

115TH CONGRESS
1ST SESSION

S. 40

To amend the Internal Revenue Code of 1986 to repeal the excise tax
on high cost employer-sponsored health coverage.

IN THE SENATE OF THE UNITED STATES

JANUARY 5, 2017

Mr. HELLER 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 repeal
the excise tax on high cost employer-sponsored health
coverage.

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 “Middle Class Health
5 Benefits Tax Repeal Act of 2017”.

6 **SEC. 2. REPEAL OF EXCISE TAX ON HIGH COST EMPLOYER-**
7 **SPONSORED HEALTH COVERAGE.**

8 (a) IN GENERAL.—Chapter 43 of the Internal Rev-
9 enue Code of 1986 is amended by striking section 4980I.

1 (b) CONFORMING AMENDMENT.—Section 6051 of
 2 such Code is amended—

3 (1) in paragraph (14) of subsection (a), by
 4 striking “section 4980I(d)(1)” and inserting “sub-
 5 section (g)”, and

6 (2) by adding at the end the following:

7 “(g) APPLICABLE EMPLOYER-SPONSORED COV-
 8 ERAGE.—For purposes of subsection (a)(14)—

9 “(1) IN GENERAL.—The term ‘applicable em-
 10 ployer-sponsored coverage’ means, with respect to
 11 any employee, coverage under any group health plan
 12 made available to the employee by an employer
 13 which is excludable from the employee’s gross in-
 14 come under section 106, or would be so excludable
 15 if it were employer-provided coverage (within the
 16 meaning of such section 106).

17 “(2) EXCEPTIONS.—The term ‘applicable em-
 18 ployer-sponsored coverage’ shall not include—

19 “(A) any coverage (whether through insur-
 20 ance or otherwise) described in section
 21 9832(c)(1) (other than subparagraph (G) there-
 22 of) or for long-term care, or

23 “(B) any coverage under a separate policy,
 24 certificate, or contract of insurance which pro-
 25 vides benefits substantially all of which are for

1 treatment of the mouth (including any organ or
 2 structure within the mouth) or for treatment of
 3 the eye, or

4 “(C) any coverage described in section
 5 9832(c)(3) the payment for which is not exclud-
 6 able from gross income and for which a deduc-
 7 tion under section 162(l) is not allowable.

8 “(3) COVERAGE INCLUDES EMPLOYEE PAID
 9 PORTION.—Coverage shall be treated as applicable
 10 employer-sponsored coverage without regard to
 11 whether the employer or employee pays for the cov-
 12 erage.

13 “(4) GOVERNMENTAL PLANS INCLUDED.—Ap-
 14 plicable employer-sponsored coverage shall include
 15 coverage under any group health plan established
 16 and maintained primarily for its civilian employees
 17 by the Government of the United States, by the gov-
 18 ernment of any State or political subdivision thereof,
 19 or by any agency or instrumentality of any such gov-
 20 ernment.

21 “(5) COST OF COVERAGE.—

22 “(A) HEALTH FSAS.—In the case of appli-
 23 cable employer-sponsored coverage consisting of
 24 coverage under a flexible spending arrangement
 25 (as defined in section 106(c)(2)), the cost of the

1 coverage shall be equal to the amount deter-
 2 mined under rules similar to the rules of section
 3 4980B(f)(4) with respect to any reimbursement
 4 under the arrangement reduced by the contribu-
 5 tions described in subsection (a)(14)(B).

6 “(B) ARCHER MSAS AND HSAS.—In the
 7 case of applicable employer-sponsored coverage
 8 consisting of coverage under an arrangement
 9 under which the employer makes contributions
 10 described in subsection (b) or (d) of section
 11 106, the cost of the coverage shall be equal to
 12 the amount of employer contributions under the
 13 arrangement.

14 “(C) ALLOCATION ON A MONTHLY
 15 BASIS.—If cost is determined on other than a
 16 monthly basis, the cost shall be allocated to
 17 months in a taxable period on such basis as the
 18 Secretary may prescribe.”.

19 (c) CLERICAL AMENDMENT.—The table of sections
 20 for chapter 43 of such Code is amended by striking the
 21 item relating to section 4980I.

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to taxable years beginning after
 24 December 31, 2017.

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