AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO THE COMMITTEE PRINT RELATING TO REPEAL AND REPLACE OF HEALTH-RELATED TAX POLICY

OFFERED BY MR. BRADY OF TEXAS

In lieu of the proposed recommendations, insert the following:

Subtitle ____—Repeal and Replace of Health-Related Tax Policy

SEC. _01. RECAPTURE EXCESS ADVANCE PAYMENTS OF PREMIUM TAX CREDITS.

Subparagraph (B) of section 36B(f)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

“(iii) NONAPPLICABILITY OF LIMITATION.—This subparagraph shall not apply to taxable years beginning after December 31, 2017, and before January 1, 2020.”.

SEC. _02. ADDITIONAL MODIFICATIONS TO PREMIUM TAX CREDIT.

(a) MODIFICATION OF DEFINITION OF QUALIFIED HEALTH PLAN.—
(1) In General.—Section 36B(c)(3)(A) of the Internal Revenue Code of 1986 is amended—

(A) by inserting “(determined without regard to subparagraphs (A), (C)(ii), and (C)(iv) of paragraph (1) thereof and without regard to whether the plan is offered on an Exchange)” after “1301(a) of the Patient Protection and Affordable Care Act”, and

(B) by striking “shall not include” and all that follows and inserting “shall not include any health plan that—

“(i) is a grandfathered health plan or a grandmothered health plan, or

“(ii) includes coverage for abortions (other than any abortion necessary to save the life of the mother or any abortion with respect to a pregnancy that is the result of an act of rape or incest).”.

(2) Definition of Grandmothered Health Plan.—Section 36B(c)(3) of such Code is amended by adding at the end the following new subparagraph:

“(C) Grandmothered Health Plan.—

“(i) In General.—The term ‘grandmothered health plan’ means health
insurance coverage which is offered in the individual health insurance market as of January 1, 2013, and is permitted to be offered in such market after January 1, 2014, as a result of CCHIO guidance.

“(ii) CCHIO GUIDANCE DEFINED.—
The term ‘CCHIO guidance’ means the letter issued by the Centers for Medicare & Medicaid Services on November 14, 2013, to the State Insurance Commissioners outlining a transitional policy for non-grandfathered coverage in the individual health insurance market, as subsequently extended and modified (including by a communication entitled ‘Insurance Standards Bulletin Series—INFORMATION—Extension of Transitional Policy through Calendar Year 2017’ issued on February 29, 2016, by the Director of the Center for Consumer Information & Insurance Oversight of such Centers).

“(iii) INDIVIDUAL HEALTH INSURANCE MARKET.—The term ‘individual health insurance market’ means the market for health insurance coverage (as de-
fined in section 9832(b)) offered to individuals other than in connection with a group health plan (within the meaning of section 5000(b)(1)).”.

(3) CONFORMING AMENDMENT RELATED TO ABORTION COVERAGE.—Section 36B(c)(3) of such Code, as amended by paragraph (2), is amended by adding at the end the following new subparagraph:

“(D) CERTAIN RULES RELATED TO ABORTION.—

“(i) OPTION TO PURCHASE SEPARATE COVERAGE OR PLAN.—Nothing in subparagraph (A) shall be construed as prohibiting any individual from purchasing separate coverage for abortions described in such subparagraph, or a health plan that includes such abortions, so long as no credit is allowed under this section with respect to the premiums for such coverage or plan. 

“(ii) OPTION TO OFFER COVERAGE OR PLAN.—Nothing in subparagraph (A) shall restrict any health insurance issuer offering a health plan from offering separate coverage for abortions described in such subparagraph, or a plan that includes such
abotions, so long as premiums for such separate coverage or plan are not paid for with any amount attributable to the credit allowed under this section (or the amount of any advance payment of the credit under section 1412 of the Patient Protection and Affordable Care Act).

“(iii) OTHER TREATMENTS.—The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of an abortion shall not be treated as an abortion for purposes of subparagraph (A).”.

(4) CONFORMING AMENDMENTS RELATED TO OFF-EXCHANGE COVERAGE.—

(A) ADVANCE PAYMENT NOT APPLICABLE.—Section 1412 of the Patient Protection and Affordable Care Act is amended by adding at the end the following new subsection:

“(f) EXCLUSION OF OFF-EXCHANGE COVERAGE.—Advance payments under this section, and advance determinations under section 1411, with respect to any credit allowed under section 36B shall not be made with respect to any health plan which is not enrolled in through an Exchange.”.
(B) REPORTING.—Section 6055(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) INFORMATION RELATING TO OFF-EXCHANGE PREMIUM CREDIT ELIGIBLE COVERAGE.—If minimum essential coverage provided to an individual under subsection (a) consists of a qualified health plan (as defined in section 36B(c)(3)) which is not enrolled in through an Exchange established under title I of the Patient Protection and Affordable Care Act, a return described in this subsection shall include—

“(A) a statement that such plan is a qualified health plan (as defined in section 36B(c)(3)),

“(B) the premiums paid with respect to such coverage,

“(C) the months during which such coverage is provided to the individual,

“(D) the adjusted monthly premium for the applicable second lowest cost silver plan (as defined in section 36B(b)(3)) for each such month with respect to such individual, and

“(E) such other information as the Secretary may prescribe.
This paragraph shall not apply with respect to coverage provided for any month beginning after December 31, 2019.”.

(C) OTHER CONFORMING AMENDMENTS.—

(i) Section 36B(b)(2)(A) is amended by striking “and which were enrolled” and all that follows and inserting “, or”.

(ii) Section 36B(b)(3)(B)(i) is amended by striking “the same Exchange” and all that follows and inserting “the Exchange through which such taxpayer is permitted to obtain coverage, and”.

