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COMPREHENSIVE 1099 TAXPAYER PROTECTION AND REPAYMENT OF EXCHANGE SUBSIDY OVERPAYMENTS ACT OF 2011

FEBRUARY 22, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 705]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 705) to amend the Internal Revenue Code of 1986 to repeal the expansion of information reporting requirements to payments made to corporations, payments for property and other gross proceeds, and rental property expense payments, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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99–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011".

SEC. 2. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS TO PAYMENTS MADE TO CORPORATIONS AND TO PAYMENTS FOR PROPERTY AND OTHER GROSS PROCEEDS.

(a) APPLICATION TO CORPORATIONS.—Section 6041 of the Internal Revenue Code of 1986 is amended by striking subsections (i) and (j).

(b) PAYMENTS FOR PROPERTY AND OTHER GROSS PROCEEDS.—Subsection (a) of section 6041 of such Code is amended—

(1) by striking "amounts in consideration for property,", and

(2) by striking "gross proceeds," both places it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 2011.

SEC. 3. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 of the Internal Revenue Code of 1986 is amended by striking subsection (h).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

SEC. 4. INCREASE IN AMOUNT OF OVERPAYMENT OF HEALTH CARE CREDIT WHICH IS SUBJECT TO RECAPTURE.

(a) IN GENERAL.—Clause (i) of section 36B(f)(2)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

"(i) IN GENERAL.—In the case of a taxpayer whose household income is less than 400 percent of the poverty line for the size of the family involved for the taxable year, the amount of the increase under subparagraph (A) shall in no event exceed the applicable dollar amount determined in accordance with the following table (one-half of such amount in the case of a taxpayer whose tax is determined under section 1(c) for the taxable year):

''If the household income (expressed as a percent of poverty line) is:	The applicable dollar amount is:
Less than 200%	$600
At least 200% but less than 300%	$1,500
At least 300% but less than 400%	$2,500.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 2013.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 705 (the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011"), as amended, reported by the Committee on Ways and Means, provides for the repeal of the expanded information reporting requirements, enacted in section 9006 of the Patient Protection and Affordable Care Act of 2010 ("PPACA"), Pub. L. No. 111–148 (March 23, 2010), the repeal of the information reporting requirements with respect to real estate expenses enacted in section 2101 of the Small Business Jobs Act of 2010 ("SBJA"), Pub. L. No. 111–240 (September 27, 2010), and an increase in the amount of the required repayment of overpayment of health care credits.

Section 2 of the bill repeals the PPACA changes to section 6041 that provide rules for payments to corporations, provide additional

regulatory authority and impose a reporting requirement with respect to gross proceeds from property. Section 3 repeals the SBJA change to section 6041 that subjects recipients of rental income from real estate, who are not otherwise considered to be engaged in a trade or business, to the same information reporting requirements as taxpayers who are considered to be engaged in a trade or business.

Section 4 increases the amount of the required repayment of overpayment of advance payment of the premium assistance credits for health insurance purchased through an exchange.

B. BACKGROUND AND NEED FOR LEGISLATION

Originally enacted in 2010 to help finance the cost of PPACA, the new provisions requiring expanded tax information reporting by businesses have generated considerable concern among taxpayers and policymakers alike. It is now widely acknowledged that, if allowed to go into effect, the expansion of these information reporting requirements will impose a substantial tax compliance burden on small businesses, forcing them to devote scarce resources to tax filing instead of to business expansion and job creation. Similarly, the subsequently enacted provision in SBJA that further expands these Form 1099 reporting requirements to owners of rental real estate has already begun to ensnare millions of American families in a complex web of new tax filing requirements. Because the burdens on taxpayers resulting from the imposition of these new Form 1099 reporting requirements outweigh any potential improvement in tax compliance, the bill reflects a consensus that these new rules should be repealed.

In addition, given the Federal government's current fiscal situation, it is imperative that Congress scrutinize the Federal budget to identify the potential for waste, fraud, and abuse, and to make appropriate changes to Federal programs in order to better protect taxpayer dollars. Under PPACA, the design of the new refundable tax credits for purchasing health insurance through exchanges gives rise to the potential for such waste, fraud, and abuse due to the combination of income determination rules that are highly susceptible to error and of strict limits on the recapture of overpayments of these exchange subsidies where income has been underestimated. Accordingly, the bill seeks to reduce waste, fraud, and abuse by improving the mechanism by which exchange subsidy overpayments are to be repaid.

C. LEGISLATIVE HISTORY

Background

H.R. 705 was introduced on February 15, 2011, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up the bill on February 17, 2011, and ordered the bill, as amended, favorably reported.

Committee hearings

The Committee on Ways and Means held a full Committee hearing on January 20, 2011, on fundamental tax reform. This hearing focused on the economic and administrative burdens imposed by the current structure of the Federal income tax, including with respect to the burdens associated with the new Form 1099 reporting requirements.

The Committee on Ways and Means held a full Committee hearing on January 26, 2011, on the health care law's impact on jobs, employers, and the economy, including the impact of PPACA's expanded Form 1099 reporting requirements.

The Committee on Ways and Means held full Committee hearings on February 15, 2011, and February 16, 2011, with Secretary of the Treasury Timothy F. Geithner and Secretary of Health and Human Services Kathleen Sebelius, respectively, on the President's Fiscal Year 2012 Budget, including the President's proposal relating to information reporting on payments to corporations and payments for property and the Administration's plans to implement various aspects of PPACA.

II. EXPLANATION OF THE BILL

A. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS (SEC. 2 OF THE BILL AND SEC. 6041 OF THE CODE)

Present law

A variety of information reporting requirements apply under present law.[1] The primary provision governing information reporting by payors requires an information return by every person engaged in a trade or business who makes payments to any one payee aggregating $600 or more in any taxable year in the course of that payor's trade or business.[2] Reportable payments include compensation for both goods and services, and may include gross proceeds. Certain enumerated types of payments that are subject to other specific reporting requirements are carved out of reporting under this general rule by regulation.[3] Another carveout excepts payments to corporations from reporting requirements.[4]

For payments made after December 31, 2011, the class of payments subject to reporting was expanded in two ways.[5] First, the regulatory carveout for payments to corporations was expressly overridden by the addition of section 6041(i). In addition, information reporting requirements were expanded to include gross proceeds paid in consideration for any type of property. The payor is required to provide the recipient of the payment with an annual statement showing the aggregate payments made and contact in-

[1] Secs. 6031 through 6060.

