Yet Another Medical Expense Savings Plan?

Take-Away: A new bill is before Congress to provide yet another means to save for future medical expenses, the HOPE Act. It is not clear if this legislation, if it becomes law, is much of an improvement on the existing health savings account options currently in the Tax Code.

Background: The Tax Code already contains several options to save for present and future medical expenses. The Code contains (i) flexible spending arrangements (FSAs); (ii) health savings accounts (HSA); (iii) health reimbursement arrangements (HRA); and (iv) Archer medical savings accounts, since 2007 discontinued, but still in use by some participants. One would think that these medical expense savings options would be sufficient to enable individuals to contribute and save funds for future medical expenses. But such is not the case in the view of several members of Congress.

HOPE Act: A bill was recently filed with the House of Representatives called the *Health Out-of-Pocket Expense Act,* or the HOPE Act. [H.R. 9394.] The bill's stated purpose is to incent individuals to save for their *future* medical and health expenses, much akin to a Roth account, but limited to health and medical expenses. The Bill is presented as a 'tool' to protect against surprise illness or injury. Distributions from a HOPE account used to pay for *qualified medical expenses,* would not be included in the individual's gross income. Some key provisions of the proposed HOPE Act include:

- It would allow an individual with *qualifying health coverage* to contribute up to $4,000 annually, or $8,000 annually for a family.
- However, the contribution to the HOPE account would not be tax deductible, much like a contribution made to a Roth IRA.
- *Qualifying health coverage* is defined to include those with minimum essential coverage as provided in IRC 5000A(f), such as coverage on the commercial medical insurance market or via Medicare or Medicaid. Also covered within this statutory definition is Indian Health Service.
- Employers could contribute up to 50% of the applicable annual limitation on behalf of employees.
- Employer contributions to a HOPE account for those employees who earn less than $100,000 in gross wages (or $200,000 for married couples) would be excluded from the employee's adjusted gross income (AGI.)

- If contributions are made at the same time to FSAs, HSAs, HRAs, or Archer medical savings accounts, those contributions will reduce, dollar-for-dollar, contributions that can be made to a HOPE account.

Comparisons: A HOPE account is distinguished from the other medical savings options, among other provisions, by the following.

- FSA [IRC 125:]Employer contributions that meet certain conditions are excluded from the employee's gross income when made and when the employee uses the flexible spending arrangement account funds for medical expense reimbursements. The maximum contribution amount by the employee, through salary deduction, is $3,200 in 2024. A FSA is subject to a *use-it-or-lose-it* condition; unused funds in a FSA at the end of the plan year are forfeited (subject to a few exceptions.)

- HSA [IRC 223:] An individual can only contribute to a health savings account if he/she participates in a *high deductible plan,* which is defined in IRC 223(d). Both employees and employers can contribute to the HSA to be used to pay for *qualified medical expenses.* In 2024, the annual limit on deductible contributions to an HSA is $4,150 for an individual or $8,300 for a family's coverage. Employer contributions to an HSA on behalf of an employee is not included in the employee's gross income, nor are those employer contributions subject to employment taxes. Distributions from the HSA to the account owner are tax-free. Self-employed individuals, as well as unemployed individuals, can contribute to an HSA. An HSA is portable, so that if the employee changes jobs, he/she can take their account with them.

- HRA [IRC 213(d):] A health reimbursement arrangement is a formal employee benefit plan that is used to reimburse employees for some medical expenses that they, and their dependents, incur that are not covered by other forms of insurance. This plan is funded solely by their employer, and not through salary deduction. The benefits received by the employee under a HRA are treated as amounts received under an *accident & health plan,* and therefore, are tax-free to the employee. For 2024, the maximum excepted benefits from taxation for an HRA is $2,100. The balance of an HRA at the end of the *coverage period* can be carried forward to future coverage periods, but they do not move with the employee if he/she changes jobs.

- Archer MSA [IRC 220:] An Archer medical savings account is a tax-exempt trust or custodial account that is used to pay medical expenses in conjunction with a *high deductible plan.* These accounts were discontinued in 2007, and only active participants in the plan at that time may continue to maintain the account. Contributions by the plan participant to the account are tax deductible. Distributions from the account, including earnings on the contributions, for medical expenses are not taxable. Archer medical savings accounts were primarily used by self-employed individuals and small businesses with less than 50 employees.

Conclusion: While it is nice to read that someone in Congress is actually working these days, I have to wonder what 'new' benefit would be derived with this proposed HOPE Act, that could not be accomplished with a basic MSA, or simply making contributions to a Roth IRA and then use the Roth account (and its tax-free earnings) to pay future medical expenses in retirement years. Rather than see one more 'patch' be added to the existing 'crazy-quilt' Tax Code, just like in the retirement savings arena, I would much prefer to see a simplification of the various (and complex) options now in the Tax Code to save either for retirement or future medical expenses. Time would be better spent in Congress simplifying the multiple options faced by normal Americans as opposed to conducting endless investigations that lead nowhere.

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