

**DESCRIPTION OF H.R. 3798,
THE “SMALL BUSINESS FLEXIBILITY ACT”**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on June 7, 2023

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



June 5, 2023
JCX-16-23

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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 3798, the “Small Business Flexibility Act.” This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 3798, the “Small Business Flexibility Act”* (JCX-16-23), June 5, 2023. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references in the document are to the Internal Revenue Code of 1986, as amended (the “Code”), unless otherwise stated.

A. Notification of Flexible Health Insurance Benefits

Present Law

Under present law, there is no requirement for the Secretary to notify employers of the availability of tax-advantaged flexible health insurance benefits.

Description of Proposal

Under the proposal, not later than one year after the date of enactment, the Secretary is required to notify employers² of the availability of tax-advantaged flexible health insurance benefits, with an initial focus on small businesses. For purposes of the proposal, flexible health insurance benefits include: (1) an individual contribution health reimbursement arrangement;³ (2) a qualified small employer health reimbursement arrangement;⁴ or (3) the small employer health insurance credit.⁵

Effective Date

The proposal is effective on the date of enactment.

² As defined in section 3(5) of the Employee Retirement Income Security Act of 1974 (“ERISA”), Pub. L. No. 93-406, Sept. 2, 1974.

³ As described in the rule entitled “Health Reimbursement Arrangements and Other Account-Based Group Health Plans,” TD 9867, 84 Fed. Reg. 28888, June 20, 2019.

⁴ As defined in sec. 9831(d)(2).

⁵ Determined under section 45R.

B. Estimated Revenue Effects of the Proposal

The proposal is estimated to have no effect on Federal fiscal year budget receipts for the period 2023-2033.