[2] Sec. 6041(a). Information returns are generally submitted electronically on Forms 1096 and Forms 1099, although certain payments to beneficiaries or employees may require use of Forms W–3 and W–2, respectively. Treas. Reg. sec. 1.6041–1(a)(2).

[3] Sec. 6041(a) requires reporting of payments "other than payments to which section 6042(a)(1), 6044(a)(1), 6047(c), 6049(a) or 6050N(a) applies and other than payments with respect to which a statement is required under authority of section 6042(a), 6044(a)(2) or 6045[.]" The payments thus excepted include most interest, royalties, and dividends.

[4] Treas. Reg. sec. 1.6041–3(p).

[5] The Patient Protection and Affordable Care Act, Pub. L. No. 111–148, sec. 9006 (March 23, 2010).

formation for the payor.[6] The regulations generally except from reporting payments to exempt organizations, governmental entities, international organizations, or retirement plans.

Additionally, the requirement that businesses report certain payments is generally not applicable to payments by persons engaged in a passive investment activity. However, beginning in 2011, recipients of rental income from real estate generally are subject to the same information reporting requirements as taxpayers engaged in a trade or business.[7] In particular, rental income recipients making payments of $600 or more to a service provider (such as a plumber, painter, or accountant) in the course of earning rental income are required to provide an information return (typically Form 1099–MISC) to the IRS and to the service provider. Exceptions to this reporting requirement are made for (i) individuals who rent their principal residence on a temporary basis, including members of the military or employees of the intelligence community (as defined in section 121(d)(9)), (ii) individuals who receive only minimal amounts of rental income, as determined by the Secretary in accordance with regulations, and (iii) individuals for whom the requirements would cause hardship, as determined by the Secretary in accordance with regulations.[8]

Detailed rules are provided for the reporting of various types of investment income, including interest, dividends, and gross proceeds from brokered transactions (such as a sale of stock).[9] In general, the requirement to file Form 1099 applies with respect to amounts paid to U.S. persons and is linked to the backup withholding rules of section 3406. Thus, a payor of interest, dividends or gross proceeds generally must request that a U.S. payee (other than certain exempt recipients) furnish a Form W–9 providing that person's name and taxpayer identification number.[10] That information is then used to complete the Form 1099.

Failure to comply with the information reporting requirements results in penalties, which may include a penalty for failure to file the information return,[11] a penalty for failure to furnish payee statements,[12] or failure to comply with other various reporting requirements.[13]

Reasons for change

The Committee understands that there is a significant tax gap, or difference between the amount of tax owed by taxpayers and the amount voluntarily paid to the IRS, that must be addressed. The

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[6] Sec. 6041(d). Specifically, the recipient of the payment is required to provide a Form W–9 to the payor, which enables the payee to provide the recipient of the payment with an annual statement showing the aggregate payments made and contact information for the payor. If a Form W–9 is not provided, the payor is required to "backup withhold" tax at a rate of 28 percent of the gross amount of the payment unless the payee has otherwise established that the income is exempt from backup withholding. The backup withholding tax may be credited by the payee against regular income tax liability, i.e., it is effectively an advance payment of tax, similar to the withholding of tax from wages.

[7] Sec. 6041(h); Small Business Jobs Act of 2010, Pub. L. No. 111–240, sec. 2101 (Sept. 27, 2010).

[8] Treasury has not promulgated regulations defining these "minimal amounts of rental income" or "hardship" cases.

[9] Secs. 6042 (dividends), 6045 (broker reporting) and 6049 (interest), as well as the Treasury regulations thereunder.

[10] See Treas. Reg. sec. 31.3406(h)–3.

[11] Sec. 6721.

[12] Sec. 6722.

[13] Sec. 6723.

Committee also recognizes that information reporting requirements generally improve taxpayer compliance. However, the Committee is concerned that the expansion of the information reporting requirements imposes a substantial tax compliance burden on small businesses, including costs to acquire new software or pay for additional accounting services. The Committee believes this burden is disproportionate as compared with any resulting improvement in tax compliance and therefore believes that these requirements should be repealed in their entirety. The Committee will continue to explore other potential solutions to the tax gap problem.

Explanation of provision

Under the provision, the changes to section 6041 enacted under section 9006 of the Patient Protection and Affordable Care Act that provide rules for payments to corporations, provide additional regulatory authority and impose a reporting requirement with respect to gross proceeds from property, are repealed in their entirety.

Effective date

This provision is effective for payments made after December 31, 2011.

B. REPEAL OF INFORMATION REPORTING REQUIREMENTS WITH RESPECT TO REAL ESTATE EXPENSES (SEC. 3 OF THE BILL AND SEC. 6041 OF THE CODE)

Present law

A variety of information reporting requirements apply under present law.[14] The primary provision governing information reporting by payors requires an information return by every person engaged in a trade or business who makes payments to any one payee aggregating $600 or more in any taxable year in the course of that payor's trade or business.[15] Reportable payments include compensation for both goods and services, and may include gross proceeds. Certain enumerated types of payments that are subject to other specific reporting requirements are carved out of reporting under this general rule by regulation.[16] Another carveout excepts payments to corporations from reporting requirements.[17]

For payments made after December 31, 2011, the class of payments subject to reporting was expanded in two ways.[18] First, the regulatory carveout for payments to corporations was expressly overridden by the addition of section 6041(i). In addition, information reporting requirements were expanded to include gross proceeds paid in consideration for any type of property. The payor is required to provide the recipient of the payment with an annual statement showing the aggregate payments made and contact in-

[14] Secs. 6031 through 6060.

[15] Sec. 6041(a). Information returns are generally submitted electronically on Forms 1096 and Forms 1099, although certain payments to beneficiaries or employees may require use of Forms W–3 and W–2, respectively. Treas. Reg. sec. 1.6041–1(a)(2).

[16] Sec. 6041(a) requires reporting of payments "other than payments to which section 6042(a)(1), 6044(a)(1), 6047(c), 6049(a) or 6050N(a) applies and other than payments with respect to which a statement is required under authority of section 6042(a), 6044(a)(2) or 6045[.]" The payments thus excepted include most interest, royalties, and dividends.

[17] Treas. Reg. sec. 1.6041–3(p).

