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INTERNAL REVENUE CODE OF 1986

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Subtitle D—Miscellaneous Excise Taxes

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【CHAPTER 49—COSMETIC SERVICES】

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CHAPTER 43—QUALIFIED PENSION, ETC., PLANS

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SEC. 4980H. SHARED RESPONSIBILITY FOR EMPLOYERS REGARDING HEALTH COVERAGE.(a) **LARGE EMPLOYERS NOT OFFERING HEALTH COVERAGE.—If—**

(1) any applicable large employer fails to offer to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan (as defined in section 5000A(f)(2)) for any month, and

(2) at least one full-time employee of the applicable large employer has been certified to the employer under section 1411 of the Patient Protection and Affordable Care Act as having enrolled for such month in a qualified health plan with respect to which an applicable premium tax credit or cost-sharing reduction is allowed or paid with respect to the employee,

then there is hereby imposed on the employer an assessable payment equal to the product of the applicable payment amount and the number of individuals employed by the employer as full-time employees during such month.

(b) **LARGE EMPLOYERS OFFERING COVERAGE WITH EMPLOYEES WHO QUALIFY FOR PREMIUM TAX CREDITS OR COST-SHARING REDUCTIONS.—**(1) **IN GENERAL.—If—**

(A) an applicable large employer offers to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan (as defined in section 5000A(f)(2)) for any month, and

(B) 1 or more full-time employees of the applicable large employer has been certified to the employer under section 1411 of the Patient Protection and Affordable Care Act as having enrolled for such month in a qualified health plan with respect to which an applicable premium tax credit or cost-sharing reduction is allowed or paid with respect to the employee,

then there is hereby imposed on the employer an assessable payment equal to the product of the number of full-time employees of the applicable large employer described in subparagraph (B) for such month and an amount equal to $\frac{1}{12}$ of \$3,000.

(2) **OVERALL LIMITATION.—**The aggregate amount of tax determined under paragraph (1) with respect to all employees of an applicable large employer for any month shall not exceed

the product of the applicable payment amount and the number of individuals employed by the employer as full-time employees during such month.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) APPLICABLE PAYMENT AMOUNT.—The term “applicable payment amount” means, with respect to any month, $\frac{1}{12}$ of \$2,000.

(2) APPLICABLE LARGE EMPLOYER.—

(A) IN GENERAL.—The term “applicable large employer” means, with respect to a calendar year, an employer who employed an average of at least 50 full-time employees on business days during the preceding calendar year.

(B) EXEMPTION FOR CERTAIN EMPLOYERS.—

(i) IN GENERAL.—An employer shall not be considered to employ more than 50 full-time employees if—

(I) the employer’s workforce exceeds 50 full-time employees for 120 days or fewer during the calendar year, and

(II) the employees in excess of 50 employed during such 120-day period were seasonal workers.

(ii) DEFINITION OF SEASONAL WORKERS.—The term “seasonal worker” means a worker who performs labor or services on a seasonal basis as defined by the Secretary of Labor, including workers covered by section 500.20(s)(1) of title 29, Code of Federal Regulations and retail workers employed exclusively during holiday seasons.

(C) RULES FOR DETERMINING EMPLOYER SIZE.—For purposes of this paragraph—

(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is an applicable large employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(iii) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

(D) APPLICATION OF EMPLOYER SIZE TO ASSESSABLE PENALTIES.—

(i) IN GENERAL.—The number of individuals employed by an applicable large employer as full-time employees during any month shall be reduced by 30 solely for purposes of calculating—

(I) the assessable payment under subsection (a), or

(II) the overall limitation under subsection (b)(2).

(ii) AGGREGATION.—In the case of persons treated as 1 employer under subparagraph (C)(i), only 1 reduction under subclause (I) or (II) shall be allowed with respect to such persons and such reduction shall be allocated among such persons ratably on the basis of the number of full-time employees employed by each such person.

[(E) FULL-TIME EQUIVALENTS TREATED AS FULL-TIME EMPLOYEES.—Solely for purposes of determining whether an employer is an applicable large employer under this paragraph, an employer shall, in addition to the number of full-time employees for any month otherwise determined, include for such month a number of full-time employees determined by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120.]

