Savings Accounts..	tyba 12/31/03	-231	-1,785	-3,410	-4,876	-6,371	-16,673
2. Disposition of Unused Health Benefits in Cafeteria Plans and Flexible Spending Arrangements	tyba 12/31/03	-361	-627	-767	-867	-919	-3,542
3. Exception to Information Reporting Requirements for Certain Health Arrangements	pma 12/31/02	-23	-24	-24	-25	-26	-122
NET TOTAL		**-615**	**-2,436**	**-4,201**	**-5,768**	**-7,316**	**-20,337**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column: pma = payments made after tyba = taxable years beginning after

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue reducing tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

[Insert CBO letter]

D. Macroeconomic Impact Analysis

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning the need of Americans to adequately provide for health expenses that the Committee concluded that it is appropriate and timely to enact the revenue provisions included in the bill as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The

CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas Holtz-Eakin, Director

June 23, 2003

Honorable William "Bill" M. Thomas
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2351, the Health Savings Account Availability Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Annie Bartsch, who can be reached at 226-2720.

Sincerely,

Douglas Holtz-Eakin

Enclosure

cc: Honorable Charles B. Rangel
Minority Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 23, 2003

H.R. 2351
Health Savings Account Availability Act

As ordered reported by the House Committee on Ways and Means on June 19, 2003

SUMMARY

H.R. 2351, the Health Savings Account Availability Act, would create health savings accounts (HSAs) to provide for tax-favored savings for health care expenses, allow unused contributions to flexible spending accounts (FSAs) to be carried forward or transferred into certain retirement accounts or HSAs, and waive information reporting requirements for certain health arrangements, including FSAs.

The Joint Committee on Taxation (JCT) estimates that enacting the bill would reduce total federal revenues by $615 million in 2004, by about $20 billion over the 2004-2008 period, and by about $72 billion over the 2004-2013 period. A portion of the reduction would be off-budget. JCT estimates that the reduction in off-budget receipts would be $120 million in 2004, about $1 billion over the 2004-2008 period, and about $4 billion over the 2004-2013 period. CBO estimates that the bill would have no effect on direct spending.

JCT has determined that the bill contains no private sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2351 is shown in the following table.

	By Fiscal Year, in Millions of Dollars				
	2004	2005	2006	2007	2008
CHANGES IN REVENUES					
Create health savings accounts	-231	-1,785	-3,410	-4,876	-6,371
Allow certain unused health benefits to be carried forward or transferred	-361	-627	-767	-867	-919
Waive information reporting requirements for certain health arrangements	-23	-24	-24	-25	-26
Total Changes					
On-budget	-495	-2,224	-3,927	-5,436	-6,933
Off-budget [a]	-120	-212	-274	-332	-383
Total	-615	-2,436	-4,201	-5,768	-7,316

SOURCE: The Joint Committee on Taxation

a. A portion of the revenue loss from each of the three provisions in the bill affects off-budget receipts. A breakdown of the on- and off-budget effects for each provision is not available.

BASIS OF ESTIMATE

For the purposes of this estimate, it is assumed that H.R. 2351 would be enacted near the end of fiscal year 2003.

Revenues

All revenue estimates were provided by JCT. JCT estimates that, together, the three provisions contained in the bill would reduce total federal revenues by $615 million in 2004, by about $20 billion over the 2004-2008 period, and by about $72 billion over the 2004-2013 period. A portion of the reduction would be off-budget. JCT estimates that the reduction in off-budget receipts would be $120 million in 2004, about $1 billion over the 2004-2008 period, and about $4 billion over the 2004-2013 period.

The largest reduction in revenues would come from the creation of health savings accounts to provide tax-favored savings for health care expenses. Under the proposal, qualified individuals and their employers would be allowed to make contributions to an employee's HSA out of income not taxed to the employer. The amounts of such contributions would be limited depending on age and whether an individual has self-only or family insurance coverage. Family members would also be allowed to contribute to an individual's HSA; however, these contributions would be made out of income subject to federal income and payroll taxes. All contributions, regardless of source, would be counted against the individual's maximum annual contribution limit. Earnings on HSA contributions and distributions from HSAs used to pay for qualified medical expenses would not be taxed. Qualifying medical expenses would generally be those which currently qualify for the itemized deduction for medical expenses. JCT estimates that this provision would reduce governmental receipts by $231 million in 2004, by about $17 billion over the 2004-2008 period, and by about $63 billion over the 2004-2013 period. A portion of this reduction would be off-budget; however, as noted in the preceding table, the breakdown is not available.