(b) MODIFICATION OF APPLICABLE PERCENTAGE.—

Section 36B(b)(3)(A) of such Code is amended to read as follows:

“(A) APPLICABLE PERCENTAGE.—

“(i) IN GENERAL.—The applicable percentage for any taxable year shall be the percentage such that the applicable percentage for any taxpayer whose household income is within an income tier specified in the following table shall increase, on a sliding scale in a linear manner, from the initial percentage to the final percentage specified in such table for such income tier
with respect to a taxpayer of the age involved:

<table>
<thead>
<tr>
<th>Household Income Tier</th>
<th>Up to Age 29</th>
<th>Age 30-39</th>
<th>Age 40-49</th>
<th>Age 50-59</th>
<th>Over Age 59</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Initial</td>
<td>Final</td>
<td>Initial</td>
<td>Final</td>
<td>Initial</td>
</tr>
<tr>
<td>Up to 133%</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>133%-150%</td>
<td>3</td>
<td>4</td>
<td>3</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>150%-200%</td>
<td>4</td>
<td>4.3</td>
<td>4</td>
<td>5.3</td>
<td>4</td>
</tr>
<tr>
<td>200%-250%</td>
<td>4.3</td>
<td>4.3</td>
<td>5.3</td>
<td>5.9</td>
<td>6.3</td>
</tr>
<tr>
<td>250%-300%</td>
<td>4.3</td>
<td>4.3</td>
<td>5.9</td>
<td>5.9</td>
<td>8.05</td>
</tr>
<tr>
<td>300%-400%</td>
<td>4.3</td>
<td>4.3</td>
<td>5.9</td>
<td>5.9</td>
<td>8.35</td>
</tr>
</tbody>
</table>

“(ii) AGE DETERMINATIONS.—

“(I) IN GENERAL.—For purposes of clause (i), the age of the taxpayer taken into account under clause (i) with respect to any taxable year is the age attained by such taxpayer before the close of such taxable year.

“(II) JOINT RETURNS.—In the case of a joint return, the age of the older spouse shall be taken into account under clause (i).

“(iii) INDEXING.—In the case of any taxable year beginning in calendar year 2019, the initial and final percentages contained in clause (i) shall be adjusted to reflect—

“(I) the excess (if any) of the rate of premium growth for the period
beginning with calendar year 2013 and ending with calendar year 2018, over the rate of income growth for such period, and

“(II) in addition to any adjustment under subclause (I), the excess (if any) of the rate of premium growth for calendar year 2018, over the rate of growth in the consumer price index for calendar year 2018.

“(iv) FAILSAFE.—Clause (iii)(II) shall apply for only if the aggregate amount of premium tax credits under this section and cost-sharing reductions under section 1402 of the Patient Protection and Affordable Care Act for calendar year 2018 exceeds an amount equal to 0.504 percent of the gross domestic product for such calendar year.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2017.
(2) ADVANCE PAYMENT NOT APPLICABLE TO OFF-EXCHANGE COVERAGE.—The amendment made by subsection (a)(4)(A) shall take effect on January 1, 2018.

(3) REPORTING.—The amendment made by subsection (a)(4)(B) shall apply to coverage provided for months beginning after December 31, 2017.

(4) MODIFICATION OF APPLICABLE PERCENTAGE.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2018.

SEC. 03. PREMIUM TAX CREDIT.

(a) REPEAL OF PREMIUM TAX CREDIT.—Section 36B of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(h) TERMINATION.—No credit shall be allowed under this section with respect to any coverage month which begins after December 31, 2019.”.

(b) REPEAL OF ADVANCE PAYMENT OF, AND ELIGIBILITY DETERMINATION FOR, PREMIUM TAX CREDIT.—Section 1412 of the Patient Protection and Affordable Care Act, as amended by the preceding provisions of this subtitle, is amended by adding at the end the following new subsection:
“(g) Termination With Respect to Premium Tax Credit.—Effective January 1, 2020, no provision of this section or section 1411 shall apply to the credit allowed under section 36B of the Internal Revenue Code of 1986 (or to the advance payment of, or determination of eligibility for, such credit or payment).”.

(c) Effective Dates.—

(1) Premium Tax Credit.—The amendment made by subsection (a) shall apply to months beginning after December 31, 2019, in taxable years ending after such date.

(2) Eligibility Determinations.—The amendment made by subsection (b) shall take effect on January 1, 2020.

SEC. 04. SMEAR BUSINESS TAX CREDIT.

(a) In General.—Section 45R of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(j) Shall Not Apply.—This section shall not apply with respect to amounts paid or incurred in taxable years beginning after December 31, 2019.”.

(b) Disallowance of Small Employer Health Insurance Expense Credit for Plan Which Includes Coverage for Abortion.—Subsection (h) of
section 45R of the Internal Revenue Code of 1986 is amended—

(1) by striking “Any term” and inserting the following:

“(1) IN GENERAL.—Any term”; and

(2) by adding at the end the following new paragraph:

“(2) EXCLUSION OF HEALTH PLANS INCLUDING COVERAGE FOR ABORTION.—

“(A) IN GENERAL.—The term ‘qualified health plan’ does not include any health plan that includes coverage for abortions (other than any abortion necessary to save the life of the mother or any abortion with respect to a pregnancy that is the result of an act of rape or incest).

“(B) CERTAIN RULES RELATED TO ABORTION.—

“(i) OPTION TO PURCHASE SEPARATE COVERAGE OR PLAN.—Nothing in subparagraph (A) shall be construed as prohibiting any employer from purchasing for its employees separate coverage for abortions described in such subparagraph, or a health plan that includes such abortions, so long
as no credit is allowed under this section with respect to the employer contributions for such coverage or plan.