(E) FULL-TIME EQUIVALENTS TREATED AS FULL-TIME EMPLOYEES.—Solely for purposes of determining whether an employer is an applicable large employer under this paragraph, an employer shall, in addition to the number of full-time employees for any month otherwise determined, include for such month a number of full-time employees determined by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 174.

(F) EXEMPTION FOR HEALTH COVERAGE UNDER TRICARE OR THE DEPARTMENT OF VETERANS AFFAIRS.—Solely for purposes of determining whether an employer is an applicable large employer under this paragraph for any month, an individual shall not be taken into account as an employee for such month if such individual has medical coverage for such month under—

- (i) chapter 55 of title 10, United States Code, including coverage under the TRICARE program, or
- (ii) 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.
- (3) APPLICABLE PREMIUM TAX CREDIT AND COST-SHARING REDUCTION.—The term “applicable premium tax credit and cost-sharing reduction” means—
- (A) any premium tax credit allowed under section 36B,
- (B) any cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act, and
- (C) any advance payment of such credit or reduction under section 1412 of such Act.
- (4) FULL-TIME EMPLOYEE.—
- [(A) IN GENERAL.—The term “full-time employee” means, with respect to any month, an employee who is employed on average at least 30 hours of service per week.]
- (A) IN GENERAL.—*The term “full-time employee” means, with respect to any month, an employee who is employed on average at least 40 hours of service per week.*
- (B) HOURS OF SERVICE.—The Secretary, in consultation with the Secretary of Labor, shall prescribe such regulations, rules, and guidance as may be necessary to determine the hours of service of an employee, including rules for the application of this paragraph to employees who are not compensated on an hourly basis.
- (5) INFLATION ADJUSTMENT.—
- (A) IN GENERAL.—In the case of any calendar year after 2014, each of the dollar amounts in subsection (b) and paragraph (1) shall be increased by an amount equal to the product of—
- (i) such dollar amount, and
- (ii) the premium adjustment percentage (as defined in section 1302(c)(4) of the Patient Protection and Affordable Care Act) for the calendar year.
- (B) ROUNDING.—If the amount of any increase under subparagraph (A) is not a multiple of \$10, such increase shall be rounded to the next lowest multiple of \$10.
- (6) OTHER DEFINITIONS.—Any term used in this section which is also used in the Patient Protection and Affordable Care Act shall have the same meaning as when used in such Act.
- (7) TAX NONDEDUCTIBLE.—For denial of deduction for the tax imposed by this section, see section 275(a)(6).
- (d) ADMINISTRATION AND PROCEDURE.—
- (1) IN GENERAL.—Any assessable payment provided by this section shall be paid upon notice and demand by the Secretary, and shall be assessed and collected in the same manner as an assessable penalty under subchapter B of chapter 68.
- (2) TIME FOR PAYMENT.—The Secretary may provide for the payment of any assessable payment provided by this section on an annual, monthly, or other periodic basis as the Secretary may prescribe.
- (3) COORDINATION WITH CREDITS, ETC.—The Secretary shall prescribe rules, regulations, or guidance for the repayment of any assessable payment (including interest) if such payment is based on the allowance or payment of an applicable premium tax credit or cost-sharing reduction with respect to an employee, such allowance or payment is subsequently disallowed, and the assessable payment would not have been required to be made but for such allowance or payment.
- (e) SUSPENSION.—*This section shall not apply to any month beginning after December 31, 2014, and before January 1, 2019.*

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[CHAPTER 49—COSMETIC SERVICES

[SEC. 5000B. IMPOSITION OF TAX ON INDOOR TANNING SERVICES.

[(a) IN GENERAL.—There is hereby imposed on any indoor tanning service a tax equal to 10 percent of the amount paid for such service (determined without regard to this section), whether paid by insurance or otherwise.

[(b) INDOOR TANNING SERVICE.—For purposes of this section—

[(1) IN GENERAL.—The term “indoor tanning service” means a service employing any electronic product designed to incorporate 1 or more ultraviolet lamps and intended for the irradiation of an individual by ultraviolet radiation, with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

[(2) EXCLUSION OF PHOTOTHERAPY SERVICES.—Such term does not include any phototherapy service performed by a licensed medical professional.

