DESCRIPTION OF H.R. 2576
TO AMEND THE INTERNAL REVENUE CODE OF 1986
TO MODIFY THE CALCULATION OF MODIFIED ADJUSTED GROSS INCOME FOR PURPOSES OF DETERMINING ELIGIBILITY FOR CERTAIN HEALTHCARE-RELATED PROGRAMS

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on October 13, 2011

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 2576 on October 13, 2011. H.R. 2576 revises the computation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs**.** 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. 2576 to Amend the Internal Revenue Code of 1986 to Modify the Calculation of Modified Adjusted Gross Income for Purposes of Determining Eligibility for Certain Healthcare-Related Programs"* (JCX-53-11), October 11, 2011. This document can also be found on our website at www.jct.gov.

A. Modification of Calculation of Modified Adjusted Gross Income for Determining Eligibility for Certain Healthcare-Related Programs

Present Law

Premium assistance credit

For taxable years ending after December 31, 2013, section 36B provides a refundable tax credit (the "premium assistance credit") for eligible individuals and families who purchase health insurance through an exchange. The premium assistance credit, which is refundable and payable in advance directly to the insurer, subsidizes the purchase of certain health insurance plans through an exchange.

The premium assistance credit is available for individuals (single or joint filers) with household incomes between 100 and 400 percent of the Federal poverty level ("FPL") for the family size involved who do not receive health insurance through an employer or a spouse's employer.[2] Household income is defined as the sum of: (1) the taxpayer's modified adjusted gross income, plus (2) the aggregate modified adjusted gross incomes of all other individuals taken into account in determining that taxpayer's family size (but only if such individuals are required to file a tax return for the taxable year). Modified adjusted gross income is defined as adjusted gross income increased by: (1) any amount excluded by section 911 (the exclusion from gross income for citizens or residents living abroad), plus (2) any tax-exempt interest received or accrued during the tax year.[3] To be eligible for the premium assistance credit, taxpayers who are married (within the meaning of section 7703) must file a joint return. Individuals who are listed as dependents on a return are ineligible for the premium assistance credit.

As described in Table 1 below, premium assistance credits are available on a sliding scale basis for individuals and families with household incomes between 100 and 400 percent of FPL to help offset the cost of private health insurance premiums. The premium assistance credit amount is determined based on the percentage of income the cost of premiums represents, rising from two percent of income for those at 100 percent of FPL for the family size involved to 9.5 percent of income for those at 400 percent of FPL for the family size involved. Beginning in 2014, the percentages of income are indexed to the excess of premium growth over income growth for the preceding calendar year. Beginning in 2018, if the aggregate amount of premium assistance credits and cost-sharing reductions[4] exceeds 0.504 percent of the gross domestic

[2] Individuals who are lawfully present in the United States but are not eligible for Medicaid because of their immigration status are treated as having a household income equal to 100 percent of FPL (and thus eligible for the premium assistance credit) as long as their household income does not actually exceed 100 percent of FPL.

[3] The definition of modified adjusted gross income used in section 36B is incorporated by reference for purposes of determining eligibility to participate in certain other healthcare-related programs such as reduced cost-sharing (section 1402 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 ("PPACA")), Medicaid for the nonelderly (section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) as modified by section 2002(a) of PPACA) and the Children's Health Insurance Program (section 2102(b)(1)(B) of the Social Security Act (42 U.S.C. 1397bb(b)(1)(B)) as modified by section 2101(d) of PPACA).

[4] As described in section 1402 of PPACA.

product for that year, the percentage of income is also adjusted to reflect the excess (if any) of premium growth over the rate of growth in the consumer price index for the preceding calendar year. For purposes of calculating family size, individuals who are in the country illegally are not included.