[18] The Patient Protection and Affordable Care Act, Pub. L. No. 111–148, sec. 9006 (March 23, 2010).

formation for the payor.[19] The regulations generally except from reporting payments to exempt organizations, governmental entities, international organizations, or retirement plans.

Additionally, the requirement that businesses report certain payments is generally not applicable to payments by persons engaged in a passive investment activity. However, beginning in 2011, recipients of rental income from real estate generally are subject to the same information reporting requirements as taxpayers engaged in a trade or business.[20] In particular, rental income recipients making payments of $600 or more to a service provider (such as a plumber, painter, or accountant) in the course of earning rental income are required to provide an information return (typically Form 1099–MISC) to the IRS and to the service provider. Exceptions to this reporting requirement are made for (i) individuals who rent their principal residence on a temporary basis, including members of the military or employees of the intelligence community (as defined in section 121(d)(9)), (ii) individuals who receive only minimal amounts of rental income, as determined by the Secretary in accordance with regulations, and (iii) individuals for whom the requirements would cause hardship, as determined by the Secretary in accordance with regulations.[21]

Detailed rules are provided for the reporting of various types of investment income, including interest, dividends, and gross proceeds from brokered transactions (such as a sale of stock).[22] In general, the requirement to file Form 1099 applies with respect to amounts paid to U.S. persons and is linked to the backup withholding rules of section 3406. Thus, a payor of interest, dividends or gross proceeds generally must request that a U.S. payee (other than certain exempt recipients) furnish a Form W–9 providing that person's name and taxpayer identification number.[23] That information is then used to complete the Form 1099.

Failure to comply with the information reporting requirements results in penalties, which may include a penalty for failure to file the information return,[24] and a penalty for failure to furnish payee statements[25] or failure to comply with other various reporting requirements.[26]

Reasons for change

The Committee understands that there is a significant tax gap, or difference between the amount of tax owed by taxpayers and the amount voluntarily paid to the IRS, that must be addressed. The

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[19] Sec. 6041(d). Specifically, the recipient of the payment is required to provide a Form W–9 to the payor, which enables the payee to provide the recipient of the payment with an annual statement showing the aggregate payments made and contact information for the payor. If a Form W–9 is not provided, the payor is required to "backup withhold" tax at a rate of 28 percent of the gross amount of the payment unless the payee has otherwise established that the income is exempt from backup withholding. The backup withholding tax may be credited by the payee against regular income tax liability, i.e., it is effectively an advance payment of tax, similar to the withholding of tax from wages.

[20] Sec. 6041(h); Small Business Jobs Act of 2010, Pub. L. No. 111–240, sec. 2101 (Sept. 27, 2010).

[21] Treasury has not promulgated regulations defining these "minimal amounts of rental income" or "hardship" cases.

[22] Secs. 6042 (dividends), 6045 (broker reporting) and 6049 (interest), as well as the Treasury regulations thereunder.

[23] See Treas. Reg. sec. 31.3406(h)–3.

[24] Sec. 6721.

[25] Sec. 6722.

[26] Sec. 6723.

Committee also recognizes that information reporting requirements generally improve taxpayer compliance. However, the Committee is concerned that the expansion of the information reporting requirements to owners of rental real estate imposes a significant tax compliance burden on taxpayers who are not otherwise engaged in business activity. The Committee believes this burden is disproportionate as compared with any resulting improvement in tax compliance and therefore believes that these requirements should be repealed in their entirety. The Committee will continue to explore other potential solutions to the tax gap problem.

Explanation of provision

Under the provision, recipients of rental income from real estate who are not otherwise considered to be engaged in a trade or business of renting property are not subject to the same information reporting requirements as taxpayers who are considered to be engaged in a trade or business. As a result, rental income recipients making payments of $600 or more to a service provider (such as a plumber, painter, or accountant) in the course of earning rental income are not required to provide an information return (typically Form 1099–MISC) to the IRS and to the service provider.

Effective date

The provision is effective for payments made after December 31, 2010.

C. INCREASE IN AMOUNT OF OVERPAYMENT OF HEALTH CARE CREDIT WHICH IS SUBJECT TO RECAPTURE (SEC. 4 OF THE BILL AND SEC. 36B OF THE CODE)

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.[27] 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.

To become entitled to an advance premium assistance credit under section 36B, an eligible individual enrolls in a plan offered through an exchange and reports his or her income to the exchange.[28] Based on the information provided to the exchange, the individual receives an advance premium assistance credit based on income and the Treasury pays the premium assistance credit amount directly to the insurance plan in which the individual is enrolled. The individual then pays to the plan in which he or she is enrolled the dollar difference between the premium assistance credit amount and the total premium charged for the plan.[29] Indi-

[27] Individuals enrolled in multistate plans, pursuant to section 1334 of the Patient Protection and Affordable Care Act, Pub. L. No. 111–148, are also eligible for the credit.

[28] Sec. 1412 of the Patient Protection and Affordable Care Act, Pub. L. No. 111–148, describes the program for advance payment of the premium assistance credit.

[29] Although the credit is generally payable in advance directly to the insurer, individuals may choose to purchase health insurance out-of-pocket and claim the credit at the end of the taxable

viduals who fail to pay all or part of the remaining premium amount are given a mandatory three-month grace period prior to an involuntary termination of their participation in the plan. Eligibility for the advance premium assistance credit is generally based on the individual's income for the taxable year ending two years prior to the enrollment period.

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.[30] 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) the amount (if any) normally 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. 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[31] exceeds 0.504 percent of the gross domestic 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.

Premium assistance credits, or any amounts that are attributable to them, cannot be used to pay for abortions for which federal funding is prohibited. Premium assistance credits are not available for months in which an individual has a free choice voucher under section 139D.

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year. The amount of the reduction in premium as a result of the assistance credit is required to be included with each bill sent to the individual.

[30] 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.

[31] As described in section 1402 of the Patient Protection and Affordable Care Act, Pub. L. No. 111–148.

The low income premium credit phase-out

The premium assistance credit increases, on a sliding scale in a linear manner, as shown in Table 1 below.

