



# WAYS AND MEANS

## CHAIRMAN KEVIN BRADY

### **SUBTITLE \_ — REPEAL AND REPLACE OF HEALTH-RELATED TAX POLICY**

#### **SECTION \_01: RECAPTURE EXCESS ADVANCE PAYMENTS OF PREMIUM TAX CREDITS**

The amount a household is required to pay towards their premiums is based on income. If a household's income increases during the tax year, excess premium tax credits may result. Under current law, for households with incomes less than 400 percent of the federal poverty level there are certain limits on the amount the household is required to repay the federal government for the excess premium tax credits. For tax years 2018 and 2019, this section requires any individual who was overpaid in premium tax credits to repay the entire excess amount, regardless of income.

#### **SECTION \_02: ADDITIONAL MODIFICATIONS TO PREMIUM TAX CREDIT**

Under current law, qualified health plans must meet certain requirements for households to be eligible for the premium tax credit. This section amends those requirements to make available premium tax credits for the purchase of "catastrophic-only" qualified health plans and certain qualified plans not offered through an Exchange. Additionally, this section prohibits premium tax credits from being used to purchase plans that offer elective abortion coverage. Lastly, this section revises the schedule under which an individual's or family's share of premiums is determined by adjusting for household income and the age of the individual or family members.

#### **SECTION \_03: PREMIUM TAX CREDIT**

This section repeals Obamacare's premium tax credit beginning in 2020.

#### **SECTION \_04: SMALL BUSINESS TAX CREDIT**

This section repeals Obamacare's small business tax credit beginning in 2020. Between 2018 and 2020, under the proposal, the small business tax credit generally is not available with respect to a qualified health plan that provides coverage relating to elective abortions.

#### **SECTION \_05: INDIVIDUAL MANDATE**

Under current law, most individuals are required to purchase health insurance or pay a penalty. This section would reduce the penalty to zero for failure to maintain minimum essential coverage; effectively repealing the individual mandate. The effective date would apply for months beginning after December 31, 2015, providing retroactive relief to those impacted by the penalty in 2016.

#### **SECTION \_06: EMPLOYER MANDATE**

Under current law, certain employers are required to provide health insurance or pay a penalty. This section would reduce the penalty to zero for failure to provide minimum essential coverage; effectively

repealing the employer mandate. The effective date would apply for months beginning after December 31, 2015, providing retroactive relief to those impacted by the penalty in 2016.

#### SECTION\_07: REPEAL OF THE TAX ON EMPLOYEE HEALTH INSURANCE PREMIUMS AND HEALTH PLAN BENEFITS

Obamacare imposed a 40 percent excise tax on high cost employer-sponsored health coverage, also known as Cadillac plans. Under current law, the tax will go into effect in 2020. This section changes the effective date of the tax. It will not apply for any taxable period beginning after December 31, 2019, and before January 1, 2025. Thus, the tax will apply only for taxable periods beginning after December 31, 2024.

#### SECTION\_08: REPEAL OF THE TAX ON OVER-THE-COUNTER MEDICATIONS

Under current law, taxpayers may use several different types of tax-advantaged health savings accounts to help pay or be reimbursed for qualified medical expenses. Obamacare excluded over-the-counter medications from the definition of qualified medical expenses. This section effectively repeals the Obamacare tax on over-the-counter medications. The effective date begins tax year 2018.

#### SECTION\_09: REPEAL OF INCREASE OF TAX ON HEALTH SAVINGS ACCOUNTS

Distributions from an HSA or Archer MSA that are used for qualified medical expenses are excludible from gross income. Distributions that are not used for qualified medical expenses are includible in income and are generally subject to an additional tax. Obamacare increased the percentage of the tax on distributions that are not used for qualified medical expenses to 20 percent. This section lowers the rate to pre-Obamacare percentages. This change is effective for distributions after December 31, 2017.

#### SECTION\_10: REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO FLEXIBLE SAVINGS ACCOUNTS

Obamacare limits the amount an employer or individual may contribute to a health Flexible Spending Account (FSA) to \$2,500, indexed for cost-of-living adjustments. This section repeals the limitation on health FSA contributions for taxable years beginning after December 31, 2017.

#### SECTION\_11: REPEAL OF MEDICAL DEVICE TAX

Obamacare created a new 2.3 percent excise tax on the sale of certain medical devices. This section repeals the medical device tax beginning after December 31, 2017.

#### SECTION\_12: REPEAL OF ELIMINATION OF DEDUCTION FOR EXPENSES ALLOCABLE TO MEDICARE PART D SUBSIDY

Prior to Obamacare, as an incentive for employers to offer retiree drug coverage, employers who offered sufficient prescription drug coverage to their employees qualified for the Retiree Drug Subsidy to help cover actual spending for prescription drug costs. Obamacare eliminated the ability for employers to take a tax deduction on the value of this subsidy. This section repeals this Obamacare change and re-instates the business-expense deduction for retiree prescription drug costs without

reduction by the amount of any federal subsidy. This section applies to taxable years beginning after December 31, 2017.