“(ii) Option to offer coverage or plan.—Nothing in subparagraph (A) shall restrict any health insurance issuer offering a health plan from offering separate coverage for abortions described in such subparagraph, or a plan that includes such abortions, so long as such separate coverage or plan is not paid for with any employer contribution eligible for the credit allowed under this section.

“(iii) Other treatments.—The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of an abortion shall not be treated as an abortion for purposes of subparagraph (A).”.

(c) Effective Dates.—

(1) In general.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2019.

(2) Disallowance of small employer health insurance expense credit for plan
WHICH INCLUDES COVERAGE FOR ABORTION.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2017.

SEC. 05. INDIVIDUAL MANDATE.

(a) IN GENERAL.—Section 5000A(c) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (2)(B)(iii), by striking “2.5 percent” and inserting “Zero percent”, and

(2) in paragraph (3)—

(A) by striking “$695” in subparagraph (A) and inserting “$0”, and

(B) by striking subparagraph (D).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2015.

SEC. 06. EMPLOYER MANDATE.

(a) IN GENERAL.—

(1) Paragraph (1) of section 4980H(c) of the Internal Revenue Code of 1986 is amended by inserting “($0 in the case of months beginning after December 31, 2015)” after “$2,000”.

(2) Paragraph (1) of section 4980H(b) of the Internal Revenue Code of 1986 is amended by inserting “($0 in the case of months beginning after December 31, 2015)” after “$3,000”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2015.

SEC. 07. REPEAL OF THE TAX ON EMPLOYEE HEALTH INSURANCE PREMIUMS AND HEALTH PLAN BENEFITS.

Section 4980I of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(h) SHALL NOT APPLY.—No tax shall be imposed under this section with respect to any taxable period beginning after December 31, 2019, and before January 1, 2025.”.

SEC. 08. REPEAL OF TAX ON OVER-THE-COUNTER MEDICATIONS.

(a) HSAS.—Subparagraph (A) of section 223(d)(2) of the Internal Revenue Code of 1986 is amended by striking “Such term” and all that follows through the period.

(b) ARCHER MSAS.—Subparagraph (A) of section 220(d)(2) of the Internal Revenue Code of 1986 is amended by striking “Such term” and all that follows through the period.

c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Section 106 of the Internal Revenue Code of 1986 is amended
by striking subsection (f) and by redesignating subsection (g) as subsection (f).

(d) Effective Dates.—

(1) Distributions from savings accounts.—The amendments made by subsections (a) and (b) shall apply to amounts paid with respect to taxable years beginning after December 31, 2017.

(2) Reimbursements.—The amendment made by subsection (c) shall apply to expenses incurred with respect to taxable years beginning after December 31, 2017.

SEC. _09. Repeal of Increase of Tax on Health Savings Accounts.

(a) HSAs.—Section 223(f)(4)(A) of the Internal Revenue Code of 1986 is amended by striking “20 percent” and inserting “10 percent”.

(b) Archer MSAs.—Section 220(f)(4)(A) of the Internal Revenue Code of 1986 is amended by striking “20 percent” and inserting “15 percent”.

(c) Effective Date.—The amendments made by this section shall apply to distributions made after December 31, 2017.
SEC. 10. REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO FLEXIBLE SPENDING ACCOUNTS.

(a) In General.—Section 125 of the Internal Revenue Code of 1986 is amended by striking subsection (i).

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2017.

SEC. 11. REPEAL OF MEDICAL DEVICE EXCISE TAX.

Section 4191 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(d) Applicability.—The tax imposed under subsection (a) shall not apply to sales after December 31, 2017.”.

SEC. 12. REPEAL OF ELIMINATION OF DEDUCTION FOR EXPENSES ALLOCABLE TO MEDICARE PART D SUBSIDY.

(a) In General.—Section 139A of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “This section shall not be taken into account for purposes of determining whether any deduction is allowable with respect to any cost taken into account in determining such payment.”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2017.
SEC. 13. REPEAL OF INCREASE IN INCOME THRESHOLD FOR DETERMINING MEDICAL CARE DEDUCTION.

(a) In General.—Subsection (a) of section 213 of the Internal Revenue Code of 1986 is amended by striking “10 percent” and inserting “7.5 percent”.

(b) Extension of Special Rule.—Subsection (f) of section 213 of such Code is amended—

(1) by striking “2017” and inserting “2018”,

and

(2) by striking “AND 2016” and inserting “2016, AND 2017”.

(c) Effective Date.—

(1) In General.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2017.

(2) Extension of Special Rule.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2016.

SEC. 14. REPEAL OF MEDICARE TAX INCREASE.

(a) In General.—Subsection (b) of section 3101 of the Internal Revenue Code of 1986 is amended to read as follows:

“(b) Hospital Insurance.—In addition to the tax imposed by the preceding subsection, there is hereby imposed on the income of every individual a tax equal to 1.45
1 percent of the wages (as defined in section 3121(a)) re-
2 ceived by such individual with respect to employment (as
3 defined in section 3121(b).”).
4
5 (b) SECA.—Subsection (b) of section 1401 of the In-
6 ternal Revenue Code of 1986 is amended to read as fol-
7 lows:
8 “(b) HOSPITAL INSURANCE.—In addition to the tax
9 imposed by the preceding subsection, there shall be im-
10 posed for each taxable year, on the self-employment in-
11 come of every individual, a tax equal to 2.9 percent of the
12 amount of the self-employment income for such taxable
13 year.”.
14
15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply with respect to remuneration re-
17 ceived after, and taxable years beginning after, December
19
20 SEC. 15. REFUNDABLE TAX CREDIT FOR HEALTH INSUR-
21 ANCE COVERAGE.
22
23 (a) IN GENERAL.—Subpart C of part IV of sub-
24 chapter A of chapter 1 of the Internal Revenue Code of
25 1986 is amended by inserting after section 36B the fol-
26 lowing new section:
27 “SEC. 36C. HEALTH INSURANCE COVERAGE.
28 “(a) IN GENERAL.—In the case of an individual,
by this subtitle for the taxable year the sum of the monthly credit amounts with respect to such taxpayer for calendar months during such taxable year.