[(c) PAYMENT OF TAX.—

[(1) IN GENERAL.—The tax imposed by this section shall be paid by the individual on whom the service is performed.

[(2) COLLECTION.—Every person receiving a payment for services on which a tax is imposed under subsection (a) shall collect the amount of the tax from the individual on whom the service is performed and remit such tax quarterly to the Secretary at such time and in such manner as provided by the Secretary.

[(3) SECONDARY LIABILITY.—Where any tax imposed by subsection (a) is not paid at the time payments for indoor tanning services are made, then to the extent that such tax is not collected, such tax shall be paid by the person who performs the service.]

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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PART III—INFORMATION RETURNS

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Subpart D—Information Regarding Health Insurance Coverage

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SEC. 6055. REPORTING OF HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Every person who provides minimum essential coverage to an individual during a calendar year shall, at such time as the Secretary may prescribe, make a return described in subsection (b).

(b) FORM AND MANNER OF RETURN.—

(1) IN GENERAL.—A return is described in this subsection if such return—

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

(B) contains—

(i) the name, address and TIN of the primary insured and the name and TIN of each other individual obtaining coverage under the policy,

(ii) the dates during which such individual was covered under minimum essential coverage during the calendar year,

(iii) in the case of minimum essential coverage which consists of health insurance coverage, information concerning—

(I) whether or not the coverage is a qualified health plan offered through an Exchange established under section 1311 of the Patient Protection and Affordable Care Act, and

(II) in the case of a qualified health plan, the amount (if any) of any advance payment under section 1412 of the Patient Protection and Affordable Care Act of any cost-sharing reduction under section 1402 of such Act or of any premium tax credit under section 36B with respect to such coverage, and

(iv) such other information as the Secretary may require.

(2) INFORMATION RELATING TO EMPLOYER-PROVIDED COVERAGE.—If minimum essential coverage provided to an individual under subsection (a) consists of health insurance coverage of a health insurance issuer provided through a group health plan of an employer, a return described in this subsection shall include—

(A) the name, address, and employer identification number of the employer maintaining the plan,

(B) the portion of the premium (if any) required to be paid by the employer, and

(C) if the health insurance coverage is a qualified health plan in the small group market offered through an Exchange, such other information as the Secretary may require for administration of the credit under section 45R (relating to credit for employee health insurance expenses of small employers).

[(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REPORTED.—

[(1) IN GENERAL.—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—

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

[(B) the information required to be shown on the return with respect to such individual.

[(2) TIME FOR FURNISHING STATEMENTS.—The written statement required under paragraph (1) shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.】

(c) STATEMENTS TO BE FURNISHED UPON REQUEST TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REPORTED.—

(1) IN GENERAL.—Upon the request of any individual whose name is required to be set forth in a return required under subsection (a), the person required to make such return shall furnish to such individual a written statement showing—

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

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

(2) TIME FOR REQUESTING AND FURNISHING STATEMENTS.—Any request for the written statement described in paragraph (1) shall be made not later than 4 years after the close of the calendar year for which the return under subsection (a) was required to be made and shall be furnished not later than the later of—

(A) January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, or

(B) 60 days after the date of such request.

(3) 1 STATEMENT PER INDIVIDUAL; STATEMENT MAY BE FURNISHED AT ANY TIME WITHOUT REQUEST.—

(A) IN GENERAL.—In the case of any person required to make a return under subsection (a), the requirement of paragraph (1) shall not apply with respect to any individual whose name is required to be set forth in such return after such person has furnished to such individual the written statement described in paragraph (1).

(B) STATEMENT MAY BE FURNISHED AT ANY TIME WITHOUT REQUEST.—A written statement described in paragraph (1) shall be treated as timely furnished to any individual if such statement is furnished before such individual requests such statement.

(d) COVERAGE PROVIDED BY GOVERNMENTAL UNITS.—In the case of coverage provided by any governmental unit or any agency or instrumentality thereof, the officer or employee who enters into the agreement to provide such coverage (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

(e) MINIMUM ESSENTIAL COVERAGE.—For purposes of this section, the term “minimum essential coverage” has the meaning given such term by section 5000A(f).

