



National Compliance Update

USI EMPLOYEE BENEFITS

May 29, 2025, as updated

House Passes Reconciliation Package

June 26, 2025 Update. Last week, the Senate Finance Committee released its version of the reconciliation package. The Senate bill strips out all the HSA provisions that were included in the House bill as well as the modifications to ICHRAs. These were likely removed to help reduce the overall cost of the tax package.

The Senate version of this bill matches the House version with respect to the following:

- **Does not include** any language that would jeopardize the tax exclusion for employer sponsored health insurance coverage.
- Makes permanent:
 - The elimination of the bicycle commuting reimbursement exclusion.
 - The inclusion of student loan payments as qualified educational expense and adds an inflation adjustment to the amount that can be excluded from income.

The Senate bill also proposes to increase the exclusion for Dependent Care Assistance Programs ("DCAP") to \$7,500 (vs. \$5,000).

There remain significant differences between the House and Senate versions of the bills beyond the HSA and ICHRA provisions (e.g., cuts to Medicaid and the SALT deduction). Assuming the Senate can pass the reconciliation bill "as is," the House and Senate will need to negotiate a final package to resolve the differences before it can be voted on and delivered to the President for signature. It is unclear whether any of the HSA or ICHRA provisions will return in a final negotiated deal.

USI will continue to monitor developments.

For more information, visit <https://www.finance.senate.gov/chairemans-news/chairman-crapo-releases-finance-committee-reconciliation-text>

Last week, the House passed a budget reconciliation bill, “One Big, Beautiful Bill Act” (H.R. 1) that advances President Trump’s comprehensive tax package.

This bill is not law. The package now moves over to the Senate for consideration. The Senate will likely have amendments or other changes to the bill. It is too early to tell what will be included in the final package.

That said, there are some notable provisions that, if enacted, will impact employer-sponsored health and welfare plans. Notably, there will be additional flexibility and relief for Health Savings Accounts (“HSAs”).

USI Note. Importantly, this House bill does not include a change in the tax favored treatment of health insurance provided by employers to their employees. Limiting favorable tax treatment was a policy idea that was floated to pay for retaining the tax cuts set to expire at the end of 2025. At this point, the bill does not include such a policy.

The following are some of the provisions included in the reconciliation package that will impact employers sponsoring group health and welfare plans. Keep in mind, this is all subject to change as the bill works its way through Congress. These provisions, if enacted “as is”, would-be effective January 1, 2026.

Individual Coverage Health Reimbursement Arrangements.

- **Current law.** Under a final regulation, the IRS established Individual Coverage Health Reimbursement Arrangements (“ICHRAs”), which (subject to certain rules) may be used to purchase qualified individual health insurance without violating group health plan requirements.
- **Proposed provisions:**
 - Codifies the final rule and renames the policy from ICHRA to Custom Health Option and Individual Care Expense (“CHOICE”) arrangements. (Sec. 110201)
 - Permits employees enrolled in a CHOICE arrangement to use pre-tax salary reduction elections to pay for health plan premiums purchased through the Exchange marketplace.¹ (Sec. 110202)
 - Creates a two-year tax credit for small businesses (fewer than 50 employees) offering a CHOICE arrangement for the first time (\$100/employee/month in the first year and \$50/employee/month in the second year). (Sec. 110203)

Medicare Part A eligible individuals allowed to contribute to an HSA. (Sec. 110204)

- **Current law.** Individuals entitled to Medicare Part A are not eligible to contribute to an HSA, even if they are still enrolled in a qualified high-deductible health plan (“HDHP”).
- **Proposed provision.** Working seniors who are eligible for Medicare Part A, but enrolled in an HDHP, may continue to contribute to an HSA.

¹ Under current law, employers cannot reimburse employees for health plan premiums purchased through an Exchange if any of the premium could be paid through salary reduction.

Direct Primary Care and HSA eligibility. (Sec 110205)

- **Current law.** Certain direct primary care (“DPC”) arrangements that furnish medical benefits for free or at a reduced cost before satisfaction of the deductible in an HDHP is generally disqualifying coverage for purposes of HSA eligibility and contributions.
- **Proposed provision.**
 - Individuals with HDHPs may enroll in DPC arrangements that consist solely of primary care services and contribute to their HSA. This will require that the fees for the DPC do not exceed \$150/month (or \$300/month when more than one individual is covered)
 - Primary care does not include:
 - Anesthesia services,
 - Prescription drugs (except for vaccines),
 - Laboratory service not typically administered in an ambulatory primary care setting.
 - HSA funds may be used to pay for DPC services up to \$150/month for individuals or \$300/month for family arrangements, adjusted annually for inflation.

