

**COMPARISON OF TAX PROVISIONS OF H.R. 3162,
THE “CHILDREN’S HEALTH AND MEDICARE PROTECTION ACT OF 2007,”
AS PASSED BY THE HOUSE, AND H.R. 976, THE
“CHILDREN’S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007,”
AS PASSED BY THE SENATE**

Prepared by the Staff of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the provisions of H.R. 3162, as passed by the House, and H.R. 976, as passed by the Senate. A separate document provides a comparison of the estimated revenue effects of the tax provisions of these bills.

H.R. 3162, the “Children’s Health and Medicare Protection Act of 2007,” was passed by the House, as amended, on August 1, 2007.² H.R. 976, the “Children’s Health Insurance Program Reauthorization Act of 2007,” was passed by the Senate, as amended, on August 2, 2007.³

¹ This document may be cited as follows: Joint Committee on Taxation, *Comparison of Tax Provisions of H.R. 3162, the “Children’s Health and Medicare Protection Act of 2007,” as Passed by the House, and H.R. 976, the “Children’s Health Insurance Program Reauthorization Act of 2007,” as Passed by the Senate* (JCX-64-07), September 5, 2007. This document can also be found on the web at www.house.gov/jct. Except where otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended (the “Code”).

² H.R. 3162 was reported by the House Ways and Means Committee on August 1, 2007 (H. Rept. 110-284, Part 1, August 1, 2007).

³ H.R. 976 was marked up by the Senate Finance Committee on July 17, 2007. See Joint Committee on Taxation, *Description of the Revenue Provisions for Markup of the State Children’s Health Insurance Program* (JCX-43-07), July 13, 2007. This document can also be found on the web at www.house.gov/jct. H.R. 976 does not amend H.R. 3162, but covers the same general legislative subject matter. It may be necessary to combine these two bills into one bill before a conference committee is convened.

Provision	Present Law	House Bill	Senate Bill
<p>A. Disclosure of Return Information for Purposes of Identifying Individuals Potentially Eligible for Low-Income Subsidies Under Medicare (sec. 213(g) of the House bill)</p>	<p>Returns and return information are confidential (sec. 6103). Unless an exception to the general rule of confidentiality applies, such information cannot be disclosed. The Code does not provide an exception for the disclosure of return information to identify potentially eligible beneficiaries for Medicare prescription drug low-income subsidies (“LIS”).</p>	<p>Permits the IRS to disclose with respect to individuals identified by the Commissioner of Social Security as potentially eligible for LIS: (1) whether adjusted gross income was less than 135 percent of the poverty line, or between 135 and 150 percent of the poverty line, (2) whether any designated distributions were reported with respect to such individuals, (3) whether the return was a joint return, (4) if no return was filed, and (5) the applicable year. The information disclosed is to be used only for the purpose of improving the efforts of the Social Security Administration to contact and assist eligible individuals for and administering LIS.</p> <p><u>Effective date.</u>—Disclosures made after the date of enactment.</p>	<p>No provision.</p>

Provision	Present Law	House Bill	Senate Bill
<p>B. Health Care Comparative Effectiveness Research Trust Fund (sec. 904 of the House bill and new secs. 4375, 4376, 4377, and 9511 of the Code)</p>	<p>No provision.</p>	<p>The provision establishes the Health Care Comparative Effectiveness Research Trust Fund (“CERTF”) to carry out the bill’s provisions relating to comparative effectiveness research. Beginning with fiscal year 2011, the amount appropriated to the CERTF is (1) an amount equal to the net revenues received from the fees imposed on health insurance and self-insured plans and (2) amounts (limited to \$90,000,000) equivalent to the fair share per capita amount multiplied by the average number of individuals entitled to certain Medicare benefits. The fair share per capita amount is an amount that will result in revenues to the CERTF of \$375,000,000 for the fiscal year. A fee is imposed on the issuer of each specified health insurance policy equal to the fair share per capita amount multiplied by the average number of lives covered under the policy. In the case of an</p>	<p>No provision.</p>

Provision	Present Law	House Bill	Senate Bill
		<p>applicable self-insured health plan, a fee is imposed on the plan sponsor equal to the fair share per capita amount multiplied by the average number of lives covered under the plan.</p> <p><u>Effective date.</u>—The fee on health insurance and self-insured plans is effective with respect to policies and plans for portions of policy or plan years beginning on or after October 1, 2010.</p>	