H.R. 2351 also would change rules relating to unused contributions to flexible spending accounts and cafeteria plans. Under current law, contributions to an FSA that are not used for medical expenses by the end of a plan year must be forfeited (sometimes referred to as the "use it or lose it" rule.) The bill would allow these unused contributions to be carried forward to the following year's FSA balance, transferred to an HSA, or transferred to certain types of retirement accounts. JCT estimates that making this change would reduce revenues by $361 million in 2004, by about $4 billion over the 2004-2008 period, and by about $9 billion over the 2004-2013 period. A portion of those reductions would apply to off-budget receipts.

Lastly, the bill would waive certain information reporting requirements for medical care payments made under flexible spending arrangements or certain health reimbursement arrangements. JCT estimates that making this change would reduce revenues by $23 million in 2004, by $122 million over the 2004-2008 period, and by $263 million over the 2004-2013 period. A portion of those reductions would also apply to off-budget receipts.

SUMMARY OF THE EFFECTS ON REVENUES AND DIRECT SPENDING

The overall effect of H.R. 2351 on on-budget receipts over the 2003-2013 period is shown in the table below.

	By Fiscal Year, in Millions of Dollars										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Changes in receipts	0	-495	-2,224	-3,927	-5,436	-6,933	-8,055	-8,854	-9,778	-10,657	-11,137
Changes in outlays	Not applicable										

SOURCE: The Joint Committee on Taxation

INTERGOVERNMENTAL AND PRIVATE SECTOR IMPACT

JCT has determined that the bill contains no private-sector or intergovernmental mandates as defined in UMRA, and would not affect the budgets of state, local, or tribal governments.

ESTIMATE PREPARED BY: Annie Bartsch (226-2680)

ESTIMATE APPROVED BY:

G. Thomas Woodward
Assistant Director for Tax Analysis

Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises. . . "), and from the 16th Amendment to the Constitution.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. Tax Complexity Analysis

The following tax complexity analysis is provided pursuant to section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service ("IRS") and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and the Treasury Department regarding each of the provisions included in the complexity analysis, including a discussion of the likely effect on IRS forms and any expected impact on the IRS.

1. Health savings accounts (sec. 2 of the bill)

<u>Summary description of provision</u>

The bill creates health savings accounts ("HSAs"), which allow tax-favored savings for health care expenses. Within limits, contributions to an HSA are deductible if made by an eligible individual and are excludable from gross income if made by the employer of an eligible individual (to the extent otherwise deductible). Family members may also make nondeductible contributions to an HSA on behalf of an eligible individual. Earnings on amounts in an HSA are not includible in gross income. Distributions from an HSA for qualified medical expenses are not includible in gross income. Eligible individuals are individuals who (1) are covered under a health plan meeting minimum deductible requirements ($500 for self-coverage and $1,000 for family coverage) and no other non-permitted plan, or (2) are uninsured.

The maximum aggregate annual contributions that can be made to an HSA (for all contributions) is $2,000 for persons with self-only coverage and uninsured unmarried individuals with no dependents and $4,000 for individuals with family coverage and uninsured individuals with a spouse or dependent. Catch-up contributions are also allowed. The maximum allowable contribution is phased out for taxpayers with adjusted gross income above certain levels. The phase-out range for 2004 is $45,000 to $50,000 for single individuals and $65,000 to $75,000 for married taxpayers filing a joint return.

The provision is effective for taxable years beginning after December 31, 2003.

Number of affected taxpayers

It is estimated that the provision will affect at least 30 million individual tax returns.