TABLE 1

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

The premium assistance credit amount is tied to the cost of the second lowest-cost silver plan (adjusted for age) which: (1) is in the rating area where the individual resides, (2) is offered through an exchange in the area in which the individual resides, and (3) provides self-only coverage in the case of an individual who purchases self-only coverage, or family coverage in the case of any other individual. If the plan in which the individual enrolls offers benefits in addition to essential health benefits,[32] even if the State in which the individual resides requires such additional benefits, the portion of the premium that is allocable to those additional benefits is disregarded in determining the premium assistance credit amount.[33] Premium assistance credits may be used for any plan purchased through an exchange, including bronze, silver, gold and platinum level plans and, for those eligible,[34] catastrophic plans.

Minimum essential coverage and employer offer of health insurance coverage

Generally, if an employee is offered minimum essential coverage[35] in the group market, including employer-provided health insurance coverage, the individual is ineligible for the premium assistance credit for health insurance purchased through a State 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 tax credit through an exchange. Unaffordable 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.[36] The percentage of income that is considered unaffordable is indexed in the same manner as the percentage of income is indexed for purposes of determining eligibility for the

[32] As defined in section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111–148.

[33] A similar rule applies to additional benefits that are offered in multi-State plans, under section 1334 of the Patient Protection and Affordable Care Act, Pub. L. No. 111–148.

[34] Those eligible to purchase catastrophic plans either must have not reached the age of 30 before the beginning of the plan year, or have certification of an affordability or hardship exemption from the individual responsibility payment, as described in sections 5000A(e)(1) and 5000A(e)(5), respectively.

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

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

credit (as discussed above). The Secretary of the Treasury is informed of the name and employer identification number of every employer that has one or more employees receiving a premium assistance credit.

Procedures for determining eligibility

In order to receive an advance payment of the premium assistance credit, during the open enrollment period for coverage during the next calendar year, exchange participants must provide to the exchange certain information from their tax return from two years prior. For example, if during the 2013 open enrollment period an individual applies for a premium assistance credit for 2014, the individual must provide his or her tax return from 2012. The IRS is authorized to disclose to the Department of Health and Human Services limited tax return information to verify a taxpayer's income based on the most recent return information available to establish eligibility for advance payments of the premium assistance credit. Existing privacy and safeguard requirements apply. Individuals who do not qualify for advance payments of the premium assistance credit on the basis of their prior year income may apply for the premium assistance credit based on specified changes in circumstances. For individuals and families who did not file a tax return in the prior tax year, the Secretary of Health and Human Services is directed to establish alternative income documentation that may be provided to determine income eligibility for advance payments of the premium assistance credit.

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 500 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).[37]

TABLE 2

Household Income (expressed as a percent of FPL)	Applicable Dollar Amount
Less than 200%	$600
At least 200% but less than 250%	1,000
At least 250% but less than 300%	1,500
At least 300% but less than 350%	2,000
At least 350% but less than 400%	2,500
At least 400% but less than 450%	3,000
At least 450% but less than 500%	3,500

[37] Medicare and Medicaid Extenders Act of 2010, Pub. L. No. 111–309, sec. 208. Prior to the Medicare and Medicaid Extenders Act of 2010, for persons whose household income was below 400 percent of the FPL, the amount of the increase in tax was limited to $400 ($250 for unmarried individuals who are not surviving spouses or filing as heads of households).

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.

The eligibility for and amount of the advance premium assistance credit is generally determined in advance of the coverage year, on the basis of household income and family size shown on the taxpayer's return for the taxable year from two years prior, and the monthly premiums for qualified health plans in the individual market in which the taxpayer, spouse and any dependent enroll in an exchange. Any advance premium assistance credit is paid during the year for which coverage is provided by the exchange. In the subsequent year, the amount of advance premium assistance credit is required to be reconciled with the allowable refundable premium assistance credit for the year of coverage. Generally, this reconciliation is to be accomplished on the tax return filed for the year of coverage, based on that year's actual household income, family size, and premiums.

Separately, the provision requires that the exchange, or any person with whom it contracts to administer the insurance program, must report to the Secretary with respect to any taxpayer's participation in the health plan offered by the Exchange. The information to be reported is information necessary to determine whether a person has received excess advance payments, identifying information about the taxpayer (such as name, taxpayer identification number, months of coverage) and any other person covered by that policy; the level of coverage purchased by the taxpayer; the total premium charged for the coverage, as well as the aggregate advance payments credited to that taxpayer; and information provided to the exchange for the purpose of establishing eligibility for the program, including changes of circumstances of the taxpayer since first purchasing the coverage. Finally, the party submitting the report must provide a copy to the taxpayer whose information is the subject of the report.

Reasons for change

The Committee believes that taxpayers with household income of at least 200 percent of FPL but less than 400 percent of FPL should be required to repay a portion of the overpayment of the premium assistance credit received. The Committee believes that it is equitable to increase the current repayment rates for these individuals. Furthermore, Congress never intended for a taxpayer with a household income that is 400 percent of FPL or above to be eligible for premium assistance credits. Thus, for any taxpayer with household income that is 400 percent of FPL or above, the Committee believes the taxpayer should be required to repay the full amount of any overpayment of the advance premium assistance credit.

Explanation of provision

Under the provision, the applicable dollar amount with respect to any excess advance payment of a taxpayer's allowable premium assistance credit for a taxable year is revised as shown in Table 3 below (one half of the applicable dollar amount shown in Table 3

for unmarried individuals who are not surviving spouses or filing as heads of households).

TABLE 3

Household Income (expressed as a percent of poverty line)	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

Persons with household incomes of 400 percent of FPL and above must repay the full amount of the premium assistance credit received through an advance payment.

Effective date

The provision applies to taxable years ending after December 31, 2013.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of H.R. 705, "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011."