#### SECTION\_13: REPEAL OF INCREASE IN INCOME THRESHOLD FOR MEDICAL EXPENSE DEDUCTION

Taxpayers who itemize their deductions may deduct qualifying medical expenses. The medical-expense deduction may be claimed only for expenses that exceed a certain percentage of the taxpayer's adjustment gross income (AGI). Obamacare increased the AGI percentage threshold from 7.5 percent to 10 percent if the taxpayer or spouse was aged 65 or older. This section restores the pre-Obamacare AGI percentage threshold to 7.5-percent for all taxpayers beginning in 2018 and extends the special rule for those aged 65 or older through this year.

#### SECTION\_14: REPEAL OF MEDICARE TAX INCREASE

Obamacare imposed a Medicare Hospital Insurance (HI) surtax based on income at a rate equal to 0.9 percent of an employee's wages or a self-employed individual's self-employment income. This section repeals the additional 0.9 percent Medicare tax beginning in 2018.

#### SECTION\_15: REFUNDABLE TAX CREDIT FOR HEALTH INSURANCE

This section creates an advanceable, refundable tax credit for the purchase of state-approved, major medical health insurance and unsubsidized COBRA coverage. To be eligible, generally, an individual must not have access to government health insurance programs or an offer from any employer; and be a citizen, national or qualified alien of the United States, and not incarcerated. The credits are adjusted by age:

- Under age 30: \$2,000
- Between 30 and 39: \$2,500
- Between 40 and 49: \$3,000
- Between 50 and 59: \$3,500
- Over age 60: \$4,000

The credits are additive for a family and capped at \$14,000. The credits grow over time by CPI+1. The credits are available in full to those making \$75,000 per year (\$150,000 joint filers). The credit phases out by \$100 for every \$1,000 in income higher than those thresholds.

The Secretary of the Treasury is empowered to create a system— building upon already developed systems— to deliver the credit. Eligibility determinations will continue to be conducted by the federal government, while insurers and licensed agents and brokers will be able to do more of the consumer-facing actions currently performed in 39 states by healthcare.gov.

The program also calls for simplified reporting of an offer of coverage on the W-2 by employers. Reconciliation rules limit the ability of Congress to repeal the current reporting, but, when the current reporting becomes redundant and replaced by the reporting mechanism called for in the bill, then the Secretary of the Treasury can stop enforcing reporting that is not needed for taxable purposes.

**SECTION\_16: MAXIMUM CONTRIBUTION LIMIT TO HEALTH SAVINGS ACCOUNT INCREASED TO AMOUNT OF DEDUCTIBLE AND OUT-OF-POCKET LIMITATION**

This section increases the basic limit on aggregate Health Savings Account contributions for a year to equal the maximum on the sum of the annual deductible and out-of-pocket expenses permitted under a high deductible health plan. Thus, the basic limit will be at least \$6,550 in the case of self-only coverage and \$13,100 in the case of family coverage beginning in 2018.

**SECTION\_17: ALLOW BOTH SPOUSES TO MAKE CATCH-UP CONTRIBUTIONS**

This section would effectively allow both spouses to make catch-up contributions to one HSA beginning in 2018.

**SECTION\_18: SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF HSA**

This section sets forth certain circumstances under which HSA withdrawals can be used to pay qualified medical expenses incurred before the HSA was established. Starting in 2018, if an HSA is established during the 60-day period beginning on the date that an individual's coverage under a high deductible health plan begins, then the HSA is treated as having been established on the date coverage under the high deductible health plan begins for purposes of determining if an expense incurred is a qualified medical expense.

**SUBTITLE \_ — REPEAL OF TANNING TAX**

**SECTION \_01: REPEAL OF TANNING TAX**

Obamacare imposed a 10 percent sales tax on indoor tanning services. This section repeals the tanning tax starting in 2018.

**SUBTITLE \_ — REPEAL OF NET INVESTMENT TAX**

**SECTION \_01: REPEAL OF NET INVESTMENT TAX**

Obamacare imposed a net investment tax, applying a rate of 3.8 percent to certain net investment income of individuals, estates, and trusts with income above certain amounts. This section repeals the net investment tax starting in 2018.

**SUBTITLE \_ — REMUNERATION FROM CERTAIN INSURERS**

**SECTION \_01: REMUNERATION FROM CERTAIN INSURERS**

Generally, employers may deduct the remuneration paid to employees as "ordinary and necessary" business expenses. Obamacare added a limitation for certain health insurance providers that exceeds \$500,000 paid to an officer, director, or employee. This section repeals the limit on the deduction of a covered health insurance provider for compensation attributable to services performed by an applicable individual starting in 2018.

## **SUBTITLE \_ — REPEAL AND REPLACE OF CERTAIN CONSUMER TAXES**

### **SECTION\_01: REPEAL OF TAX ON PRESCRIPTION MEDICATIONS**

Obamacare imposed an annual fee on certain brand pharmaceutical manufacturers. This section repeals the tax on brand pharmaceutical manufacturers such that the it would not apply for years beginning after December 31, 2017.

### **SECTION\_02: REPEAL OF HEALTH INSURANCE TAX**

Obamacare imposed an annual fee on certain health insurers. The proposal repeals the health insurance tax beginning after December 31, 2017.