Provision	Present Law	House Bill	Senate Bill
<p>C. Increase Excise Tax Rates on Tobacco Products and Cigarette Papers and Tubes (sec. 1001 of the House bill and sec. 701 of the Senate bill)</p>	<p>Tobacco products and cigarette papers and tubes manufactured in the United States or imported into the United States are subject to Federal excise tax at the following rates:</p> <ul style="list-style-type: none"> • Cigarettes weighing not more than three pounds per thousand (“small cigarettes”) are taxed at the rate of \$19.50 per thousand (\$0.39 per pack); • Cigarettes weighing more than three pounds per thousand (“large cigarettes”) are generally taxed at the rate of \$40.95 per thousand; • Cigars weighing not more than three pounds per thousand (“small cigars”) are taxed at the rate of \$1.828 per thousand; • Cigars weighing more than three pounds per thousand (“large cigars”) are taxed at 	<p>The rates of excise tax on tobacco products and cigarette papers and tubes are increased, generally in a proportionate manner. The rates under the provision are as follows:</p> <ul style="list-style-type: none"> • Small cigarettes are taxed at the rate of \$42.00 per thousand (\$0.84 per pack); • Large cigarettes are taxed at the rate of \$88.20 per thousand; • Small cigars are taxed at the rate of \$42.00 per thousand (the same rate applied to small cigarettes); • Large cigars are taxed at the rate equal to 40 percent of the manufacturer’s or 	<p>The rates of excise tax on tobacco products and cigarette papers and tubes are increased, generally in a proportionate manner. The rates under the provision are as follows:</p> <ul style="list-style-type: none"> • Small cigarettes are taxed at the rate of \$50.00 per thousand (\$1.00 per pack); • Large cigarettes are taxed at the rate of \$104.9999 per thousand; • Small cigars are taxed at the rate of \$50.00 per thousand (the same rate applied to small cigarettes); • Large cigars are taxed at the rate equal to 53.13 percent of the manufacturer’s or

Provision	Present Law	House Bill	Senate Bill
	<p>the rate equal to 20.719 percent of the manufacturer's or importer's sales price but not more than \$48.75 per thousand;</p> <ul style="list-style-type: none"> • Cigarette papers are generally taxed at the rate of \$0.0122 for each 50 papers or fractional part thereof; • Cigarette tubes are generally taxed at the rate of \$0.0244 for each 50 tubes or fractional part thereof; • Snuff is taxed at the rate of \$0.585 per pound; • Chewing tobacco is taxed at the rate of \$0.195 per pound; • Pipe tobacco is taxed at the rate of \$1.0969 per pound; and • Roll-your-own tobacco is taxed at the rate of \$1.0969 per pound. 	<p>importer's sales price (33 percent before October 1, 2013) but not more than \$1.00 per cigar;</p> <ul style="list-style-type: none"> • Cigarette papers are taxed at the rate of \$0.0263 for each 50 papers or fractional part thereof; • Cigarette tubes are taxed at the rate of \$0.0526 for each 50 tubes or fractional part thereof; • Snuff is taxed at the rate of \$1.26 per pound; • Chewing tobacco is taxed at the rate of \$0.42 per pound; • Pipe tobacco is taxed at the rate of \$2.36 per pound; and • Roll-your-own tobacco is taxed at the rate of \$7.4667 per pound. (The rate for roll-your-own tobacco is 	<p>importer's sales price but not more than \$3.00 per cigar;</p> <ul style="list-style-type: none"> • Cigarette papers are taxed at the rate of \$0.0313 for each 50 papers or fractional part thereof; • Cigarette tubes are taxed at the rate of \$0.0626 for each 50 tubes or fractional part thereof; • Snuff is taxed at the rate of \$1.50 per pound; • Chewing tobacco is taxed at the rate of \$0.50 per pound; • Pipe tobacco is taxed at the rate of \$2.8126 per pound; and • Roll-your-own tobacco is taxed at the rate of \$8.8889 per pound. (The rate for roll-your-own tobacco is

