

**DESCRIPTION OF H.R. 2372,  
THE “VETERANS EQUAL TREATMENT  
ENSURES RELIEF AND ACCESS NOW ACT”  
(THE “VETERAN ACT”)**

Scheduled for Markup  
by the  
HOUSE COMMITTEE ON WAYS AND MEANS  
on May 24, 2017

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 committee markup of H.R. 2372, the “Veterans Equal Treatment Ensures Relief and Access Now Act” (the “VETERAN Act”), on May 24, 2017. This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 2372, the “Veterans Equal Treatment Ensures Relief and Access Now Act” (the “VETERAN Act”)* (JCX-21-17), May 23, 2017. This document can be found also on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov). All section references herein are to the Internal Revenue Code of 1986, as amended, unless otherwise stated.

## **A. Clarification Relating to Veteran Health Insurance and Eligibility for Premium Tax Credit**

### **Present Law**

A refundable tax credit (“premium assistance credit”) is provided for eligible individuals and families to subsidize the purchase of health insurance plans through an American Health Benefit Exchange (“Exchange”), referred to as “qualified health plans.”<sup>2</sup> In general, advance payments with respect to the premium assistance credit are made during the year directly to the insurer.<sup>3</sup> However, eligible individuals may choose to pay their total health insurance premiums without advance payments and claim the credit at the end of the taxable year.

The premium assistance credit is generally available for individuals (single or joint filers) with household incomes between 100 and 400 percent of the Federal poverty level (“FPL”) for the family size involved.<sup>4</sup> Household income is defined as the sum of: (1) the individual’s modified adjusted gross income, plus (2) the aggregate modified adjusted gross incomes of all other individuals taken into account in determining the individual’s family size (but only if the other individuals are required to file a tax return for the taxable year). Modified adjusted gross income is defined as adjusted gross income increased by: (1) any amount excluded from gross income for citizens or residents living abroad,<sup>5</sup> (2) any tax-exempt interest received or accrued during the tax year, and (3) the portion of the individual’s social security benefits not included in gross income.<sup>6</sup> To be eligible for the premium assistance credit, individuals who are married must file a joint return. Individuals who are listed as dependents on a return are not eligible for the premium assistance credit.

An individual who is eligible for certain types of health coverage (“minimum essential coverage”) from a source other than the individual insurance market generally may not receive the premium assistance credit.<sup>7</sup> Coverage under certain government-sponsored health programs constitutes minimum essential coverage, including coverage under certain comprehensive health care programs administered by the United States Department of Veterans Affairs (“designated

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<sup>2</sup> Sec. 36B, effective for taxable years ending after December 31, 2013. Under the Affordable Care Act, an American Health Benefit Exchange is a source through which individuals can purchase health insurance coverage. As used herein, the Affordable Care Act (or “ACA”) refers to the combination of the Patient Protection and Affordable Care Act (“PPACA”), Pub. L. No. 111-148, and the Healthcare and Education Reconciliation Act of 2010 (“HCERA”), Pub. L. No. 111-152. Qualified health plan is defined in PPACA section 1301.

<sup>3</sup> PPACA sections 1411-1412 provide rules relating to eligibility for and receipt of advance payments.

<sup>4</sup> Federal poverty level refers to the most recently published poverty guidelines determined by the Secretary of Health and Human Services. Levels for 2017 and previous years are available at <https://aspe.hhs.gov/prior-hhs-poverty-guidelines-and-federal-register-references>.

<sup>5</sup> Sec. 911.

<sup>6</sup> Under section 86, only a portion of an individual’s social security benefits are included in gross income.

<sup>7</sup> Minimum essential coverage is defined in section 5000A(f).

Veterans Affairs health programs”).<sup>8</sup> Although mere eligibility for minimum essential coverage from a source other than the individual insurance market generally precludes an individual from receiving the premium assistance credit, Treasury regulations provide that, in the case of one of the designated Veterans Affairs health programs, an individual is not considered eligible for coverage under such a program (and precluded from receiving the premium assistance credit) unless enrolled in the program.<sup>9</sup> Thus, an individual who may be eligible for a designated Veterans Affairs health program, but is not actually enrolled in the program, may receive the premium assistance credit.

### **The American Health Care Act of 2017**

The American Health Care Act of 2017, as passed by the House of Representatives on May 4, 2017 (the “AHCA”), amends various health-related provisions of the Code.<sup>10</sup> Effective for months beginning after December 31, 2019, in taxable years ending after that date, the AHCA replaces the present-law premium assistance credit with a new credit and provides a new definition of “qualified health plan” to which the new credit applies.<sup>11</sup> Similar to the present-law credit, under the AHCA, an individual eligible for health coverage from other sources, including coverage under a designated Veterans Affairs health program, generally may not receive the new premium assistance credit.

### **Description of Proposal**

The proposal amends the statutory provisions relating to the present-law premium assistance credit to codify the rule under which an individual is not considered eligible for coverage under a designated Veterans Affairs health program unless enrolled in the program. In addition, the proposal amends the provision of the AHCA relating to the new premium assistance credit to specify that an individual is not considered eligible for coverage under a designated Veterans Affairs health program unless enrolled in the program.

### **Effective Date**

The proposal relating to the present-law premium assistance credit is effective for taxable years beginning after December 31, 2017. The proposal relating to the new premium assistance

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<sup>8</sup> Under section 5000A(f)(1)(A)(v), certain health care programs available to veterans and family members may constitute minimum essential coverage, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of the Treasury and the Secretary of Health and Human Services. Regulations designate certain comprehensive health care programs administered by the Department of Veterans Affairs as minimum essential coverage. Treas. Reg. sec. 1.5000A-2(b)(v).

<sup>9</sup> Treas. Reg. sec. 1.36B-2(c)(2)(iii).

<sup>10</sup> H.R. 1628, as passed by the House of Representatives on May 4, 2017.

<sup>11</sup> AHCA section 214. AHCA sections 201 and 202 amend the present-law premium assistance credit for periods before the new credit becomes effective.

credit under the AHCA is contingent on enactment of the AHCA and will apply (if at all) to months beginning after December 31, 2019, in taxable years ending after that date.

## **B. Estimated Revenue Effect**

The bill is estimated to have no effect on Federal revenues.