



JOINT COMMITTEE ON TAXATION

May 4, 2010

JCX-27-10

## ERRATA FOR JCX-18-10

### Technical Explanation of the Revenue Provisions of the “Reconciliation Act of 2010,” as Amended, in Combination with the “Patient Protection and Affordable Care Act”

#### A. Refundable Tax Credit Providing Premium Assistance for Coverage Under a Qualified Health Plan (secs. 1401, 1411, and 1412 of the Senate amendment and new sec. 36B of the Code)

On page 15, Minimum essential coverage and employer offer of health insurance coverage, in the second sentence of the second paragraph, “the type of coverage applicable (e.g., individual or family coverage)” should be replaced with “self-only coverage.”

#### B. Small Business Tax Credit (sec. 1421 of the Senate amendment and new sec. 45R of the Code)

On page 26, Small business employers eligible for the credit, in the penultimate sentence of the first paragraph, the word “less” should be replaced with “not more.”

On page 28, Calculation of credit amount, in the last paragraph, the first sentence and the penultimate sentence should be deleted, and the first sentence should be replaced with two new sentences to read as follows:

The credit is reduced for an employer with between 10 and 25 FTEs. The amount of this reduction is equal to the amount of the credit (determined before any reduction) multiplied by a fraction, the numerator of which is the number of FTEs of the employer in excess of 10 and the denominator of which is 15.

On page 29, the first two full sentences should be revised to read as follows:

However, for tax-exempt organizations, instead of being a general business credit, the small business tax credit is a refundable tax credit limited to the amount of the payroll taxes of the employer during the calendar year in which the taxable year begins. For this purpose, payroll taxes of an employer mean: (1) the amount of income tax required to be withheld from its employees’ wages; (2) the amount of

hospital insurance tax under section 3101(b) required to be withheld from its employees' wages; and (3) the amount of the hospital insurance tax under section 3111(b) imposed on the employer.

**C. Excise Tax on Individuals Without Essential Health Benefits Coverage  
(sec. 1501 of the Senate amendment and new sec. 5000A of the Code)**

On page 33, the first full paragraph should be deleted and replaced with the following description of the limitations on administration and procedure of section 5000A as enacted:<sup>1</sup>

The penalty applies to any period the individual does not maintain minimum essential coverage and is determined monthly. The penalty is an excise tax that is assessed in the same manner as an assessable penalty under the enforcement provisions of subtitle F of the Code.<sup>2</sup> As a result, it is assessable without regard to the restrictions of section 6213(b). Although assessable and collectible under the Code, the IRS authority to use certain collection methods is limited. Specifically, the filing of notices of liens and levies otherwise authorized for collection of taxes does not apply to the collection of this penalty. In addition, the statute waives criminal penalties for non-compliance with the requirement to maintain minimum essential coverage. However, the authority to offset refunds or credits is not limited by this provision.

On page 33, the third and fourth sentences of the final paragraph, and the accompanying footnote, should be deleted and replaced with the following three sentences:

For employees, and individuals who are eligible for minimum essential coverage through an employer by reason of a relationship to an employee, the determination of whether coverage is affordable to the employee and any such individual is made by reference to the required contribution of the employee for self-only coverage. Individuals are liable for penalties imposed with respect to their dependents (as defined in section 152). An individual filing a joint return with a spouse is jointly liable for any penalty imposed with respect to the spouse.

**D. Excise Tax on High Cost Employer-Sponsored Health Coverage  
(sec. 9001 of the Senate amendment and new sec. 4980I of the Code)**

On page 62, in the second line, "2013" should be replaced with "2018."

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<sup>1</sup> At page 33 of JCX-18-10, the explanation of the new excise tax that may be assessed against an individual who fails to purchase essential health benefits coverage erroneously included a paragraph based on an earlier version of the legislation. That paragraph was based on the language of the Report of the Senate Committee on Finance to accompany S. 1796, "America's Healthy Future Act of 2009." The reported bill imposed greater restrictions on collection of the penalty than the bill enacted. As a result, the limitations on administration and procedures regarding section 5000A were overstated in the JCX-18-10. See S. Rep. No. 111-89, p. 52 (2009).

<sup>2</sup> IRS authority to assess and collect taxes is generally provided in subtitle F, "Procedure and Administration" in the Code. That subtitle establishes the rules governing both how taxpayers are required to report information to the IRS and pay their taxes as well as their rights. It also establishes the duties and authority of the IRS to enforce the Code, including civil and criminal penalties.

**E. Additional Requirements for Charitable Hospitals  
(sec. 9007 of the Senate amendment and secs. 501(c)  
and 6033 and new sec. 4959 of the Code)**

On page 81, Community health needs assessment, in the fifth sentence, the words “of up” should be replaced with “equal.”

**F. Modification of Section 833 Treatment of Certain Health Organizations  
(sec. 9016 of the Senate amendment and sec. 833 of the Code)**

On page 106, “sec. 9010” should be replaced with “sec. 9016.” On page ii, item O, the same change should be made.

**G. Study of Geographic Variation in Application of FPL  
(sec. 10105 of the Senate amendment)**

On page 123, the last sentence in the Explanation of Provision section should be revised to read as follows:

The territories are the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.

**H. Free Choice Vouchers  
(sec. 10108 of the Senate amendment and sec. 139D of the Code)**

On page 124, Provision of vouchers, in the second sentence of the first paragraph, “9.5” should be replaced with “9.8.”

On page 124, Provision of vouchers, in the third paragraph, “9.5” should be replaced with “9.8.”