

118TH CONGRESS
2D SESSION

S. 3608

To amend the Internal Revenue Code of 1986 to prohibit treatment of certain distributions and reimbursements for certain abortions as qualified medical expenses.

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 2024

Mr. LEE (for himself, Mr. BRAUN, Mrs. BLACKBURN, Mr. HAGERTY, Mr. RUBIO, and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to prohibit treatment of certain distributions and reimbursements for certain abortions as qualified medical expenses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Life in
5 Health Savings Accounts Act”.

6 **SEC. 2. DISTRIBUTIONS FOR CERTAIN ABORTIONS NOT**
7 **QUALIFIED.**

8 (a) HSAs.—

1 (1) IN GENERAL.—Subparagraph (A) of section
 2 223(d)(2) of the Internal Revenue Code of 1986 is
 3 amended by adding at the end the following: “Such
 4 term shall not include any amount paid for an abor-
 5 tion (other than an excluded abortion).”.

6 (2) EXCLUDED ABORTION.—Section 223(d)(2)
 7 of such Code is amended by adding at the end the
 8 following new subparagraph:

9 “(E) EXCLUDED ABORTION.—For pur-
 10 poses of this paragraph, the term ‘excluded
 11 abortion’ means any abortion—

12 “(i) with respect to a pregnancy that
 13 is the result of an act of rape or incest, or

14 “(ii) with respect to which the woman
 15 suffers from a physical disorder, physical
 16 injury, or physical illness, including a life-
 17 endangering physical condition caused by
 18 or arising from the pregnancy itself, that
 19 would, as certified by a physician, place
 20 the woman in danger of death unless the
 21 abortion is performed.”.

22 (b) ARCHER MSAS.—Subparagraph (A) of section
 23 220(d)(2) of the Internal Revenue Code of 1986 is amend-
 24 ed by adding at the end the following: “Such term shall
 25 not include any amount paid for an abortion (other than

1 an excluded abortion (as defined in section
2 223(d)(2)(E)).”.

3 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
4 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
5 tion 106 of the Internal Revenue Code of 1986 is amended
6 by adding at the end the following new subsection:

7 “(h) PROHIBITION ON REIMBURSEMENTS FOR ABOR-
8 TIONS.—For purposes of this section and section 105, re-
9 imbursement for expenses incurred for an abortion (other
10 than an excluded abortion (as defined in section
11 223(d)(2)(E)) shall not be treated as a reimbursement for
12 medical expenses.”.

13 (d) RETIREE HEALTH ACCOUNTS.—Section 401(h)
14 of the Internal Revenue Code of 1986 is amended by in-
15 serting “(other than an expense for an abortion (other
16 than an excluded abortion (as defined in section
17 223(d)(2)(E)))” after “sickness, accident, hospitalization,
18 and medical expenses” in the matter preceding paragraph
19 (1).

20 (e) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply to amounts paid with respect to taxable
24 years beginning after December 31, 2024.

1 (2) REIMBURSEMENTS.—The amendment made
2 by subsection (c) shall apply to expenses incurred
3 with respect to taxable years beginning after Decem-
4 ber 31, 2024.

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