

**DESCRIPTION OF H.R. 2061, THE  
“EQUITABLE ACCESS TO CARE AND HEALTH ACT”**

Scheduled for Markup  
by the  
HOUSE COMMITTEE ON WAYS AND MEANS  
on September 17, 2015

Prepared by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



September 16, 2015  
JCX-112-15

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## INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 2061, the “Equitable Access to Care and Health Act,” on September 17, 2015. This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 2061, the “Equitable Access to Care and Health Act”* (JCX-112-15), September 16, 2015. This document can also be found on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov).

## **A. Additional Religious Exemption From Health Coverage Responsibility Requirement**

### **Present Law**

#### **Requirement to maintain coverage**

Effective for 2014, individuals must be covered by a health plan that provides at least minimum essential coverage or be subject to a tax for failure to maintain the coverage.<sup>2</sup> If an individual is a dependent<sup>3</sup> of another taxpayer, the other taxpayer is liable for any tax for failure to maintain the required coverage with respect to the individual. The tax is imposed for any month that an individual does not have minimum essential coverage, unless the individual qualifies for an exemption for the month as described below.

#### **Minimum essential coverage**

Minimum essential coverage includes government-sponsored programs, eligible employer-sponsored plans, plans in the individual market, grandfathered group health plans and grandfathered health insurance coverage, and other coverage as recognized by the Secretary of HHS in coordination with the Secretary of the Treasury. Certain individuals present or residing outside of the U.S.<sup>4</sup> and bona fide residents of territories of the U.S.<sup>5</sup> are deemed to maintain minimum essential coverage.

Minimum essential coverage does not include coverage that consists of certain excepted benefits.<sup>6</sup> Excepted benefits include: (1) coverage only for accident, or disability income insurance; (2) coverage issued as a supplement to liability insurance; (3) liability insurance, including general liability insurance and automobile liability insurance; (4) workers' compensation or similar insurance; (5) automobile medical payment insurance; (6) credit-only insurance; (7) coverage for on-site medical clinics; and (8) other similar insurance coverage,

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<sup>2</sup> Section 5000A which was added to the Code by section 1501 of the Patient Protection and Affordable Care Act ("PPACA"), Pub. L. No 111-148, enacted March 23, 2010, as amended by section 10106 of PPACA and 1002 of the Health Care and Education Reconciliation Act of 2010 ("HCERA"), Pub. L. No. 111-152, enacted March 30, 2010. PPACA and HCERA are collectively referred to as the Affordable Care Act ("ACA"). Except where otherwise stated, all references are to the Internal Revenue Code of 1986, as amended.

<sup>3</sup> Sec. 152.

<sup>4</sup> This rule applies to any month that occurs during a period described in section 911(d)(1)(A) or (B) which is applicable to an individual. Such periods include: (1) for a United States citizen, an uninterrupted period which includes an entire taxable year during which the individual is a bona fide resident of a foreign country or countries, and (2) for a United States citizen or resident, a period of 12 consecutive months during which the individual is present in a foreign country at least 330 full days.

<sup>5</sup> Bona fide residence in a territory is determined under section 937(a). For this purpose, the territories include Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, and United States Virgin Islands.

<sup>6</sup> Sec. 2791(c)(1)-(4) of PHS (42 U.S.C. sec. 300gg-91(c)(1-4)). A parallel definition of excepted benefits is provided in section 9832(c)(1)-(4).

specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits. Other excepted benefits that do not constitute minimum essential coverage if offered under a separate policy, certificate or contract of insurance include long term care, limited scope dental and vision benefits, coverage for a disease or specified illness, hospital indemnity or other fixed indemnity insurance or Medicare supplemental health insurance.

### **Tax on failure to maintain minimum essential coverage**

The tax for failure to maintain minimum essential coverage for any calendar month is one-twelfth of the tax calculated as an annual amount. The annual amount is equal to the greater of the flat dollar amount or the excess income amount. The flat dollar amount is the lesser of sum of the individual annual dollar amounts for the members of the taxpayer's family and 300 percent of adult individual dollar amount. The excess income amount is a specified percentage of the excess of the taxpayer's household income for the taxable year over the threshold amount of income for required income tax return filing for that taxpayer.<sup>7</sup> The total annual household payment may not exceed the national average annual premium for bronze level health plans offered through American Health Benefit Exchanges that year for the family size. The individual adult annual dollar amount is phased in over the first three years as follows: \$95 for 2014; \$325 for 2015; and \$695 in 2016.<sup>8</sup> For an individual who has not attained age 18, the individual annual dollar amount is one half of the adult amount. The specified percentage of income is phased in as follows: one percent for 2014; two percent in 2015; and 2.5 percent beginning after 2015.