MOTION TO REPORT RECOMMENDATIONS

The bill H.R. 705 was ordered favorably reported, as amended, by a roll call vote of 21 yeas to 15 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	X			Mr. Levin		X	
Mr. Herger	X			Mr. Rangel		X	
Mr. Johnson	X			Mr. Stark		X	
Mr. Brady	X			Mr. McDermott		X	
Mr. Ryan	X			Mr. Lewis		X	
Mr. Nunes	X			Mr. Neal		X	
Mr. Tiberi	X			Mr. Becerra		X	
Mr. Davis	X			Mr. Doggett		X	
Mr. Reichert	X			Mr. Thompson		X	
Mr. Boustany	X			Mr. Larson		X	
Mr. Heller	X			Mr. Blumenauer		X	
Mr. Roskam	X			Mr. Kind		X	
Mr. Gerlach	X			Mr. Pascrell		X	
Mr. Price	X			Ms. Berkley		X	
Mr. Buchanan	X			Mr. Crowley		X	
Mr. Smith	X						
Mr. Schock	X						
Ms. Jenkins	X						
Mr. Paulsen	X						
Mr. Berg	X						
Ms. Black	X						

VOTES ON AMENDMENTS

The Crowley Amendment to the Chairman's Amendment in the Nature of a Substitute to H.R. 705 failed to pass by a roll call vote

of 15 yeas to 21 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp		X		Mr. Levin	X		
Mr. Herger		X		Mr. Rangel	X		
Mr. Johnson		X		Mr. Stark	X		
Mr. Brady		X		Mr. McDermott	X		
Mr. Ryan		X		Mr. Lewis	X		
Mr. Nunes		X		Mr. Neal	X		
Mr. Tiberi		X		Mr. Becerra	X		
Mr. Davis		X		Mr. Doggett	X		
Mr. Reichert		X		Mr. Thompson	X		
Mr. Boustany		X		Mr. Larson	X		
Mr. Heller		X		Mr. Blumenauer	X		
Mr. Roskam		X		Mr. Kind	X		
Mr. Gerlach		X		Mr. Pascrell	X		
Mr. Price		X		Ms. Berkley	X		
Mr. Buchanan		X		Mr. Crowley	X		
Mr. Smith		X					
Mr. Schock		X					
Ms. Jenkins		X					
Mr. Paulsen		X					
Mr. Berg		X					
Ms. Black		X					

IV. Budget Effects of the Bill

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 705 as reported.

The bill, as reported, is estimated to have the following effects on budget receipts for fiscal years 2011–2021:

ESTIMATED BUDGET EFFECTS OF H.R. 705,
THE "COMPREHENSIVE 1099 TAXPAYER PROTECTION AND REPAYMENT OF EXCHANGE SUBSIDY OVERPAYMENTS ACT OF 2011,"
AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2011 - 2021

[Millions of Dollars]

Provision	Effective	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011-16	2011-21
1. Repeal 1099 information reporting requirements for certain payments of more than $600	pma 12/31/11	---	-263	-2,785	-1,995	-2,064	-2,135	-2,309	-2,413	-2,523	-2,636	-2,782	-9,242	-21,905
2. Repeal information reporting on rental property expense payments	pma 12/31/10	[1]	-227	-239	-251	-261	-275	-285	-299	-314	-325	-335	-1,253	-2,811
3. Change limitations on amounts required for repayment on reconciliation of advance premium assistance tax credits associated with health insurance exchanges ($300 individual, $600 family for households below 200 percent FPL; $750 individual, $1,500 family for households below 300 percent FPL; $1,250 individual, $2,500 family for households below 400 percent FPL; no limit for 400 percent FPL and above) [2][3]	tyea 12/31/13	---	---	---	673	1,601	2,633	3,262	3,830	4,077	4,265	4,542	4,907	24,882
NET TOTAL		**[1]**	**-490**	**-3,024**	**-1,573**	**-724**	**223**	**668**	**1,118**	**1,240**	**1,304**	**1,425**	**-5,588**	**166**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:
pma = payments made after tyea = taxable years ending after

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011-16	2011-21
[1] Negligible revenue effect.													
[2] Estimate includes the following outlay effects	---	---	---	-566	-1314	-2198	-2661	-3048	-3207	-3350	-3547	-4,078	-19,892
[3] Estimate includes the following off-budget effects	2011 ---	2012 ---	2013 ---	2014 -89	2015 -211	2016 -371	2017 -438	2018 -468	2019 -483	2020 -501	2021 -521	2011-16 -671	2011-21 -3,082

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 18, 2011.

Hon. DAVE CAMP,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 705, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011.

If you wish further details on the estimate, we will be pleased to provide them. The staff contacts are Kalyani Parthasarathy (CBO) and Pamela Moomau (JCT).

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 705—Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011

Summary: H.R. 705, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, would repeal certain scheduled expansions in information reporting requirements, and modify repayment requirements for the advance premium assistance credits available to certain individuals starting in 2014 for the purchase of health insurance through health insurance exchanges. The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 705 would reduce revenues over the 2011–2021 period by $19.7 billion, and reduce outlays by $19.9 billion. JCT therefore estimates that enacting the legislation would reduce federal budget deficits by $166 million over the 2011–2021 period.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues. JCT has determined that the tax provisions of the bill contain no intergovernmental mandates and one private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). Based on information provided by JCT, the cost of the bill's private-sector mandate would exceed the annual threshold established in UMRA for private-sector mandates ($142 million in 2011, adjusted annually for inflation) in each of the first five years the mandate is in effect.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 705 is shown in the following table.

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
CHANGES IN REVENUES													
Repeal Information Reporting on Rental Property Expense Payments	*	−227	−239	−251	−261	−275	−285	−299	−314	−325	−335	−1,253	−2,811
Repeal 1099 Information Reporting Requirements for Certain Other Payments	0	−263	−2,785	−1,995	−2,064	−2,135	−2,309	−2,413	−2,523	−2,636	−2,782	−9,242	−21,905
Modify Repayment of Certain Tax Credits	0	0	0	107	287	435	601	782	870	915	995	829	4,990
Total Estimated Changes in Revenues	0	−490	−3,024	−2,139	−2,038	−1,975	−1,993	−1,930	−1,967	−2,046	−2,122	−9,666	−19,726
On-budget	0	−490	−3,024	−2,050	−1,827	−1,604	−1,555	−1,462	−1,484	−1,545	−1,601	−8,995	−16,644
Off-budget	0	0	0	−89	−211	−371	−438	−468	−483	−501	−521	−671	−3,082
CHANGES IN DIRECT SPENDING													
Modify Repayment of Certain Tax Credits:													
Estimated Budget Authority	0	0	0	−566	−1,314	−2,198	−2,661	−3,048	−3,207	−3,350	−3,547	−4,078	−19,892
Estimated Outlays	0	0	0	−566	−1,314	−2,198	−2,661	−3,048	−3,207	−3,350	−3,547	−4,078	−19,892
NET INCREASE OR DECREASE (−) IN THE DEFICIT FROM CHANGES IN REVENUES AND DIRECT SPENDING													
Estimated Deficit Impact [a]	0	490	3,024	1,573	724	−223	−668	−1,118	−1,240	−1,304	−1,425	5,588	−166
On-budget	0	490	3,024	1,484	513	−594	−1,106	−1,586	−1,723	−1,805	−1,946	4,917	−3,248
Off-budget	0	0	0	89	211	371	438	468	483	501	521	671	3,082

Source: Staff of the Joint Committee on Taxation.
Note: * = change in revenue between −$500,000 and $500,000.
[a] Negative numbers indicate a reduction in the deficit; positive numbers indicate the opposite.