Provision	Present Law	House Bill	Senate Bill
	<p>No floor stocks tax is imposed, generally. Floor stocks tax was imposed the last time the tax rates were increased (i.e., effective January 1, 2000 and January 1, 2002).</p>	<p>intended to approximate the rate for small cigarettes.)</p> <p>Floor stocks tax is imposed on cigarettes removed before January 1, 2008 and held on such date for sale by any person. The Secretary may prescribe regulations exempting cigarettes held for sale in a vending machine on January 1, 2008.</p> <p><u>Effective date.</u>—The provision is effective for articles removed after December 31, 2007.</p>	<p>intended to approximate the rate for small cigarettes.)</p> <p>Floor stocks tax is imposed on tobacco products and cigarette papers and tubes removed before January 1, 2008 and held on such date for sale by any person.</p> <p><u>Effective date.</u>—The provision is effective for articles removed after December 31, 2007.</p>

Provision	Present Law	House Bill	Senate Bill
<p>D. Modify Definition of Roll-Your-Own Tobacco (sec. 1001 of the House bill and sec. 702 of the Senate bill)</p>	<p>“Roll-your-own tobacco” is any tobacco, which because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. A “cigar” is any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, other than any roll of tobacco which is a cigarette. A “cigarette” is (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (ii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette. “Cigarette paper” is paper, or any other material except tobacco, prepared for</p>	<p>Roll-your-own tobacco includes any tobacco, which because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigars (or cigarettes), or for use as wrappers for making cigars.</p> <p><u>Effective date.</u>—The provision is effective for articles removed after December 31, 2007.</p>	<p>Same as House bill.</p>

Provision	Present Law	House Bill	Senate Bill
	<p>use as a cigarette wrapper.</p> <p>Wrappers containing tobacco are not within the definition of cigarette papers or tubes because they contain tobacco. They are also not generally within the definition of roll-your-own tobacco because they are usually used to make cigars, not cigarettes. For the same reason, loose tobacco suitable for making roll-your-own cigars is not considered to be roll-your-own tobacco.</p>		

Provision	Present Law	House Bill	Senate Bill
<p>E. Exemption for Emergency Medical Service Transportation (sec. 1002 of the House bill)</p>	<p>Federal excise tax is imposed upon the removal of taxable fuel from a terminal or refinery, the entry of taxable fuel into the United States, and the sale of taxable fuel to, or use of taxable fuel by, any person unless tax was previously imposed. Certain uses of fuel are exempt from tax. Fuel sold to a State or local government for the exclusive use of a State or local government (including in ambulances) is exempt. Liquids sold for use in, or used in, helicopters or certain fixed wing aircraft for purposes of providing transportation for emergency medical services are also exempt.</p>	<p>Any liquid fuel sold for use in, or used in, any ambulance for purposes of providing transportation for emergency medical services is exempt from Federal excise tax.</p> <p>The provision does not apply to any liquid used after December 31, 2012.</p> <p><u>Effective date.</u>—The provision applies to fuel used in transportation provided in calendar quarters beginning after the date of enactment.</p>	<p>No provision.</p>

Provision	Present Law	House Bill	Senate Bill
<p>F. Permit, Inventory, Reporting, and Recordkeeping Requirements for Manufacturers and Importers of Processed Tobacco (sec. 702 of the Senate bill)</p>	<p>Tobacco products and cigarette papers and tubes are subject to Federal excise tax. Manufacturers and importers of tobacco products and export warehouse proprietors must obtain a permit from the Secretary of the Treasury or his delegate (“Secretary”). Manufacturers and importers of tobacco products or cigarette papers or tubes, and export warehouse proprietors, must also periodically make an inventory and certain reports and keep certain records, all as prescribed by the Secretary.</p>	<p>No provision.</p>	<p>The provision creates a new category of manufacturers and importers who are subject to regulation but not to Federal excise tax. Under the provision, manufacturers and importers of “processed tobacco” are subject to the present-law permit, inventory, reporting, and recordkeeping requirements. Processed tobacco is any tobacco other than tobacco products. However, the processing of tobacco does not include the farming or growing of tobacco or the handling of whole tobacco leaf solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco.</p> <p><u>Effective date.</u>—The provision is effective on January 1, 2008.</p>