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PATIENT PROTECTION AND AFFORDABLE CARE ACT

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TITLE IX—REVENUE PROVISIONS**Subtitle A—Revenue Offset Provisions****SEC. 9001. EXCISE TAX ON HIGH COST EMPLOYER-SPONSORED HEALTH COVERAGE.**

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986, as amended by section 1513, is amended by adding at the end the following:

“SEC. 4980I. EXCISE TAX ON HIGH COST EMPLOYER-SPONSORED HEALTH COVERAGE

“(a) IMPOSITION OF TAX.—If—

“(1) an employee is covered under any applicable employer-sponsored coverage of an employer at any time during a taxable period, and

“(2) there is any excess benefit with respect to the coverage,
there is hereby imposed a tax equal to 40 percent of the excess benefit.

“(b) EXCESS BENEFIT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘excess benefit’ means, with respect to any applicable employer-sponsored coverage made available by an employer to an employee during any taxable period, the sum of the excess amounts determined under paragraph (2) for months during the taxable period.

“(2) MONTHLY EXCESS AMOUNT.—The excess amount determined under this paragraph for any month is the excess (if any) of—

“(A) the aggregate cost of the applicable employer-sponsored coverage of the employee for the month, over

“(B) an amount equal to $\frac{1}{12}$ of the annual limitation under paragraph (3) for the calendar year in which the month occurs.

“(3) ANNUAL LIMITATION.—For purposes of this subsection—

“(A) IN GENERAL.—The annual limitation under this paragraph for any calendar year is the dollar limit determined under subparagraph (C) for the calendar year.

“(B) APPLICABLE ANNUAL LIMITATION.—The annual limitation which applies for any month shall be determined on the basis of the type of coverage (as determined under subsection (f)(1)) provided to the employee by the employer as of the beginning of the month.

“(C) APPLICABLE DOLLAR LIMIT.—Except as provided in subparagraph (D)—

“(i) 2013.—In the case of 2013, the dollar limit under this subparagraph is—

“(I) in the case of an employee with self-only coverage, \$8,500, and

“(II) in the case of an employee with coverage other than self-only coverage, \$23,000.

“(ii) EXCEPTION FOR CERTAIN INDIVIDUALS.—In the case of an individual who is a qualified retiree or who participates in a plan sponsored by an employer the majority of whose employees are engaged in a high-risk profession or employed to repair or install electrical or telecommunications lines—

“(I) the dollar amount in clause (i)(I) (determined after the application of subparagraph (D)) shall be increased by \$1,350, and

“(II) the dollar amount in clause (i)(II) (determined after the application of subparagraph (D)) shall be increased by \$3,000.

“(iii) SUBSEQUENT YEARS.—In the case of any calendar year after 2013, each of the dollar amounts under clauses (i) and (ii) shall be increased to the amount equal to such amount as in effect for the calendar year preceding such year, increased by an amount equal to the product of—

“(I) such amount as so in effect, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such year (determined by substituting the calendar year that is 2 years before such year for ‘1992’ in subparagraph (B) thereof), increased by 1 percentage point.

If any amount determined under this clause is not a multiple of \$50, such amount shall be rounded to the nearest multiple of \$50.

“(D) TRANSITION RULE FOR STATES WITH HIGHEST COVERAGE COSTS.—

“(i) IN GENERAL.—If an employee is a resident of a high cost State on the first day of any month beginning in 2013, 2014, or 2015, the annual limitation under this paragraph for such month with respect to such employee shall be an amount equal to the applicable percentage of the annual limitation (determined without regard to this subparagraph or subparagraph (C)(ii)).

“(ii) APPLICABLE PERCENTAGE.—The applicable percentage is 120 percent for 2013, 110 percent for 2014, and 105 percent for 2015.

“(iii) HIGH COST STATE.—The term ‘high cost State’ means each of the 17 States which the Secretary of Health and Human Services, in consultation with the Secretary, estimates had the highest average cost during 2012 for employer-sponsored coverage under health plans. The Secretary’s estimate shall be made on the basis of aggregate premiums paid in the State for such health plans, determined using the most recent data available as of August 31, 2012.

“(c) LIABILITY TO PAY TAX.—

“(1) IN GENERAL.—Each coverage provider shall pay the tax imposed by subsection (a) on its applicable share of the excess benefit with respect to an employee for any taxable period.