“(b) MONTHLY CREDIT AMOUNTS.—

“(1) IN GENERAL.—The monthly credit amount with respect to any taxpayer for any calendar month is the lesser of—

“(A) the sum of the monthly limitation amounts determined under subsection (c) with respect to the taxpayer and the taxpayer’s qualifying family members for such month, or

“(B) the amount paid for eligible health insurance for the taxpayer and the taxpayer’s qualifying family members for such month.

“(2) ELIGIBLE COVERAGE MONTH REQUIREMENT.—No amount shall be taken into account under subparagraph (A) or (B) of paragraph (1) with respect to any individual for any month unless such month is an eligible coverage month with respect to such individual.

“(c) MONTHLY LIMITATION AMOUNTS.—

“(1) IN GENERAL.—The monthly limitation amount with respect to any individual for any eligible coverage month during any taxable year is \( \frac{1}{12} \) of—
“(A) $2,000 in the case of an individual who has not attained age 30 as of the beginning of such taxable year,

“(B) $2,500 in the case of an individual who has attained age 30 but who has not attained age 40 as of such time,

“(C) $3,000 in the case of an individual who has attained age 40 but who has not attained age 50 as of such time,

“(D) $3,500 in the case of an individual who has attained age 50 but who has not attained age 60 as of such time, and

“(E) $4,000 in the case of an individual who has attained age 60 as of such time.

“(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

“(A) IN GENERAL.—The amount otherwise determined under subsection (b)(1)(A) (without regard to this subparagraph but after any other adjustment of such amount under this section) for the taxable year shall be reduced (but not below zero) by 10 percent of the excess (if any) of—

“(i) the taxpayer’s modified adjusted gross income for such taxable year, over
“(ii) $75,000 (twice such amount in the case of a joint return).

“(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term ‘modified adjusted gross income’ means adjusted gross income increased by—

“(i) any amount excluded from gross income under section 911,

“(ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and

“(iii) an amount equal to the portion of the taxpayer’s social security benefits (as defined in section 86(d)) which is not included in gross income under section 86 for the taxable year.

“(3) OTHER LIMITATIONS.—

“(A) AGGREGATE DOLLAR LIMITATION.—The sum of the monthly limitation amounts taken into account under this section with respect to any taxpayer for any taxable year shall not exceed $14,000.

“(B) MAXIMUM NUMBER OF INDIVIDUALS TAKEN INTO ACCOUNT.—With respect to any taxpayer for any month, monthly limitation...
amounts shall be taken into account under this section only with respect to the 5 oldest individuals with respect to whom monthly limitation amounts could (without regard to this subparagraph) otherwise be so taken into account.

“(d) ELIGIBLE COVERAGE MONTH.—For purposes of this section, the term ‘eligible coverage month’ means, with respect to any individual, any month if, as of the first day of such month, the individual—

“(1) is covered by eligible health insurance,

“(2) is not eligible for other specified coverage,

“(3) is either—

“(A) a citizen or national of the United States, or

“(B) a qualified alien (within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641)), and

“(4) is not incarcerated, other than incarceration pending the disposition of charges.

“(e) QUALIFYING FAMILY MEMBER.—For purposes of this section, the term ‘qualifying family member’ means—

“(1) in the case of a joint return, the taxpayer’s spouse,
“(2) any dependent of the taxpayer, and

“(3) with respect to any eligible coverage month, any child (as defined in section 152(f)(1)) of the taxpayer who as of the end of the taxable year has not attained age 27 if such child is covered for such month under eligible health insurance which also covers the taxpayer (in the case of a joint return, either spouse).

“(f) Eligible Health Insurance.—For purposes of this section—

“(1) In general.—The term ‘eligible health insurance’ means any health insurance coverage (as defined in section 9832(b)) if—

“(A) such coverage is either—

“(i) offered in the individual health insurance market within a State, or

“(ii) is unsubsidized COBRA continuation coverage,

“(B) such coverage is not a grandfathered health plan (as defined in section 1251 of the Patient Protection and Affordable Care Act) or a grandmothered health plan,

“(C) substantially all of such coverage is not of excepted benefits described in section 9832(c),
“(D) such coverage does not include coverage for abortions (other than any abortion necessary to save the life of the mother or any abortion with respect to a pregnancy that is the result of an act of rape or incest), and

“(E) the State in which such insurance is offered certifies that such coverage meets the requirements of this paragraph.

“(2) Rules related to state certification.—

“(A) Certification made available to public.—A certification shall not be taken into account under paragraph (1)(E) unless such certification is made available to the public and meets such other requirements as the Secretary may provide.

“(B) Special rule for unsubsidized COBRA continuation coverage.—In the case of unsubsidized COBRA continuation coverage—

“(i) paragraph (1)(E) shall be applied by substituting ‘the plan administrator (as defined in section 414(g)) of the health plan’ for ‘the State in which such insurance is offered’, and
“(ii) the requirements of subpara-
graph (A) shall be treated as satisfied if
the certification meets such requirements
as the Secretary may provide.