Discussion

The provision would require modification to the individual income tax forms to provide for the above-the-line deduction for HSA contributions. Additional worksheets may also be required to enable individuals affected by the AGI phase-out to calculate the amount of deduction to which they are entitled. Additional forms and worksheets may also be required to determine the taxable portion, if any, of distributions from HSAs, and to calculate the amount of the additional 15-percent tax owed with respect to any distribution.

Individuals may have to keep additional records in order to demonstrate eligibility for the above-the-line deduction and substantiate qualified medical expenses. Many individuals may not keep records of all such expenses now, because of the floor on the itemized deduction for medical expenses. For those taxpayers who do keep such records now, they will have to separate out certain types of expenses, because not all deductible medical expenses are qualified medical expenses under the provision (e.g., certain health insurance expenses). The provision may result in additional disputes with the IRS as to what is and is not a qualified expense.

An account holder of an HSA to which nondeductible family member contributions have been made will have to keep records of nondeductible contributions in order to determine the amount of such contributions and the taxable amount, of any nonqualified distributions from the account.

Records will also need to be kept of the source and amount of contributions, in order to properly apply the rules relating to excess contributions and to ensure that excess contributions are distributed properly in order to avoid imposition of the excise tax on excess contributions.

Trustees and custodians of HSAs (e.g., insurance companies, banks, and similar financial institutions) will have increased reporting requirements with respect to HSAs. In some respects, such requirements are similar to those applicable to individual retirement arrangements ("IRAs") and Archer MSAs; however, because the rules for HSAs and IRAs differ, there will also be differences in such requirements.

Employers who make contributions to HSAs will have difficulty in determining whether the contribution is excludable, because the employer generally will not have information regarding an employee's AGI.

HSAs may result in transactional complexity for taxpayers. Because HSAs offer features of tax-free accumulation similar to (and in some cases more generous than) IRAs and employer-sponsored retirement plans, individuals may desire to determine which vehicle is the most advantageous for them, thus increasing tax planning complexity.

[insert IRS letter]

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rule of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

[TO BE SUPPLIED BY LEGISLATIVE COUNSEL'S OFFICE]

VII. DISSENTING VIEWS

To be supplied by Democratic staff.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

June 23, 2003

Mr. George K. Yin
Chief of Staff
Joint Committee on Taxation
Washington, D.C. 20515

Dear Mr. Yin:

Enclosed are the combined comments of the Internal Revenue Service and the Treasury Department on the Health Savings Account provision from the House Ways and Means Committee markup of H.R. 2351, the "Health Savings Account Availability Act," that you identified for complexity analysis in your letter of June 20, 2003.

Our comments are based on the description of that provision in your letter and JCX-63-03, the Joint Committee on Taxation's *Description of the Chairman's Amendment in the Nature of a Substitute to H.R. 2351, the "Health Savings Account Availability Act."*

Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provision.

Sincerely,

Mark W. Everson

Enclosure

COMPLEXITY ANALYSIS OF H.R. 2351,
THE HEALTH SAVINGS ACCOUNT AVAILABILITY ACT

Health Savings Accounts

Provision:

The bill creates health savings accounts (HSAs), which allow tax-favored savings for health care expenses. In general, an HSA is a tax-exempt trust or custodial account--similar to those used for medical savings accounts or individual retirement accounts--created to pay for the qualified medical expenses of the account holder and his or her family.

Within limits, contributions by an eligible individual to his or her HSA are deductible. Contributions made by an employer on behalf of the eligible individual are excludable from income. Family members may make nondeductible contributions to an eligible individual's HSA. Earnings on HSAs are not taxed until distributed. Distributions from an HSA used to pay qualified medical expenses are excludable from income. Distributions used for other purposes are includible in income except to the extent they are attributable to a return of nondeductible family contributions. Includible distributions are subject to an additional 15 percent tax unless made because of the eligible individual's death or disability or after the individual is eligible for Medicare (i.e., age 65).

The maximum aggregate annual contribution that can be made (for all contributions) is $2,000 for persons with self-only insurance coverage and uninsured single individuals with no dependents. The limit is $4,000 for persons with family insurance coverage and uninsured individuals with a spouse or dependent. Increased (catch-up) contribution limits for individuals aged 55 and older are phased in between 2004-2009—e.g., the $2,000 limit for a self-only insured person aged 55 is $2,500 in 2004, and it increases by $100 each year thereafter until it reaches $3,000 in 2009.