“(2) COVERAGE PROVIDER.—For purposes of this subsection, the term ‘coverage provider’ means each of the following:

“(A) HEALTH INSURANCE COVERAGE.—If the applicable employer-sponsored coverage consists of coverage under a group health plan which provides health insurance coverage, the health insurance issuer.

“(B) HSA AND MSA CONTRIBUTIONS.—If the applicable employer-sponsored coverage consists of coverage under an arrangement under which the employer makes contributions described in subsection (b) or (d) of section 106, the employer.

“(C) OTHER COVERAGE.—In the case of any other applicable employer-sponsored coverage, the person that administers the plan benefits.

“(3) APPLICABLE SHARE.—For purposes of this subsection, a coverage provider’s applicable share of an excess benefit for any taxable period is the amount which bears the same ratio to the amount of such excess benefit as—

“(A) the cost of the applicable employer-sponsored coverage provided by the provider to the employee during such period, bears to

“(B) the aggregate cost of all applicable employer-sponsored coverage provided to the employee by all coverage providers during such period.

“(4) RESPONSIBILITY TO CALCULATE TAX AND APPLICABLE SHARES.—

“(A) IN GENERAL.—Each employer shall—

“(i) calculate for each taxable period the amount of the excess benefit subject to the tax imposed by subsection (a) and the applicable share of such excess benefit for each coverage provider, and

“(ii) notify, at such time and in such manner as the Secretary may prescribe, the Secretary and each coverage provider of the amount so determined for the provider.

“(B) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—In the case of applicable employer-sponsored coverage made available to employees through a multiemployer plan (as defined in section 414(f)), the plan sponsor shall make the calculations, and provide the notice, required under subparagraph (A).

“(d) APPLICABLE EMPLOYER-SPONSORED COVERAGE; COST.—For purposes of this section—

“(1) APPLICABLE EMPLOYER-SPONSORED COVERAGE.—

“(A) IN GENERAL.—The term ‘applicable employer-sponsored coverage’ means, with respect to any employee, coverage under any group health plan made available to the employee by an employer which is excludable from the employee’s gross income under section 106, or would be so excludable if it were employer-provided coverage (within the meaning of such section 106).

“(B) EXCEPTIONS.—The term ‘applicable employer-sponsored coverage’ shall not include—

“(i) any coverage (whether through insurance or otherwise) described in section 9832(c)(1)(A) or for long-term care, or

“(ii) any coverage described in section 9832(c)(3) the payment for which is not excludable from gross income and for which a deduction under section 162(l) is not allowable.

“(C) COVERAGE INCLUDES EMPLOYEE PAID PORTION.—Coverage shall be treated as applicable employer-sponsored coverage without regard to whether the employer or employee pays for the coverage.

“(D) SELF-EMPLOYED INDIVIDUAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), coverage under any group health plan providing health insurance coverage shall be treated as applicable employer-sponsored coverage if a deduction is allowable under section 162(l) with respect to all or any portion of the cost of the coverage.

“(E) GOVERNMENTAL PLANS INCLUDED.—Applicable employer-sponsored coverage shall include coverage under any group health plan established and maintained primarily for its civilian employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any such government.

“(2) DETERMINATION OF COST.—

“(A) IN GENERAL.—The cost of applicable employer-sponsored coverage shall be determined under rules similar to the rules of section 4980B(f)(4), except that in determining such cost, any portion of the cost of such coverage which is attributable to the tax imposed under this section shall not be taken into account and the amount of such cost shall be calculated separately for self-only coverage and other coverage. In the case of applicable employer-sponsored coverage which provides coverage to retired employees, the plan may elect to treat a retired employee who has not attained the age of 65 and a retired employee who has attained the age of 65 as similarly situated beneficiaries.

“(B) HEALTH FSAS.—In the case of applicable employer-sponsored coverage consisting of coverage under a flexible spending arrangement (as defined in section 106(c)(2)), the cost of the coverage shall be equal to the sum of—

“(i) the amount of employer contributions under any salary reduction election under the arrangement, plus

“(ii) the amount determined under subparagraph (A) with respect to any reimbursement under the arrangement in excess of the contributions described in clause (i).