“(3) GRANDMOTHERED HEALTH PLAN.—

“(A) IN GENERAL.—The term
‘grandmothered health plan’ means health in-
surance coverage which is offered in the indi-
vidual health insurance market as of January 1,
2013, and is permitted to be offered in such
market after January 1, 2014, as a result of
CCIIO guidance.

“(B) CCIIO GUIDANCE DEFINED.—The
term ‘CCIIO guidance’ means the letter issued
by the Centers for Medicare & Medicaid Serv-
ices on November 14, 2013, to the State Insur-
ance Commissioners outlining a transitional pol-
icy for non-grandfathered coverage in the indi-
vidual health insurance market, as subsequently
extended and modified (including by a commu-
nication entitled ‘Insurance Standards Bulletin
Series—INFORMATION—Extension of Trans-
itional Policy through Calendar Year 2017’
issued on February 29, 2016, by the Director
of the Center for Consumer Information & Insurance Oversight of such Centers).

“(4) **INDIVIDUAL HEALTH INSURANCE MARKET.**—The term ‘individual health insurance market’ means the market for health insurance coverage (as defined in section 9832(b)) offered to individuals other than in connection with a group health plan (within the meaning of section 5000(b)(1)).

“(g) **OTHER SPECIFIED COVERAGE.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘other specified coverage’ means any of the following:

“(A) Coverage under a group health plan (within the meaning of section 5000(b)(1)) other than—

“(i) coverage under a plan substantially all of the coverage of which is of excepted benefits described in section 9832(c), and

“(ii) COBRA continuation coverage.

“(B) Coverage under the Medicare program under part A of title XVIII of the Social Security Act.
“(C) Coverage under the Medicaid program under title XIX of the Social Security Act.

“(D) Coverage under the CHIP program under title XXI of the Social Security Act.

“(E) Medical coverage under chapter 55 of title 10, United States Code, including coverage under the TRICARE program.

“(F) Coverage under a health care program under chapter 17 or 18 of title 38, United States Code, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary of the Treasury.

“(G) Coverage under a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers).


“(2) SPECIAL RULE WITH RESPECT TO VETERANS HEALTH PROGRAMS.—In the case of other
specified coverage described in paragraph (1)(F), an
individual shall not be treated as eligible for such
coverage unless such individual is enrolled in such
coverage.

“(h) UNSUBSIDIZED COBRA CONTINUATION COV-
ERAGE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘unsubsidized
COBRA continuation coverage’ means COBRA con-
tinuation coverage no portion of the premiums for
which are subsidized by the employer.

“(2) COBRA CONTINUATION COVERAGE.—The
term ‘COBRA continuation coverage’ means con-
tinuation coverage provided pursuant to part 6 of
subtitle B of title I of the Employee Retirement In-
come Security Act of 1974 (other than under section
609), title XXII of the Public Health Service Act,
section 4980B of the Internal Revenue Code of 1986
(other than subsection (f)(1) of such section insofar
as it relates to pediatric vaccines), or section 8905a
of title 5, United States Code, or under a State pro-
gram that provides comparable continuation cov-
erage. Such term shall not include coverage under a
health flexible spending arrangement.

“(i) SPECIAL RULES.—
“(1) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married (within the meaning of section 7703) at the close of the taxable year, no credit shall be allowed under this section to such taxpayer unless such taxpayer and the taxpayer’s spouse file a joint return for such taxable year.

“(2) DENIAL OF CREDIT TO DEPENDENTS.—

“(A) IN GENERAL.—No credit shall be allowed under this section to any individual who is a dependent with respect to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.

“(B) COORDINATION WITH RULE FOR OLDER CHILDREN.—In the case of any individual who is a qualifying family member described in subsection (e)(3) with respect to another taxpayer for any month, in determining the amount of any credit allowable to such individual under this section for any taxable year of such individual which includes such month, the monthly limitation amount with respect to such individual for such month shall be zero and no amount paid for eligible health insurance with
respect to such individual for such month shall be taken into account.

“(3) Coordination with Medical Expense Deduction.—Amounts described in subsection (b)(1)(B) with respect to any month shall not be taken into account in determining the deduction allowed under section 213 except to the extent that such amounts exceed the amount described in subsection (b)(1)(A) with respect to such month.

“(4) Insurance which Covers Other Individuals.—For purposes of this section, rules similar to the rules of section 213(d)(6) shall apply with respect to any contract for eligible health insurance under which amounts are payable for coverage of an individual other than the taxpayer and the taxpayer’s qualifying family members.

“(5) Coordination with Advance Payments of Credit.—With respect to any taxable year—

“(A) the amount which would (but for this subsection) be allowed as a credit to the taxpayer under subsection (a) shall be reduced (but not below zero) by the aggregate amount paid on behalf of such taxpayer under section 7529 for months beginning in such taxable year, and
“(B) the tax imposed by section 1 for such taxable year shall be increased by the excess (if any) of—

“(i) the aggregate amount paid on behalf of such taxpayer under section 7529 for months beginning in such taxable year, over

“(ii) the amount which would (but for this subsection) be allowed as a credit to the taxpayer under subsection (a).

“(6) SPECIAL RULES FOR QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.—

“(A) IN GENERAL.—If the taxpayer or any qualifying family member of the taxpayer is provided a qualified small employer health reimbursement arrangement for any eligible coverage month, the sum determined under subsection (b)(1)(A) with respect to the taxpayer for such month shall be reduced (but not below zero) by \( \frac{1}{12} \) of the permitted benefit (as defined in section 9831(d)(3)(C)) under such arrangement.

“(B) QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENT.—
For purposes of this paragraph, the term ‘qualified small employer health reimbursement arrangement’ has the meaning given such term by section 9831(d)(2).

