

114TH CONGRESS  
1ST SESSION

# S. 2045

To amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage.

---

## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2015

Mr. HELLER (for himself, Mr. HEINRICH, Mr. HATCH, Mr. BARRASSO, Mr. BLUNT, Mr. CRAPO, Mr. ROBERTS, Mr. BURR, Mr. SCOTT, Ms. AYOTTE, Ms. MURKOWSKI, Mr. INHOFE, Mr. BOOZMAN, Ms. COLLINS, Mr. LANKFORD, and Mr. SULLIVAN) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Middle Class Health  
5 Benefits Tax Repeal Act of 2015”.

1 **SEC. 2. REPEAL OF EXCISE TAX ON HIGH COST EMPLOYER-**  
 2 **SPONSORED HEALTH COVERAGE.**

3 (a) IN GENERAL.—Chapter 43 of the Internal Rev-  
 4 enue Code of 1986 is amended by striking section 4980I.

5 (b) CONFORMING AMENDMENT.—Section 6051 of  
 6 such Code is amended—

7 (1) in paragraph (14) of subsection (a), by  
 8 striking “section 4980I(d)(1)” and inserting “sub-  
 9 section (g)”, and

10 (2) by adding at the end the following:

11 “(g) APPLICABLE EMPLOYER-SPONSORED COV-  
 12 ERAGE.—For purposes of subsection (a)(14)—

13 “(1) IN GENERAL.—The term ‘applicable em-  
 14 ployer-sponsored coverage’ means, with respect to  
 15 any employee, coverage under any group health plan  
 16 made available to the employee by an employer  
 17 which is excludable from the employee’s gross in-  
 18 come under section 106, or would be so excludable  
 19 if it were employer-provided coverage (within the  
 20 meaning of such section 106).

21 “(2) EXCEPTIONS.—The term ‘applicable em-  
 22 ployer-sponsored coverage’ shall not include—

23 “(A) any coverage (whether through insur-  
 24 ance or otherwise) described in section  
 25 9832(c)(1) (other than subparagraph (G) there-  
 26 of) or for long-term care, or

1           “(B) any coverage under a separate policy,  
2           certificate, or contract of insurance which pro-  
3           vides benefits substantially all of which are for  
4           treatment of the mouth (including any organ or  
5           structure within the mouth) or for treatment of  
6           the eye, or

7           “(C) any coverage described in section  
8           9832(c)(3) the payment for which is not exclud-  
9           able from gross income and for which a deduc-  
10          tion under section 162(l) is not allowable.

11          “(3) COVERAGE INCLUDES EMPLOYEE PAID  
12          PORTION.—Coverage shall be treated as applicable  
13          employer-sponsored coverage without regard to  
14          whether the employer or employee pays for the cov-  
15          erage.

16          “(4) GOVERNMENTAL PLANS INCLUDED.—Ap-  
17          plicable employer-sponsored coverage shall include  
18          coverage under any group health plan established  
19          and maintained primarily for its civilian employees  
20          by the Government of the United States, by the gov-  
21          ernment of any State or political subdivision thereof,  
22          or by any agency or instrumentality of any such gov-  
23          ernment.

24          “(5) COST OF COVERAGE.—

1           “(A) HEALTH FSAS.—In the case of appli-  
2           cable employer-sponsored coverage consisting of  
3           coverage under a flexible spending arrangement  
4           (as defined in section 106(c)(2)), the cost of the  
5           coverage shall be equal to the amount deter-  
6           mined under rules similar to the rules of section  
7           4980B(f)(4) with respect to any reimbursement  
8           under the arrangement reduced by the contribu-  
9           tions described in subsection (a)(14)(B).

10           “(B) ARCHER MSAS AND HSAS.—In the  
11           case of applicable employer-sponsored coverage  
12           consisting of coverage under an arrangement  
13           under which the employer makes contributions  
14           described in subsection (b) or (d) of section  
15           106, the cost of the coverage shall be equal to  
16           the amount of employer contributions under the  
17           arrangement.

18           “(C) ALLOCATION ON A MONTHLY  
19           BASIS.—If cost is determined on other than a  
20           monthly basis, the cost shall be allocated to  
21           months in a taxable period on such basis as the  
22           Secretary may prescribe.”.

23           (c) CLERICAL AMENDMENT.—The table of sections  
24           for chapter 43 of such Code is amended by striking the  
25           item relating to section 4980I.

1           (d) **EFFECTIVE DATE.**—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2017.

○