The maximum allowable HSA contribution is phased out for taxpayers with adjusted gross income (AGI) above certain levels. The phase-out range for single persons is $45,000 to $50,000 for 2004, and $50,000 to $60,000 for 2005 and thereafter. The phase-out range for married taxpayers filing jointly is $65,000 to $75,000 for 2004, $70,000 to $80,000 for 2005, $75,000 to $85,000 for 2006, and $80,000 to $100,000 for 2007 and thereafter. The range for married persons filing separately is $0 to $10,000. If contributions are made to an HSA that are not permitted for that individual (e.g., if the individual's income is above the limits), an excise tax applies until the contributions are distributed.

Amounts can be rolled over tax free into an HSA from another HSA, an Archer MSA, or a health flexible spending account. If an employer makes contributions to an employee's HSA, the employer must make comparable HSA contributions for all employees. If comparable contributions are not made, a penalty tax equal to 35 percent of HSA contributions made is imposed. Special rules apply to the treatment of HSAs after death of the eligible individual.

The provision would be effective for taxable years beginning after December 31, 2003.

IRS and Treasury Comments:

- Three new forms and related instructions would be required beginning in 2004:

  1. A new form (similar to Form 8853 for Archer MSAs) would be needed on which taxpayers would compute their HSA deduction for the year, the taxable amount of any distributions not used for qualified medical expenses, and any additional 15 percent tax for nonqualified taxable distributions. This form would also be used to keep track of the account holder's basis in the HSA (from non-deductible contributions). The form and its instructions would need to be updated annually through 2009 to reflect increases in the phase-out ranges and catch-up contribution limits for persons age 55 and over. Programming needed to reflect these increases would be included in IRS' annual update of programming to reflect mandated inflation adjustments.

  2. A new 1099 information return (probably Form 1099-HSA) similar to current Form 1099-MSA would be needed for trustees to report HSA distributions to taxpayers and the IRS.

  3. A new form (probably Form 5498-HSA) similar to current Form 5498-MSA would be needed for trustees to report annual HSA contributions to taxpayers and the IRS.

- A new line for entering the taxpayer's HSA deduction would have to be added to the Forms 1040, 1040A and 1040NR in 2004. The 2004 instructions would tell taxpayers to report their taxable HSA distributions on the "other income" line of Form 1040 or Form 1040NR. (Since the 1040A currently contains no line entry for other income, taxpayers with income from HSA distributions would be precluded from using that form in that year or such a line entry would have to be added to the 1040A.)

- A mechanism would be needed to add taxable employer HSA contributions to both income and FICA wages—e.g., where the taxpayer's AGI is beyond the phase-out range. One possibility is to treat all employer contributions as taxable wages (entered in boxes 1, 3, and 5 of Form W-2) and let the employee take a deduction for contributions to the extent permitted by his or her AGI—this approach would impose employee and employer FICA on all contributions even if they were totally deductible or excludible. The statutory language of the provision will determine the method for doing this.

- The instructions to Form 1040-ES for 2004 would have to be revised to reflect the deduction.

- Information alerting taxpayers to the deduction and the rules applicable to distributions would have to be reflected in the instructions for Forms 1040, 1040A, 1040NR, 1040EZ, 1040NR-EZ, and TeleFile, beginning in 2004.

- The IRS would need to provide guidance to employers regarding HSAs.

- A new IRS publication dealing with HSAs would likely be needed.

- Form W-2 for 2004 would have to be revised to reflect employer contributions to HSAs.

- The instructions for Forms 940, 941, 940-EZ, 940-PR, CT-1, Pub. 15 and other IRS publications would have to be revised for 2004 to reflect the employment tax treatment for employers and employees of contributions to HSAs.

- Form 5330, Return Of Excise Taxes Related To Employee Benefit Plans, would have to be revised to reflect the tax on prohibited transactions within an HSA and the penalty tax for the failure of an employer to make comparable contributions to an HSA.