“(C) COVERAGE FOR LESS THAN ENTIRE YEAR.—In the case of an employee who is provided a qualified small employer health reimbursement arrangement for less than an entire year, subparagraph (A) shall be applied by substituting ‘the number of months during the year for which such arrangement was provided’ for ‘12’.

“(7) CERTAIN RULES RELATED TO ABORTION.—

“(A) OPTION TO PURCHASE SEPARATE COVERAGE OR PLAN.—Nothing in subsection (f)(1)(D) shall be construed as prohibiting any individual from purchasing separate coverage for abortions described in such subparagraph, or a health plan that includes such abortions, so long as no credit is allowed under this section with respect to the premiums for such coverage or plan.

“(B) OPTION TO OFFER COVERAGE OR PLAN.—Nothing in subsection (f)(1)(D) shall
restrict any health insurance issuer offering a health plan from offering separate coverage for abortions described in such clause, or a plan that includes such abortions, so long as premiums for such separate coverage or plan are not paid for with any amount attributable to the credit allowed under this section.

“(C) OTHER TREATMENTS.—The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of an abortion shall not be treated as an abortion for purposes of subsection (f)(1)(D).

“(8) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2020, each dollar amount in subsection (c)(1), the $75,000 amount in subsection (c)(2)(A)(ii), and the dollar amount in subsection (c)(3)(A), shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined—
“(I) by substituting ‘calendar year 2019’ for ‘calendar year 1992’ in subparagraph (B) thereof, and

“(II) by substituting for the CPI referred to section 1(f)(3)(A) the amount that such CPI would have been if the annual percentage increase in CPI with respect to each year after 2019 had been one percentage point greater.

“(B) TERMS RELATED TO CPI.—

“(i) ANNUAL PERCENTAGE INCREASE.—For purposes of subparagraph (A)(ii)(II), the term ‘annual percentage increase’ means the percentage (if any) by which CPI for any year exceeds CPI for the prior year.

“(ii) OTHER TERMS.—Terms used in this paragraph which are also used in section 1(f)(3) shall have the same meanings as when used in such section.

“(C) ROUNDING.—Any increase determined under subparagraph (A) shall be rounded to the nearest multiple of $50.
“(9) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section, section 6050W, and section 7529.”.

(b) ADVANCE PAYMENT OF CREDIT; EXCESS HEALTH INSURANCE COVERAGE CREDIT PAYABLE TO HEALTH SAVINGS ACCOUNT.—Chapter 77 of such Code is amended by adding at the end the following:

“SEC. 7529. ADVANCE PAYMENT OF HEALTH INSURANCE COVERAGE CREDIT.

“(a) GENERAL RULE.—Not later than January 1, 2020, the Secretary, in consultation with the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Commissioner of Social Security, shall establish a program (hereafter in this section referred to as the ‘advance payment program’) for making payments to providers of eligible health insurance on behalf of taxpayers eligible for the credit under section 36C.

“(b) LIMITATION.—The aggregate payments made under this section with respect to any taxpayer, determined as of any time during any calendar year, shall not exceed the monthly credit amounts determined with respect to such taxpayer under section 36C for months during such calendar year which have ended as of such time.

“(c) ADMINISTRATION.—
“(1) IN GENERAL.—The advance payment program shall, to the greatest extent practicable, use the methods and procedures used to administer the programs created under sections 1411 and 1412 of the Patient Protection and Affordable Care Act (determined without regard to section 1412(f) of such Act) and each entity that is authorized to take any actions under the programs created under such sections (as so determined) shall, at the request of the Secretary, take such actions to the extent necessary to carry out this section.

“(2) APPLICATION TO OFF-EXCHANGE COVERAGE.—Except as otherwise provided by the Secretary, for purposes of applying this subsection in the case of eligible health insurance which is not enrolled in through an Exchange established under title I of the Patient Protection and Affordable Care Act, the sections referred to in paragraph (1) shall be applied by treating references in such sections to an Exchange as references to the provider of such eligible health insurance (or, as the Secretary determines appropriate, to the licensed agent or broker with respect to such insurance), except that the Secretary of Health and Human Services shall carry out the responsibilities of the Exchange under section
1411(e)(4) of the Patient Protection and Affordable Care Act (determined without regard to section 1412(f) of such Act) in the case of such insurance.

“(3) DOCUMENTATION REGARDING OTHER SPECIFIED COVERAGE.—

“(A) IN GENERAL.—The advance payment program shall provide that any individual applying to have payments made on their behalf under such program shall, if such individual (or any qualifying family member of such individual taken into account in determining the amount of the credit allowable under section 36C) is employed, submit a written statement from each employer of such individual or such qualifying family member stating whether such individual or qualifying family member (as the case may be) is eligible for other specified coverage in connection with such employment.

“(B) ISSUANCE OF STATEMENTS.—An employer shall, at the request of any employee, provide the statement under subparagraph (A) at such time, and in such form and manner, as the Secretary may provide.

“(d) DEFINITIONS.—For purposes of this section, terms used in this section which are also used in section
36C shall have the same meaning as when used in section 36C.

“SEC. 7530. EXCESS HEALTH INSURANCE COVERAGE CREDIT PAYABLE TO HEALTH SAVINGS ACCOUNT.

“(a) IN GENERAL.—At the request of an eligible taxpayer, the Secretary shall make a payment to the trustee of the designated health savings account with respect to such taxpayer in an amount equal to the sum of the excesses (if any) described in subsection (c)(2) with respect to months in the taxable year.

“(b) DESIGNATED HEALTH SAVINGS ACCOUNT.—The term ‘designated health savings account’ means a health savings account of an individual described in subsection (c)(3) which is identified by the eligible taxpayer for purposes of this section.