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

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

“(e) PENALTY FOR FAILURE TO PROPERLY CALCULATE EXCESS BENEFIT.—

“(1) IN GENERAL.—If, for any taxable period, the tax imposed by subsection (a) exceeds the tax determined under such subsection with respect to the total excess benefit calculated by the employer or plan sponsor under subsection (c)(4)—

“(A) each coverage provider shall pay the tax on its applicable share (determined in the same manner as under subsection (c)(4) of the excess, but no penalty shall be imposed on the provider with respect to such amount, and

“(B) the employer or plan sponsor shall, in addition to any tax imposed by subsection (a), pay a penalty in an amount equal to such excess, plus interest at the underpayment rate determined under section 6621 for the period beginning on the due date for the payment of tax imposed by subsection (a) to which the excess relates and ending on the date of payment of the penalty.

“(2) LIMITATIONS ON PENALTY.—

“(A) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by paragraph (1)(B) on any failure to properly calculate the excess benefit during any period for which it is established to the satisfaction of the Secretary that the employer or plan sponsor neither knew, nor exercising reasonable diligence would have known, that such failure existed.

“(B) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No penalty shall be imposed by paragraph (1)(B) on any such failure if—

“(i) such failure was due to reasonable cause and not to willful neglect, and

“(ii) such failure is corrected during the 30-day period beginning on the 1st date that the employer knew, or exercising reasonable diligence would have known, that such failure existed.

“(C) WAIVER BY SECRETARY.—In the case of any such failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by paragraph (1), to the extent that the payment of such penalty would be excessive or otherwise inequitable relative to the failure involved.

“(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) COVERAGE DETERMINATIONS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an employee shall be treated as having self-only coverage with respect to any applicable employer-sponsored coverage of an employer.

“(B) MINIMUM ESSENTIAL COVERAGE.—An employee shall be treated as having coverage other than self-only coverage only if the employee is enrolled in coverage other than self-only coverage in a group health plan which provides minimum essential coverage (as defined in section 5000A(f)) to the employee and at least one other beneficiary, and the benefits provided under such minimum essential coverage do not vary based on whether any individual covered under such coverage is the employee or another beneficiary.

“(2) QUALIFIED RETIREE.—The term ‘qualified retiree’ means any individual who—

“(A) is receiving coverage by reason of being a retiree,

“(B) has attained age 55, and

“(C) is not entitled to benefits or eligible for enrollment under the Medicare program under title XVIII of the Social Security Act.

“(3) EMPLOYEES ENGAGED IN HIGH-RISK PROFESSION.—The term ‘employees engaged in a high-risk profession’ means law enforcement officers (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968), employees in fire protection activities (as such term is defined in section 3(y) of the Fair Labor Standards Act of 1938), individuals who provide out-of-hospital emergency medical care (including emergency medical technicians, paramedics, and first-responders), and individuals engaged in the construction, mining, agriculture (not including food processing), forestry, and fishing industries. Such term includes an employee who is retired from a high-risk profession described in the preceding sentence, if such employee satisfied the requirements of such sentence for a period of not less than 20 years during the employee’s employment.

“(4) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term by section 5000(b)(1).

“(5) HEALTH INSURANCE COVERAGE; HEALTH INSURANCE ISSUER.—

“(A) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ has the meaning given such term by section 9832(b)(1) (applied without regard to subparagraph (B) thereof, except as provided by the Secretary in regulations).

“(B) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ has the meaning given such term by section 9832(b)(2).

“(6) PERSON THAT ADMINISTERS THE PLAN BENEFITS.—The term ‘person that administers the plan benefits’ shall include the plan sponsor if the plan sponsor administers benefits under the plan.

“(7) PLAN SPONSOR.—The term ‘plan sponsor’ has the meaning given such term in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

“(8) TAXABLE PERIOD.—The term ‘taxable period’ means the calendar year or such shorter period as the Secretary may prescribe. The Secretary may have different taxable periods for employers of varying sizes.

“(9) AGGREGATION RULES.—All employers treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

“(10) DENIAL OF DEDUCTION.—For denial of a deduction for the tax imposed by this section, see section 275(a)(6).

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code, as amended by section 1513, is amended by adding at the end the following new item:

”Sec. 4980I. Excise tax on high cost employer-sponsored health coverage.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after ~~December 31, 2021~~ *December 31, 2022*.

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