Table 1.−The Premium Assistance Credit Phase-Out

Household income (expressed as a percent of FPL)	***Initial premium (percentage)***	***Final premium (percentage)***
100% up to 133%	2.0	2.0
133% up to 150%	3.0	4.0
150% up to 200%	4.0	6.3
200% up to 250%	6.3	8.05
250% up to 300%	8.05	9.5
300% up to 400%	9.5	9.5

Minimum essential coverage and employer offer of health insurance coverage

Generally, if an employee is offered minimum essential coverage[5] in the group market, including employer-provided health insurance coverage, the individual is ineligible for the premium assistance credit for health insurance purchased through an exchange.

If an employee is offered unaffordable coverage by his or her employer or the plan's share of total allowed cost of provided benefits is less than 60 percent of such costs, the employee can be eligible for the premium assistance credit, but only if the employee declines to enroll in the coverage and satisfies the conditions for receiving a premium assistance credit through an exchange. Unaffordable coverage is defined as coverage with a premium required to be paid by the employee that is more than 9.5 percent of the employee's household income, based on self-only coverage.[6]

[5] As defined in section 5000A(f).

[6] The 9.5 percent amount is indexed for calendar years beginning after 2014.

Reconciliation

If the premium assistance credit received through advance payment exceeds the amount of premium assistance credit to which the taxpayer is entitled for the taxable year, the liability for the excess advance payment must be reflected on the taxpayer's income tax return for the taxable year subject to a limitation on the amount of such liability. For persons with household income below 400 percent of FPL, the liability for the excess payment for a taxable year is limited to a specific dollar amount (the "applicable dollar amount") as shown in Table 2 below (one-half of the applicable dollar amount shown in Table 2 for unmarried individuals who are not surviving spouses or filing as heads of households).[7]

Table 2.–Reconciliation

Household income (expressed as a percent of FPL)	***Applicable dollar amount***
Less than 200%	$600
At least 200% but less than 300%	$1,500
At least 300% but less than 400%	$2,500

If the premium assistance credit for a taxable year received through advance payment is less than the amount of the credit to which the taxpayer is entitled for the year, the shortfall in the credit is also reflected on the taxpayer's tax return for the year.

Income taxation of Social Security benefits

Social Security benefits

Section 86 provides rules for determining what amount, if any, of a taxpayer's Social Security benefits are includible in gross income. Social Security benefits that are not taxed under section 86 are excluded from gross income. For purposes of section 86, Social Security benefits generally include monthly retirement benefits payable under title II of the Social Security Act and tier 1 Railroad Retirement benefits. If a taxpayer's Social Security benefits or Railroad Retirement benefits are offset by worker's compensation benefits, then the amount of the taxpayer's Social Security benefits is increased by the amount of such offset.

[7] Section 36B(f)(2)(i), as amended by section 4 of the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, Pub. L. No. 112-9.

Portion of Social Security benefits includable in gross income

The amount of Social Security benefits includable in gross income is determined under a two-tier system. Taxpayers receiving Social Security benefits are not required to include any portion of such benefits in gross income if their provisional income does not exceed a first-tier threshold, which is $25,000, in the case of unmarried individuals, or $32,000, in the case of married individuals filing jointly.[8] For purposes of these computations, a taxpayer's provisional income is defined as adjusted gross income increased by certain amounts, including, generally: (1) tax-exempt interest; (2) excludable interest on educational savings bonds; (3) adoption assistance payments; (4) certain deductible student loan interest; (5) certain excludable foreign-source earned income; (6) certain U.S. possession income; and (7) one-half of the taxpayer's Social Security benefits. A second-tier threshold for provisional income is $34,000, in the case of unmarried individuals, or $44,000, in the case of married individuals filing joint returns.[9] These thresholds are not indexed for inflation.

If the taxpayer's provisional income exceeds the first-tier threshold but does not exceed the second-tier threshold, then the amount required to be included in gross income is the lesser of (1) 50 percent of the taxpayer's Social Security benefits, or (2) 50 percent of the excess of the taxpayer's provisional income over the first-tier threshold.