Basis of estimate: JCT estimated all of the effects of H.R. 705 on revenues and outlays.

H.R. 705 would repeal expansions in two 1099 information reporting requirements currently scheduled to take effect in 2011 and 2012. Under current law, businesses that pay more than $600 during a calendar year to an individual or unincorporated business for services rendered, or for certain investment income, are required to report that information to the recipients and the Internal Revenue Service on form 1099. Beginning in 2011, most landlords also became subject to those reporting requirements under current law. H.R. 705 would repeal that requirement, reducing revenues by an estimated $2.8 billion over the 2011–2021 period. In addition, under current law, beginning in 2012, certain additional payments will become subject to those reporting requirements, including payments made to corporations and payments made for a broader range of expenses. H.R. 705 would also repeal that expansion, reducing revenues by an estimated $21.9 billion over the 2011–2021 period.

Starting in 2014, qualifying taxpayers will become eligible to receive refundable health care premium assistance credits based on income estimated from tax returns for prior years. Taxpayers may later be required to repay some or all of the credit, subject to certain limits based on income, if their actual income proves to be higher than estimated. H.R. 705 would generally raise those limits, subjecting more taxpayers to the repayment requirement. JCT estimates that the provision will raise revenues by $5.0 billion and reduce outlays by $19.9 billion over the 2011–2021 period. The estimated effect on revenues includes a reduction of $3.1 billion in off-budget (Social Security) receipts over the 2011–2021 period.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. JCT estimates that enacting H.R. 705 would decrease both direct spending and revenues, and would result in a net increase in the deficit over the 2011–2016 period, but would reduce the cumulative deficits over the 2011–2021 period. The pay-as-you-go procedures apply only to on-budget effects.

The net changes in outlays and revenues that are subject to pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO ACT EFFECTS FOR H.R. 705, THE COMPREHENSIVE 1099 TAXPAYER PROTECTION AND REPAYMENT OF EXCHANGE SUBSIDY OVERPAYMENTS ACT OF 2011, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON FEBRUARY 17, 2011

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
NET ON-BUDGET INCREASE OR DECREASE (−) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	490	3,024	1,484	513	−594	−1,106	−1,586	−1,723	−1,805	−1,946	4,917	−3,248
Memorandum:													
Changes in Outlays	0	0	0	−566	−1,314	−2,198	−2,661	−3,048	−3,207	−3,350	−3,547	−4,078	−19,892
Changes in Revenues	0	−490	−3,024	−2,050	−1,827	−1,604	−1,555	−1,462	−1,484	−1,545	−1,601	−8,995	−16,644

Intergovernmental and private-sector impact: JCT has determined that the bill contains no intergovernmental mandates and one private-sector mandate as defined in UMRA. That mandate would change limits on the amounts taxpayers would be required to repay for advance premium assistance tax credits associated with health insurance exchanges, in the event of an overpayment.

Based on information provided by JCT, the cost of the mandate would exceed the annual threshold established in UMRA for private-sector mandates ($142 million in 2011, adjusted annually for inflation) in each of the first five years the mandate is in effect.

Estimate prepared by: Kalyani Parthasarathy and Joshua Shakin.

Estimate approved by: Frank Sammartino, Assistant Director for Tax Analysis.

D. MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: The effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning the tax compliance burden on taxpayers and the potential for waste, fraud, and abuse with respect to exchange subsidies that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

The Committee has determined that the bill contains one private sector mandate: changes limitations on amounts required for repayment on reconciliation of advance premium assistance tax credits associated with health insurance exchange.

The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. APPLICABILITY OF HOUSE RULE XXI 5(B)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

E. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses. The staff of the Joint Committee on Taxation has identified only one such provision, which is discussed below. Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, a summary description of that provision is provided, along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and Treasury.

REPEAL OF EXPANDED INFORMATION REPORTING FOR PAYMENTS WITH RESPECT TO PROPERTY OR PAYMENTS MADE TO CORPORATIONS

Summary description of provision

Under the provision, section 6041 is amended to delete references to gross proceeds from property, a requirement that payments to corporations be reported, and a grant of additional regulatory authority. Accordingly, the changes to section 6041 enacted under section 9006 of the Patient Protection and Affordable Care Act are repealed in their entirety.

As a result of the repeal, taxpayers are not required to file an information return for all payments aggregating $600 or more in a calendar year to any single corporation payee (except a tax-exempt corporation). Second, the payments to be reported do not include gross proceeds paid in consideration for property.

Number of affected taxpayers

It is estimated that the provision will affect more than 10 percent of individual or small business tax returns.

Discussion

According to the Government Accountability Office, only eight percent of approximately 50 million small businesses with less than $10 million in assets filed miscellaneous information return

Form 1099–MISC.[38] If greater reporting from small businesses were available, it is possible that the IRS could more readily identify areas of underreported income of the payees. In general, the more payments to which information reporting and/or withholding applies, the greater the improvement in compliance.[39] However, since the reporting requirements were expanded, numerous critics have pointed to disproportionate additional administrative burden on those required to comply with the reporting obligations. Thus, requiring information reporting for all payments aggregating $600 or more in a calendar year to a corporation and for payments for property may outweigh the enhanced taxpayer compliance.

At the time the expanded provisions were under consideration, a complexity analysis[40] suggested that the widespread use of computer technology to process and store business information should minimize the burden associated with generating and transmitting the information necessary to comply with the provision, regardless of the extent to which the taxpayer is currently subject to information reporting. Although the additional burden of expanded reporting would have depended on the extent to which taxpayers subject to the provision already had adequate procedures and systems in place to comply with existing information reporting requirements,[41] uncertainty about the scope of the expansion, and the lack of administrative guidance to date has made it difficult for taxpayers to determine what steps would be necessary to comply with the expanded reporting. Repeal of the additional information reporting requirements avoids the need for small businesses to develop new bookkeeping systems necessary in time for implementation of the expanded reporting in 2012. In addition, it relieves the IRS of the need to develop new forms and outreach programs to educate the public about the changes in reporting obligations.