“(c) ELIGIBLE TAXPAYER.—The term ‘eligible taxpayer’ means, with respect to any taxable year, any taxpayer if—

“(1) such taxpayer is allowed a credit under section 36C for such taxable year,

“(2) the amount described in subparagraph (A) of section 36C(b)(1) exceeds the amount described in subparagraph (B) of such section with respect to such taxpayer applied with respect to any month during such taxable year, and
“(3) the taxpayer or one or more of the taxpayer’s qualifying family members (as defined in section 36C(e)) were eligible individuals (as defined in section 223(c)(1)) for one or more months during such taxable year.

“(d) Contributions Treated as Rollovers, etc.—

“(1) In general.—Any amount paid the Secretary to a health savings account under this section shall be treated for purposes of this title in the same manner as a rollover contribution described in section 223(f)(5).

“(2) Coordination with limitation on rollovers.—Any amount described in paragraph (1) shall not be taken into account in applying section 223(f)(5)(B) with respect to any other amount and the limitation of section 223(f)(5)(B) shall not apply with respect to the application of paragraph (1).

“(e) Form and Manner of Request.—The request referred to in subsection (a) shall be made at such time and in such form and manner as the Secretary may provide. To the extent that the Secretary determines feasible, such request may identify more than one designated health savings account (and the amount to be paid to each
such account) provided that the aggregate of such pay-
ments with respect to any taxpayer for any taxable year
do not exceed the excess described in subsection (c)(2).

“(f) TAXPAYERS WITH SERIOUSLY DELINQUENT
TAX DEBT.—In the case of an individual who has a seri-
ously delinquent tax debt (as defined in section 7345(b))
which has not been fully satisfied—

“(1) if such individual is the eligible taxpayer
(or, in the case of a joint return, either spouse), the
Secretary shall not make any payment under this
section with respect to such taxpayer, and

“(2) if such individual is the account bene-

(1) Reporting by health insurance pro-
viders.—Subpart B of part III of subchapter A of
chapter 61 of such Code is amended by adding at
the end the following new sections:
“SEC. 6050X. RETURNS BY HEALTH INSURANCE PROVIDERS RELATING TO HEALTH INSURANCE COVERAGE CREDIT.

“(a) REQUIREMENT OF REPORTING.—Every person who provides eligible health insurance for any month of any calendar year with respect to any individual shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each such individual. With respect to any individual with respect to whom payments under section 7529 are made by the Secretary, the reporting under subsection (b) shall be made on a monthly basis.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains, with respect to each policy of eligible health insurance—

“(A) the name, address, and TIN of each individual covered under such policy,

“(B) the premiums paid with respect to such policy,

“(C) the amount of advance payments made on behalf of the individual under section 7529,
“(D) the months during which such health insurance is provided to the individual,

“(E) whether such policy constitutes a high deductible health plan (as defined in section 223(c)(2)), and

“(F) such other information as the Secretary may prescribe.

“(c) Statements to be Furnished to Individuals with Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

“(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year to which such statement relates.

“(d) Definitions.—For purposes of this section, terms used in this section which are also used in section
36C shall have the same meaning as when used in section 36C.”.

(2) Reporting by employers.—Section 6051(a) of such Code is amended by striking “and” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “, and”, and by inserting after paragraph (15) the following new paragraph:

“(16) each month with respect to which the employee is eligible for other specified coverage (as defined in section 36C(g)) in connection with employment with the employer.”.

(3) Assessable penalties.—

(A) Section 6724(d)(1)(B) of such Code is amended by striking “or” at the end of clause (xxiv), by inserting “or” at the end of clause (xxv), and by inserting after clause (xxv) the following new clause:

“(xxvi) section 6050X (relating to returns relating to health insurance coverage credit),”.

(B) Section 6724(d)(2) of such Code is amended by striking “or” at the end of subparagraph (HH), by striking the period at the end of subparagraph (II) and inserting a
comma, and by adding after subparagraph (II) the following new subparagraphs:

“(JJ) section 6050X (relating to returns relating to health insurance coverage credit), or

“(KK) section 7529(c)(3) (relating to documenta-

tion regarding other specified cov-

erage).”.

(d) DISCLOSURES.—Paragraph (21) of section 6103(l) of the Internal Revenue Code of 1986 is amend-

ed—

(1) in subparagraph (A)—

(A) by striking “any premium tax credit under section 36B or any cost-sharing reduc-

tion under section 1402 of the Patient Protec-

tion and Affordable Care Act or” and inserting

“any credit under section 36C”,

(B) by striking “, a State’s children’s health insurance program under title XXI of

the Social Security Act, or a basic health pro-

gram under section 1331 of Patient Protection

and Affordable Care Act” and inserting “or a

State’s children’s health insurance program

under title XXI of the Social Security Act”,

...
(C) by striking “(as defined in section 36B)” in clause (iv) and inserting “(as defined in section 36C(e)(2)(B))”, and

(D) by striking “or reduction” in clause (v),

(2) in subparagraph (B)—

(A) by striking “may disclose to an Exchange” and inserting “may disclose—

“(i) to an Exchange”, and

(B) by striking the period at the end and inserting “, and”, and

(C) by adding at the end the following new clause:

“(ii) in the case of any credit under section 36C with respect to any health insurance, the amount of such credit (or the amount of any advance payment of such credit) to the provider of such insurance (or, as the Secretary determines appropriate, the licensed agent or broker with respect to such insurance).”, and

(3) in subparagraph (C)(i), by striking “amount of, any credit or reduction” and inserting “amount of any credit”.