- Programming changes would be required to reflect the new deduction and/or the new forms, beginning in 2004. Currently, the IRS computation programs are updated annually to incorporate mandated inflation adjustments. Programming changes necessitated by the proposal would be included during that process.

- The Internal Revenue Manual processing procedures would need to be revised to reflect the new HSA deduction and new forms.

- Training materials would need to be revised to include a discussion of the new HSA deduction.

- Technical guidance via regulations, revenue rulings, notices, etc. would likely be needed to clarify the rules regarding minimum deductibles, permitted insurance or permitted coverage, rollovers, excess contributions, comparable contributions, the ordering rules for allocating basis (nondeductible family contributions) to non-qualified HSA distributions, income, gift, and estate tax consequences of nondeductible family contributions, and other concepts.

Dissenting Views on H.R. 2351,
The "Health Savings Account Availability Act"

We understand why this bill was enthusiastically endorsed by the Republican Members of this Committee. It advances two of their long-term objectives. It is another in a series of reckless tax cuts designed to deny needed funds for education, veterans, health, anti-poverty, and other programs. It also furthers their long-term objective of destroying employer-provided health care. We do not share those objectives and, therefore, strongly oppose this bill.

The Committee bill will cost $71 billion over the next ten years. The ten-year estimate understates the long-term costs of the bill. In the later years of the budget window, the Committee bill will cost in excess of $10 billion per year. Its cost will accelerate just at the time when the baby boom generation retires, denying resources to meet our commitments to the Social Security and Medicare systems.

The entire cost of the Committee bill will be funded by borrowing, increasing our national debt. The reckless tax cut agenda of this Republican Congress will create one of the largest spending increases in the history of this country. Two years ago, there was talk of actually paying off the entire national debt. As a result of the Republican fiscal policies, now the national debt, instead, will be increased dramatically every year. Interest on that debt will be an ever increasing Federal spending program. Future taxpayers will be faced with the obligation of funding those increased interest payments, but not one dollar of those interest payments will provide any benefit to the average individual.

The Republicans have long been hostile to employer-provided health care coverage. They seem intent on destroying both government and employer-provided health insurance coverage. In the past, the Chairman of the Committee has expressed his interest in dismantling the employment-linked health insurance system on the grounds that it has proven unsuccessful in extending coverage to all or even most Americans, and that it shields individuals far too much from the cost of care and coverage they use (Medicine and Health, May 13, 2002).

The Committee bill is an ingenious way of undercutting employer-provided health care coverage. It will provide tax-free savings accounts to individuals but only if the individuals have no health insurance or are covered by policies with relatively high deductibles. Individuals covered by traditional employer-provided health care plans will not be eligible for the new benefits. The Committee bill deliberately creates disincentives for traditional employer-provided health care.

If the Committee bill becomes law, employers currently providing health insurance coverage could use the tax benefits contained in the Committee bill as an excuse for reducing their health care costs. The tax benefits contained in the Committee bill will be available to individuals covered by employer-provided health care coverage only if the employer plan provides no coverage for at least the first $1,000 of medical expenses. That deductible is greater than the deductible in most employers' plans. As a result, employers can increase the deductible required under their plan and argue that the employees will be benefitted through access to the Committee bill's tax benefits. The Committee bill provides incentives to reduce, not increase, coverage. The insurance cost savings will be enjoyed by the employer because there is no requirement that those savings be passed on to the employee.

For many American families, the tax benefits are worthless. The only thing they will receive from the Committee bill is reduced health care coverage. Not surprisingly, the same six million families deliberately excluded from the recent tax cut also would be excluded from the benefits of the Committee bill. Many other American families with higher incomes cannot take full advantage of the Committee bill because they do not have $4,000 annually in additional savings. The bill is designed to benefit employers, not rank-and-file employees.

It would be our desire to work together on a bipartisan basis with the goal of expanding, not reducing, health care coverage. Unfortunately, our Republican colleagues do not share that goal. Therefore, we are left simply to oppose reckless attacks on current health care coverage.

Dissenting Views on H.R. 2351
"Health Savings Account Availability Act"