Provision	Present Law	House Bill	Senate Bill
<p>G. Broaden Authority to Deny, Suspend, and Revoke Tobacco Permits (sec. 702 of the Senate bill)</p>	<p>Manufacturers and importers of tobacco products and proprietors of export warehouses must obtain a permit to engage in such businesses. A permit is obtained by application to the Secretary. The Secretary may deny the application if (1) the business premises are inadequate to protect the revenue; (2) the activity to be carried out at the business premises does not meet such minimum capacity or activity requirements as prescribed by the Secretary; (3) the applicant is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with the applicable provisions of the Code; or (4) such applicant has failed to disclose any material information required or made any material false statement in the application.</p>	<p>No provision.</p>	<p>The Secretary may deny an application for a permit if the applicant has been convicted of a felony violation of a Federal or State criminal law relating to tobacco products or cigarette papers or tubes, or if, by reason of previous or current legal proceedings involving a violation of Federal criminal felony laws relating to tobacco products or cigarette papers or tubes, such applicant is not likely to maintain operations in compliance with the applicable provisions of the Code.</p> <p>Similarly, a permit may be suspended or revoked if the holder is convicted of a felony violation of a Federal or State criminal law relating to tobacco products or cigarette papers or tubes, or if, by reason of previous or current legal proceedings involving a violation of Federal criminal felony laws relating to tobacco products or cigarette papers or tubes, such applicant is not</p>

Provision	Present Law	House Bill	Senate Bill
	<p>A permit is conditioned upon compliance with the rules of the Code and related regulations pertaining to taxes and regulation of tobacco products and cigarette papers and tubes. The Secretary may suspend or revoke a permit after a notice and hearing if the holder (1) has not in good faith complied with those rules; (2) has violated any other provision of the Code involving intent to defraud; (3) has violated the conditions of the permit; (4) has failed to disclose any material information required or made any material false statement in the permit application; or (5) has failed to maintain the business premises in such a manner as to protect the revenue.</p>		<p>likely to maintain operations in compliance with the applicable provisions of the Code.</p> <p><u>Effective date.</u>—The provision is effective on October 1, 2007.</p>

Provision	Present Law	House Bill	Senate Bill
<p>H. Clarify Statute of Limitations Pertaining to Excise Taxes Imposed on Imported Alcohol, Tobacco Products and Cigarette Papers and Tubes (sec. 702 of the Senate bill)</p>	<p>Amounts of tax must generally be assessed within three years after a tax return is filed, and no proceeding in court without assessment for the collection of such tax may begin after such period has expired. If no return is filed (but is required), the tax may be assessed, or a proceeding in court for the collection of such tax may be initiated without assessment, at any time.</p> <p>Customs collects duties and excise taxes on imports. Importers of taxable articles relating to tobacco, distilled spirits, wines, and beer must file a tax return with Customs. In general, the customs limitations period for fixing and assessing duties and taxes with respect to an import is one year from the date of entry or removal. Under the applicable customs law, with some limited exceptions, any duty or tax imposed on an import is final and conclusive upon all</p>	<p>No provision.</p>	<p>Notwithstanding customs law, the general three-year statute of limitations for assessment under the tax law applies with respect to taxes imposed on imported distilled spirits, wines, beer, tobacco products, and cigarette papers and tubes.</p> <p><u>Effective date.</u>—The provision is effective for articles imported into the United States after October 1, 2007.</p>

Provision	Present Law	House Bill	Senate Bill
	persons, including the United States, unless a protest is filed within 180 days or a court action is timely commenced.		

Provision	Present Law	House Bill	Senate Bill
<p>I. Impose Immediate Tax on Unlawfully Manufactured Tobacco Products and Cigarette Papers and Tubes (sec. 702 of the Senate bill)</p>	<p>Manufacturers and importers of tobacco products and proprietors of export warehouses must obtain a permit to engage in such businesses. A permit is obtained by application to the Secretary of the Treasury or his delegate (“Secretary”). A manufacturer of tobacco products or cigarette papers or tubes, or an export warehouse proprietor, must file a bond and obtain approval of such bond from the Secretary. In general, excise taxes on tobacco products and cigarette papers and tubes manufactured in the United States are determined at the time of removal.</p> <p>Distilled spirits, wines, and beer produced at any place other than a place required by the Code are subject to tax immediately on production. There is no rule that imposes immediate tax on tobacco products and cigarette papers</p>	<p>No provision.</p>	<p>In the case of any tobacco products or cigarette papers or tubes produced in the United States at any place other than the premises of a manufacturer that has obtained a permit (if required) and approval of a bond, the excise tax is due and payable immediately upon manufacture, unless such articles are produced solely for the person’s own personal consumption or use.</p> <p><u>Effective date.</u>—The provision is effective on October 1, 2007.</p>

Provision	Present Law	House Bill	Senate Bill
	and tubes that are produced by an out-of-compliance manufacturer.		