Comments from IRS and Treasury

No guidance would be required.

The relevant forms and instructions would not need to be modified (Forms 1099, 1098, 3921, 3922, 5498, and W–2G), and the instructions for certain other information returns and publications would not need to be revised to reflect the elimination of the exception for payments to corporations and the exception for payments other than for services.

The IRS would not need to modify existing tax systems to reflect this provision.

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[38] Government Accountability Office, *IRS Could Do More to Promote Compliance by Third Parties with Miscellaneous Income Reporting Requirements*, GAO–09–238 (January 2009).

[39] See e.g., "Tax Year 2001 Individual Income Tax Underreporting Gap," <http://www.irs.gov/pub/irs-utl/tax_gap_update_070212.pdf> at 2, finding that information reporting is the primary differentiator in compliance rates. See also, Joseph Bankman, "Eight Truths About Collecting Taxes from the Cash Economy," 117 Tax Notes 506, 511 (2007).

[40] See, Senate Finance Committee, "America's Healthy Future Act of 2009," S. Rep 111–89, October 19, 2009) pp. 365–366.

[41] See e.g., Government Accountability Office, *Costs and Uses of Third-Party Information Returns*, November 2007, GAO–08–266, available at <http://www/gao.gov/new.items/d08266.pdf>, wherein the GAO, based on its case studies, found the compliance costs associated with filing information returns to be "relatively low."

F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter A—Determination of Tax Liability

* * * * * * *

PART IV—CREDITS AGAINST TAX

* * * * * * *

Subpart C—Refundable Credits

* * * * * * *

SEC. 36B. REFUNDABLE CREDIT FOR COVERAGE UNDER A QUALIFIED HEALTH PLAN.

(a) * * *

* * * * * * *

(f) RECONCILIATION OF CREDIT AND ADVANCE CREDIT.—

(1) * * *

(2) EXCESS ADVANCE PAYMENTS.—

(A) * * *

(B) LIMITATION ON INCREASE.—

[(i) IN GENERAL.—In the case of a taxpayer whose household income is less than 500 percent of the poverty line for the size of the family involved for the taxable year, the amount of the increase under subparagraph (A) shall in no event exceed the applicable dollar amount determined in accordance with the following table (one-half of such amount in the case of a

taxpayer whose tax is determined under section 1(c) for the taxable year):

[If the household income (expressed as a percent of poverty line) is:	The applicable dollar amount is:
Less than 200%	$600
At least 200% but less than 250%	$1,000
At least 250% but less than 300%	$1,500
At least 300% but less than 350%	$2,000
At least 350% but less than 400%	$2,500
At least 400% but less than 450%	$3,000
At least 450% but less than 500%	$3,500]

(i) IN GENERAL.—In the case of a taxpayer whose household income is less than 400 percent of the poverty line for the size of the family involved for the taxable year, the amount of the increase under subparagraph (A) shall in no event exceed the applicable dollar amount determined in accordance with the following table (one-half of such amount in the case of a taxpayer whose tax is determined under section 1(c) for the taxable year):

If the household income (expressed as a percent of poverty line) is:	*The applicable dollar amount is:*
Less than 200%	*$600*
At least 200% but less than 300%	*$1,500*
At least 300% but less than 400%	*$2,500.*

* * * * * * *

Subtitle F—Procedure and Administration

* * * * * * *

CHAPTER 61—INFORMATION AND RETURNS

* * * * * * *

Subchapter A—Returns and Records

* * * * * * *

PART III—INFORMATION RETURNS

* * * * * * *

Subpart B—Information Concerning Transactions With Other Persons

SEC. 6041. INFORMATION AT SOURCE.

(a) PAYMENTS OF $600 OR MORE.—All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, [amounts

in consideration for property,] premiums, annuities, compensations, remunerations, emoluments, or other [gross proceeds,] fixed or determinable gains, profits, and income (other than payments to which section 6042(a)(1), 6044(a)(1), 6047(e), 6049(a), or 6050N(a) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), or 6045), or $600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such [gross proceeds,] gains, profits, and income, and the name and address of the recipient of such payment.

* * * * * * *

[(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

[(1) IN GENERAL.—Solely for purposes of subsection (a) and except as provided in paragraph (2), a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.

[(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

[(A) any individual, including any individual who is an active member of the uniformed services or an employee of the intelligence community (as defined in section 121(d)(9)(C)(iv)), if substantially all rental income is derived from renting the principal residence (within the meaning of section 121) of such individual on a temporary basis,

[(B) any individual who receives rental income of not more than the minimal amount, as determined under regulations prescribed by the Secretary, and

[(C) any other individual for whom the requirements of this section would cause hardship, as determined under regulations prescribed by the Secretary.

[(i) APPLICATION TO CORPORATIONS.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this subsection, for purposes of this section the term "person" includes any corporation that is not an organization exempt from tax under section 501(a).

[(j) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section, including rules to prevent duplicative reporting of transactions]

* * * * * * *

VII. Dissenting Views on H.R. 705, The Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011

We want the record to show clearly that the 15 minority members of the Ways and Means Committee voted in support of H.R. 4, legislation to repeal the 1099 tax reporting requirement enacted as part of health reform. However, we were unified in opposition to the second bill, H.R. 705, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011. We opposed H.R. 705 because it would raise taxes on the middle class.

According to the Joint Committee on Taxation, repealing the 1099 provision has a cost of $24.9 billion over 10 years. Democrats are clearly on record supporting repeal of 1099 and paying for it as well.

In the 111th Congress, all but one House Democrat supported passage of H.R. 5982, a bill to repeal the 1099 provision that was offset by closing a number of foreign tax credit loopholes to ship jobs overseas and other loopholes that promote tax avoidance. That bill failed under suspension of the rules in which two-thirds of the House must support the legislation. It failed because of almost uniform opposition by House Republicans—even though the bill was endorsed by and subject to a key vote by the National Federation of Independent Businesses. Only two Republicans supported the legislation—one of whom is no longer in Congress.