Onsite clinics and HSA eligibility. (Sec. 110207)

- **Current law.** Onsite clinics that provide significant medical benefits (more than just preventive care) are generally disqualifying coverage for purposes of HSA eligibility if provided for free or at a reduced cost.
- **Proposed provision.** Allow individuals who utilize free or discounted qualified items and services from an onsite clinic at their worksite to contribute to an HSA.
 - For this purpose, a qualified item or service includes:
 - Physical examination,
 - Immunizations,
 - Non-prescription drugs or biologicals,
 - Treatment for injuries in the course of employment,
 - Preventive care for chronic conditions (defined by IRS Notice 2019-45),
 - Drug testing,
 - Hearing or vision screenings or related services.

Contributions permitted if a spouse has a health FSA. (Sec. 110212)

- **Current law.** Generally, an individual will not be eligible to contribute to an HSA if their spouse is enrolled in a traditional health flexible spending account (health FSA).
- **Proposed provision.** Allow individuals to be eligible for an HSA even if the individual’s spouse is enrolled in an FSA.

Increased HSA contributions for certain individuals. (Sec. 110213)

- **Current law.** Maximum HSA contributions are set by statute and indexed for inflation (for 2025, \$4,300 for self-only coverage and \$8,550 for coverage other than self-only).

- **Proposed provision.** Allow individuals who make less than \$75,000/annually (or \$150,000/family) to contribute an additional \$4,300 (or \$8,550 for families) each year as indexed for inflation. Additional amounts are phased out for individuals making \$100,000/annually (\$200,000 families).

Other proposed HSA related provisions.

- **Physical activity, fitness and exercise are treated as amounts paid for medical care. (Sec. 110208).**² Individuals will be allowed to use their HSA for physical fitness memberships and for participation or instruction in physical activity up to \$500 per year for an individual (\$1,000 per year for a family) with up to one-twelfth of such expenses allowed per month.
- **Permit both spouses to make catch-up contributions to the same HSA. (Sec. 110209).** Both spouses may deposit their catch-up contributions into one HSA.³
- **Permit health FSA or HRA terminations or conversion to fund an HSA. (Sec. 110210).** An employee who has not been covered by an HDHP during the 4-year period prior to the new HDHP may, at the employer's discretion, convert health FSA or HRA balances into an HSA contribution upon newly enrolling in an HDHP/HSA plan, subject to certain rules. The conversion amount is limited to the annual health FSA contributions limit (\$3,300 in 2025).⁴
- **Special rule for certain medical expenses incurred before establishment of the HSA. (Sec. 110211).** Allow medical services incurred within 60 days before the HSA is established to be an eligible qualified medical expense.⁵

Other notable provisions.

- **Employer payments for student loans (Sec. 110113).** Make permanent the exclusion from gross income for qualified education loan payments (set to expire after 2025) and index for inflation the maximum exclusion for educational assistance programs (currently fixed at \$5,250/year).
- **Permanent termination of qualified bicycle commuting reimbursement exclusion (Sec. 110012).** This provision will permanently eliminate the qualified bicycle commuting reimbursement exclusion.⁶

RESOURCES

- For a copy of the bill, visit https://rules.house.gov/sites/evo-subsites/rules.house.gov/files/documents/2025_budget_rec_rh_xml.pdf

² Under current law, sports and fitness expenses, such as fitness facility membership fees, are not treated as HSA qualified medical expenses.

³ Under current law, if both spouses are HSA-eligible and age 55 or older, they must open separate HSA accounts to make their respective "catch-up" contributions (an extra \$1,000 annually).

⁴ Under current law, individuals cannot transfer health FSA or HRA balances into an HSA.

⁵ Under current law, HSA funds can only be used for the purchase of a qualified medical expense after the HSA is established.

⁶ Before 2018, employers could reimburse employees up to \$20/month for qualified bicycle commuting expenses. This provision was suspended from 2018-2025 and is set to return for taxable years after 2025.

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