(c) **INCREASED PENALTY ON ERRONEOUS CLAIMS OF CREDIT.**—Section 6676(a) of such Code is amended by inserting “(25 percent in the case of a claim for refund or credit relating to the health insurance coverage credit under section 36C)”.

(f) **CONFORMING AMENDMENTS.**—

(1) Section 35(g) of such Code is amended by adding at the end the following new paragraph:

“(14) **COORDINATION WITH HEALTH INSURANCE COVERAGE CREDIT.**—

“(A) **IN GENERAL.**—An eligible coverage month to which the election under paragraph (11) applies shall not be treated as an eligible coverage month (as defined in section 36C(d)) for purposes of section 36C with respect to the taxpayer or any of the taxpayer’s qualifying family members (as defined in section 36C(e)).

“(B) **COORDINATION WITH ADVANCE PAYMENTS OF HEALTH INSURANCE COVERAGE CREDIT.**—In the case of a taxpayer who makes the election under paragraph (11) with respect to any eligible coverage month in a taxable year or on behalf of whom any advance payment is made under section 7527 with respect to any month in such taxable year—
“(i) the tax imposed by this chapter for the taxable year shall be increased by the excess, if any, of—

“(I) the sum of any advance payments made on behalf of the taxpayer under sections 7527 and 7529 for months during such taxable year, over

“(II) the sum of the credits allowed under this section (determined without regard to paragraph (1)) and section 36C (determined without regard to subsection (i)(5)(A) thereof) for such taxable year, and

“(ii) section 36C(i)(5)(B) shall not apply with respect to such taxpayer for such taxable year.”.

(2) Section 162(l) of such Code is amended by adding at the end the following new paragraph:

“(6) COORDINATION WITH HEALTH INSURANCE COVERAGE CREDIT.—The deduction otherwise allowable to a taxpayer under paragraph (1) for any taxable year shall be reduced (but not below zero) by the sum of—

“(A) the amount of the credit allowable to such taxpayer under section 36C (determined
without regard to subsection (i)(5)(A) thereof) for such taxable year, plus

“(B) the aggregate payments made with respect to the taxpayer under section 7530 for months during such taxable year.”.

(3) Section 1324(b)(2) of title 31, United States Code is amended—

(A) by inserting “36C,” after “36B,”, and

(B) by striking “or 6431” and inserting “6431, or 7530”.

(4) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 36B the following new item:

“Sec. 36C. Health insurance coverage.”.

(5) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

“Sec. 6050X. Returns relating to health insurance coverage credit.”.

(6) The table of sections for chapter 77 of such Code is amended by adding at the end the following new items:

“Sec. 7529. Advance payment of health insurance coverage credit.

“Sec. 7530. Excess health insurance coverage credit payable to health savings account.”.
(g) **Effective Date.**—The amendments made by this section shall apply to months beginning after December 31, 2019, in taxable years ending after such date.

**SEC. 16. Maximum Contribution Limit to Health Savings Account Increased to Amount of Deductible and Out-of-Pocket Limitation.**

(a) **Self-Only Coverage.**—Section 223(b)(2)(A) of the Internal Revenue Code of 1986 is amended by striking “$2,250” and inserting “the amount in effect under subsection (c)(2)(A)(ii)(I)”.

(b) **Family Coverage.**—Section 223(b)(2)(B) of such Code is amended by striking “$4,500” and inserting “the amount in effect under subsection (c)(2)(A)(ii)(II)”.

(c) **Conforming Amendments.**—Section 223(g)(1) of such Code is amended—

1. by striking “subsections (b)(2) and” both places it appears and inserting “subsection”, and
2. in subparagraph (B), by striking “determined by” and all that follows through “calendar year 2003’.” and inserting “determined by substituting ‘calendar year 2003’ for ‘calendar year 1992’ in subparagraph (B) thereof.”.
(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2017.

SEC. 17. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CONTRIBUTIONS TO THE SAME HEALTH SAVINGS ACCOUNT.

(a) In General.—Section 223(b)(5) of the Internal Revenue Code of 1986 is amended to read as follows: “(5) Special rule for married individuals with family coverage.—

“(A) In general.—In the case of individuals who are married to each other, if both spouses are eligible individuals and either spouse has family coverage under a high deductible health plan as of the first day of any month—

“(i) the limitation under paragraph (1) shall be applied by not taking into account any other high deductible health plan coverage of either spouse (and if such spouses both have family coverage under separate high deductible health plans, only one such coverage shall be taken into account),
“(ii) such limitation (after application of clause (i)) shall be reduced by the aggregate amount paid to Archer MSAs of such spouses for the taxable year, and

“(iii) such limitation (after application of clauses (i) and (ii)) shall be divided equally between such spouses unless they agree on a different division.

“(B) TREATMENT OF ADDITIONAL CONTRIBUTION AMOUNTS.—If both spouses referred to in subparagraph (A) have attained age 55 before the close of the taxable year, the limitation referred to in subparagraph (A)(iii) which is subject to division between the spouses shall include the additional contribution amounts determined under paragraph (3) for both spouses. In any other case, any additional contribution amount determined under paragraph (3) shall not be taken into account under subparagraph (A)(iii) and shall not be subject to division between the spouses.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2017.
SEC. 18. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF HEALTH SAVINGS ACCOUNT.

(a) In General.—Section 223(d)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(D) Treatment of certain medical expenses incurred before establishment of account.—If a health savings account is established during the 60-day period beginning on the date that coverage of the account beneficiary under a high deductible health plan begins, then, solely for purposes of determining whether an amount paid is used for a qualified medical expense, such account shall be treated as having been established on the date that such coverage begins.”.

(b) Effective Date.—The amendment made by this section shall apply with respect to coverage beginning after December 31, 2017.