Now, in the 112th Congress, our Republican colleagues on Ways and Means have chosen to pursue a financing mechanism for 1099 repeal that forces the middle class to shoulder the expense of this provision for small businesses. It does this by eliminating a protection for individuals and families who obtain tax credits for health insurance, a protection that prevents substantial tax increases that result from unexpected changes in income or family status. As the consumer advocacy organization Families USA puts it, "House Republicans have introduced a proposal that would undermine protections in the Affordable Care Act for middle-class families and put the financial security of these families at risk."

Starting in 2014, the health reform law ensures health care is affordable for working families by making tax credits available for the purchase of health insurance for families with incomes below 400 percent of poverty. The amount of the tax credit for which people are eligible is based on annual income for the year the credits are received. But, because people will need help paying their insurance premiums throughout the course of the year, the law provides for advance payments of the credits. These tax credits never go to the families—they are paid directly to health insurers to offset the cost of people's health insurance premiums. In order to make advanced tax credit payments, the law bases the premiums on the

taxpayer's most recent tax filing. At the time when taxpayers file their annual return, the advance payments are reconciled with their actual year income. If the advance payments are greater than the final tax credit, the taxpayer must pay the difference in the form of higher taxes. This process is often called a "true up." Republicans charge that the true-up policy captures overpayments that are due to fraud. This is not true—the true-up policy in fact relies on taxpayers truthfully reporting their actual income for the year. If taxpayers do not report extra income on their return for the year, then the true-up policy would not apply. Section 1411(h) of the Affordable Care Act contains protections that guard against fraudulent overpayments and permits recoupment of such overpayments. This provision of the law permits the assessment of a penalty of up to $250,000 in the case of the submission of false or fraudulent information in order to obtain health tax credits.

This true-up process will not be infrequent. The incomes of hourly-wage workers often fluctuate from week to week and are difficult to predict. Dependents may leave or return home at any point in the year. People may change jobs midyear, get an end-of-year bonus, or go from part-time employment to employment on a full-time basis. Any of these changes would affect their eligibility for premium tax credits.

However, the law also recognizes that this true up process can put families in a difficult financial situation. At these income levels, it is unlikely that people have the resources to pay what could be thousands of dollars of unanticipated taxes. So, the law protects them by capping tax increases.

In the original law, the cap was a flat $250 for an individual and $600 for a family below 400% of the federal poverty level. This policy created a large cliff for people whose incomes increase to 400 percent of poverty because they would suddenly be liable for 100 percent of any tax credits received.

Last December, in a bipartisan vote of 409–2, the Congress voted to alter the true-up policy. The President signed this policy into law. It converted the flat cap to a graduated income approach that protects those with lower incomes, but also mitigated the cliff that people faced at 400 percent of poverty by phasing the caps out up to 500 percent of poverty ($110,000 for a family of four). That was a trade-off Democrats were willing to make. The policy under current law (as modified by the December legislation) is as follows:

Percent of Income	Repayment for an individual	Repayment for a family
< 200% FPL	$300	$600
200% – < 250%	500	750
250% – < 300%	750	1,500
300% – < 350%	1,000	2,000
350% – < 400%	1,250	2,500
400% – < 450%	1,500	3,000
450% – < 500%	1,750	3,500

In H.R. 705, the Ways and Means Republicans are reversing the December policy and reinstating the original cliff to generate more taxes from middle-class families. They are collapsing the income categories so that many people under 400 percent of poverty will owe $500 in higher taxes, and they are reinstating the cliff at 400

percent of poverty. In other words, H.R. 705 eliminates the protections for families with incomes between 400 and 500 percent of poverty ($88,000 to $110,000 for a family of four). If a family's actual income was even one dollar above 400 percent of poverty, they could have to pay the IRS the entire value of their health insurance premium tax credit—which could be as high as nearly $12,000 in 2014.

Middle-income Americans will be forced to pay higher taxes under this proposal. The financial security of these families could be put in jeopardy when they are forced to pay the IRS the full value of their health premium tax credits simply because they accepted a better job, picked up extra shifts, received a holiday bonus, or saw a reduction in household size, such as a drop due to a death in the family or a child reaching adulthood.

We would also like to note that each of our colleagues on the other side of the aisle signed the Americans for Tax Reform's "Taxpayer Protection Pledge" committing to oppose any and all tax increases. Their party-line vote in support of this middle-income tax increase violates that pledge.

According to the Joint Committee on Taxation, this Republican proposal will increase the number of uninsured by 266,000. Over a quarter of a million individuals will no longer receive health insurance out of fear that they will be forced to pay substantial amounts to the IRS at tax-time.

The Republican proposal will also disproportionally affect families who live in parts of the country with higher health insurance premiums due to circumstances in the local market. While families in both high and low-cost insurance areas will be protected from having to pay more than 9.5 percent of their income for health coverage, families in high-cost insurance areas will receive tax credits in higher dollar amounts than families in low-cost areas because their coverage is more expensive, and these higher dollar amounts are what would be required to be fully repaid.

If our Republican colleagues wonder why we refuse to return to the flawed true-up policy, the answer is simple: There are 25 billion reasons. With a score from the Joint Committee on Taxation of $25 billion, this bill gouges mostly middle-income American families by adding $25 billion in new taxes simply because they were doing the right thing and providing health insurance for their families.

Another aspect of this bill that should be the topic of discussion on both sides of the aisle is the growing tax gap. In January of this year, the Committee received testimony from Taxpayer Advocate Nina Olson that,

> "Noncompliance cheats honest taxpayers, who must pay more to make up the difference. According to the IRS's most recent comprehensive estimate, the net tax gap stood at $290 billion in 2001, when 132 million tax returns were filed. This means that each taxpayer was effectively paying a 'surtax' of some $2,200 to subsidize noncompliance by others."

While we remain concerned about the burdens that may result from the 1099 reporting requirements that would go into effect in 2012, it is important to note that the revenues that would have

come in to the Treasury as a result of those provisions were not additional taxes, as many have attempted to characterize them. This is increased revenue associated with encouraging greater compliance with our tax laws. While efforts to collect these dollars should not present burdensome new requirements on job-driving businesses, the Committee must work in a bipartisan fashion in order to ensure that the tax gap does not transfer tax liabilities to honest taxpayers in order to subsidize noncompliance to others.

In closing, we reiterate our longstanding support for repealing the 1099 provision. However we refuse to do so on the backs of working Americans. We urge our colleagues on the other side of the aisle to seek a new financing mechanism for the 1099 repeal. We will gladly work with them to find an acceptable revenue source. This one is unacceptable.

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