### **Exemptions**

Exemptions from the requirement to maintain minimum essential coverage are provided for the following: (1) an individual for whom coverage is unaffordable because the required contribution exceeds eight percent of household income, (2) an individual with household income below the income tax return filing threshold, (3) a member of an Indian tribe, (4) a member of certain recognized religious sects ("religious conscience exemption") or a health sharing ministry, (5) an individual with a coverage gap for a continuous period of less than three months, and (6) an individual who is determined by the Secretary of Health and Human Services to have suffered a hardship with respect to the capability to obtain coverage.<sup>9</sup>

The religious conscience exemption applies to members of religious sects (or divisions thereof) which are recognized religious sects for purposes of a previously existing exemption under the Self-Employment Contributions Act ("SECA"),<sup>10</sup> who are adherents of established

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<sup>7</sup> Sec. 6012(a).

<sup>8</sup> For years after 2016, the \$695 amount is indexed to CPI-U, rounded to the next lowest multiple of \$50.

<sup>9</sup> These exemptions are generally provided under section 5000A(e). The religious conscience exemption and health care sharing ministry exemption are provided under section 5000A(d)(2).

<sup>10</sup> SECA consists of sections 1401-1403, relating to Social Security and Medicare taxes applicable to self-employed individuals. The SECA exemption for members of certain recognized religious sects is provided under section 1402(g)(1).

tenets or teachings of the sect (or division) as described under the SECA exemption. The SECA exemption requires the Commissioner of Social Security to find that (1) the sect (or division) has established tenets or teachings that are conscientiously opposed to accepting benefits of any private or public insurance that makes payments in the event of death, disability, old age, or retirement, or makes payments toward the costs of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act), and (2) it is the practice, and has been for a substantial period of time, for members of the sect (or division) to make reasonable provision for dependent members in view of their general level of living, and (3) the sect (or division) has been in existence continuously since December 31, 1950. For members of the sect to qualify for the religious conscience exemption, an exemption must be obtained from an American Health Benefit Exchange in accordance with Health and Human Services regulations.<sup>11</sup>

### **Description of Proposal**

The proposal expands the religious conscience exemption to include any individual who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual. For purposes of this exemption, medical health services does not include routine dental, vision, and hearing services, midwifery services, vaccinations, necessary medical services provided to children, services required by law or by a third party, and such other services as the Secretary of Health and Human Services may provide.

This exemption will apply to an individual for months in a taxable year only if the information required to be provided to obtain the exemption includes an attestation that the individual has not received medical health services during the preceding taxable year. The proposal also specifies that nothing in the proposal preempts any State law requiring the provision of medical treatment for children, especially those who are seriously ill.

### **Effective Date**

The proposal is effective as if included in the ACA provision establishing the requirement to maintain minimum essential coverage, which is effective for taxable years ending after December 31, 2013.

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<sup>11</sup> Secs.1311(d)(4)(H) and 1411(b)(5)(A) of the ACA and 45 C.F.R. sec 155.615(b).

**B. Estimated Revenue Effects [1][2][3]**

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<b>Fiscal Years</b>											
<b>[Millions of Dollars]</b>											
<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2016-20</u>	<u>2016-25</u>
-135	-120	-100	-110	-115	-115	-125	-135	-140	-140	-580	-1,235

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[1] Estimate provided by the staff of the Joint Committee on Taxation and the Congressional Budget Office.

[2] Estimate includes the following change in off-budget receipts:

<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2016-20</u>	<u>2016-25</u>
[3]	5	[3]	[3]	[3]	[3]	5	5	5	5	5	25

[3] Gain of less than \$500,000.

[4] Estimate includes the following change in outlays:

<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2016-20</u>	<u>2016-25</u>
-15	-35	-55	-60	-65	-70	-75	-75	-80	-85	-230	-615