If the amount of provisional income exceeds the second-tier threshold, then the amount required to be included in gross income is the lesser of: (1) 85 percent of the taxpayer's Social Security benefits; or (2) the sum of (a) 85 percent of the excess of the taxpayer's provisional income over the second-tier threshold, plus (b) the smaller of (i) the amount of benefits that would have been included in income if the 50 percent inclusion rule (described in the previous paragraph) were applied, or (ii) one-half of the difference between the taxpayer's second-tier threshold and first-tier threshold.[10] Tables 3 and 4 below summarize the income taxation of Social Security benefits.

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[8] In the case of a married individual who files a separate return, the first-tier threshold is generally zero. However, if the individual lives apart from his or her spouse for the entire year, the first-tier threshold is $25,000.

[9] In the case of a married individual who files a separate return, the second-tier threshold is generally zero. However, if the individual lives apart from his or her spouse for the entire year, the second-tier threshold is $34,000.

[10] Special rules apply in some cases under present law. In the case of nonresident individuals who are not U.S. citizens, 85 percent of Social Security benefits are includible in gross income and subject to the 30-percent withholding tax (sec. 871(a)(3)). The taxation of Social Security benefits may also be specified in income tax treaties between the United States and other countries.

Table 3.–Summary of the Taxation of Social Security Benefits for Unmarried Taxpayers

<table>
<tr><th>Provisional income level</th><th colspan="4">Amount included in gross income</th></tr>
<tr><td>$24,999 and below</td><td colspan="4">0%</td></tr>
<tr><td rowspan="2">$25,000 to $33,999</td><td colspan="4">First-tier inclusion is the lesser of…</td></tr>
<tr><td colspan="2">(1) 50% of Social Security benefit</td><td colspan="2">(2) 50% of provisional income exceeding $25,000</td></tr>
<tr><td rowspan="3">$34,000 and above</td><td colspan="4">Second-tier inclusion is the lesser of…</td></tr>
<tr><td rowspan="2">(1) 85% of Social Security benefit</td><td colspan="3">(2) 85% of the amount of provisional income exceeding $34,000 plus the lesser of…</td></tr>
<tr><td colspan="2">(2a) $4,500</td><td>(2b) amount of Social Security benefit that would have been included if the 50% rule applied</td></tr>
</table>

Table 4.–Summary of the Taxation of Social Security Benefits for Married Taxpayers

<table>
<tr><th>*Provisional income level*</th><th colspan="4">*Amount included in gross income*</th></tr>
<tr><td>$31,999 and below</td><td colspan="4">0%</td></tr>
<tr><td rowspan="2">$32,000 to $43,999</td><td colspan="4">***First-tier inclusion is the lesser of…***</td></tr>
<tr><td colspan="2">(1) 50% of Social Security benefit</td><td colspan="2">(2) 50% of provisional income exceeding $32,000</td></tr>
<tr><td rowspan="3">$44,000 and above</td><td colspan="4">***Second-tier inclusion is the lesser of…***</td></tr>
<tr><td rowspan="2">(1) 85% of Social Security benefit</td><td colspan="3">(2) 85% of the amount of provisional income exceeding $44,000 plus the lesser of…</td></tr>
<tr><td colspan="2">(2a) $6,000</td><td>(2b) amount of Social Security benefit that would have been included if the 50% rule applied</td></tr>
</table>

Description of Proposal

The proposal revises the definition of modified adjusted gross income in section 36B to include the amount of the taxpayer's Social Security benefits that are excluded from gross income. Thus, for purposes of the premium assistance credit, modified adjusted gross income is defined as adjusted gross income increased by: (1) any amount excluded by section 911 (the exclusion from gross income for citizens or residents living abroad), (2) any tax-exempt interest received or accrued during the tax year, plus (3) the amount of Social Security benefits of the taxpayer excluded from gross income.

Effective Date

The proposal is effective on date of enactment. Code section 36B, which the proposal amends, however, is not effective until taxable years ending after December 31, 2013. Thus, the proposal applies for taxable years ending after December 31, 2013.