

**DESCRIPTION OF BUDGET RECONCILIATION
LEGISLATIVE RECOMMENDATION RELATING TO
REMUNERATION FROM CERTAIN INSURERS**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on March 8, 2017

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



March 7, 2017
JCX-6-17

CONTENTS

	<u>Page</u>
INTRODUCTION	1
A. Repeal of Deduction Limit on Remuneration from Health Insurance Providers.....	2
B. Estimated Revenue Effect.....	4

INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of a Budget Reconciliation Legislative Recommendation Relating to Remuneration from Certain Insurers on March 8, 2017. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the legislative recommendations.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of Budget Reconciliation Legislative Recommendation Relating to Remuneration from Certain Insurers* (JCX-6-17), March 7, 2017. This document can be found also on the Joint Committee on Taxation website at www.jct.gov. All section references herein are to the Internal Revenue Code of 1986, as amended, unless otherwise stated.

A. Repeal of Deduction Limit on Remuneration from Health Insurance Providers

Present Law

An employer generally may deduct reasonable compensation for personal services as an ordinary and necessary business expense.² However, in the case of a covered health insurance provider, the deduction allowable for compensation attributable to services performed by an applicable individual during a taxable year (“applicable individual remuneration”) is limited to \$500,000.³ In general, an insurance provider is a covered health insurance provider if at least 25 percent of the insurance provider’s gross premium income from health business is derived from health insurance plans that provide minimum essential coverage.⁴ Applicable individuals include all officers, employees, directors, and other workers or service providers (such as consultants) performing services for or on behalf of a covered health insurance provider.

Applicable individual remuneration includes all otherwise deductible compensation for a year except for payments to a qualified retirement plan (including salary reduction contributions) and benefits that are excludable from the applicable individual’s gross income.⁵ The deduction limit applies without regard to whether compensation is otherwise deductible for the taxable year during which services are performed or a subsequent taxable year. In the case of compensation that relates to services that an applicable individual performs during a taxable year, but that is not deductible until a later year, such as nonqualified deferred compensation, the unused portion (if any) of the \$500,000 limit for the year is carried forward until the year in which the compensation is otherwise deductible, and the remaining unused limit is then applied to the compensation.

Description of Proposal

Under the proposal, the limit on the deduction of a covered health insurance provider for compensation attributable to services performed by an applicable individual no longer applies.

² Sec. 162. However, under section 162(m)(1), in the case of a publicly held corporation, a deduction limit of \$1 million generally applies to compensation of the principal executive officer or the three most highly compensated officers for the taxable year other than the principal executive officer. Certain types of compensation are excepted from the limit, including remuneration payable on a commission basis (“commission compensation”) and, if certain outside director and shareholder approval requirements are met, remuneration payable solely on account of the attainment of one or more performance goals (“performance-based compensation”).

³ Sec. 162(m)(6). All members of any controlled group of corporations (within the meaning of section 414(b)), other businesses under common control (within the meaning of section 414(c)), or affiliated service group (within the meaning of section 414(m) and (o)) are generally treated as a single employer for purposes of the deduction limit.

⁴ Minimum essential coverage is defined in section 5000A(f).

⁵ Exceptions for commission compensation and performance-based compensation do not apply for purposes of this limit.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2017.

B. Estimated Revenue Effect

Fiscal Years											
[Billions of Dollars]											
<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2017-21</u>	<u>2017-26</u>
---	[1]	[1]	[1]	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.4

NOTE: Details do not add to totals due to rounding.

[1] Loss of less than \$50 million.