

110TH CONGRESS
1ST SESSION

S. 397

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2007

Mr. MARTINEZ (for himself, Mr. COBURN, Mr. COLEMAN, Mr. CORNYN, Mr. INHOFE, and Mr. SESSIONS) 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 allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes.

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 “Tax Equity and Af-
5 fordability Act of 2007”.

1 **SEC. 2. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
 2 **COVERAGE.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to refundable credits) is amended by redес-
 6 ignating section 36 as section 37 and by inserting after
 7 section 35 the following new section:

8 **“SEC. 36. HEALTH INSURANCE COSTS.**

9 “(a) IN GENERAL.—In the case of an individual,
 10 there shall be allowed as a credit against the tax imposed
 11 by this subtitle an amount equal to the amount paid dur-
 12 ing the taxable year for qualified health insurance for the
 13 taxpayer and the taxpayer’s spouse or dependent.

14 “(b) LIMITATIONS.—

15 “(1) IN GENERAL.—The amount allowed as a
 16 credit under subsection (a) to the taxpayer for the
 17 taxable year shall not exceed the sum of the monthly
 18 limitations for coverage months during such taxable
 19 year for the individual referred to in subsection (a)
 20 for whom the taxpayer paid during the taxable year
 21 any amount for coverage under qualified health in-
 22 surance.

23 “(2) PARTIAL PHASEOUT OF CREDIT
 24 AMOUNT.—

25 “(A) 37.5 PERCENT REDUCTION BASED ON
 26 ADJUSTED GROSS INCOME.—37.5 percent of the

1 amount determined under paragraph (1) for
2 any taxable year shall be reduced by the
3 amount determined under subparagraph (B).

4 “(B) AMOUNT OF REDUCTION.—The
5 amount determined under this subparagraph
6 shall be the amount which bears the same ratio
7 to 37.5 percent of such amount determined
8 under paragraph (1) as—

9 “(i) the excess of—

10 “(I) the taxpayer’s adjusted
11 gross income for such taxable year,
12 over

13 “(II) the applicable dollar
14 amount, bears to

15 “(ii) \$15,000 (\$30,000 in the case of
16 a joint return).

17 The rule of section 219(g)(2)(C) shall apply to
18 any reduction under this subparagraph.

19 “(C) DEFINITIONS.—For purposes of this
20 paragraph—

21 “(i) adjusted gross income shall be de-
22 termined in the same manner as under sec-
23 tion 408A(c)(3)(C)(i), and

24 “(ii) the applicable dollar amount is—

1 “(I) in the case of a taxpayer fil-
2 ing a joint return, \$30,000, and

3 “(II) in the case of any other
4 taxpayer, \$15,000.

5 “(D) NO REDUCTION DURING PERIOD OF
6 UNEMPLOYMENT.—In the case of any coverage
7 month (not to exceed 12 consecutive coverage
8 months) during which the taxpayer is unem-
9 ployed, this paragraph shall not apply to the
10 amount otherwise determined under paragraph
11 (1). In the case of a self-employed individual,
12 rules similar to the rules under section
13 72(t)(2)(D)(iii) shall apply for purposes of the
14 preceding sentence.

15 “(3) MONTHLY LIMITATION.—

16 “(A) IN GENERAL.—The monthly limita-
17 tion for an individual for each coverage month
18 of such individual during the taxable year is the
19 amount equal to $\frac{1}{12}$ th of the qualified health
20 insurance amount.

21 “(B) QUALIFIED HEALTH INSURANCE
22 AMOUNT.—For purposes of this paragraph, the
23 qualified health insurance amount is—

24 “(i) \$2,000 if such individual is the
25 taxpayer, and

1 “(ii) \$2,000 if such individual is—

2 “(I) the spouse of the taxpayer,
3 the taxpayer and such spouse are
4 married as of the first day of such
5 month, and the taxpayer files a joint
6 return for the taxable year, or

7 “(II) an individual for whom a
8 deduction under section 151(c) is al-
9 lowable to the taxpayer for such tax-
10 able year.

11 “(C) LIMITATION TO SPOUSE OR DEPEND-
12 ENT.—Not more than 1 individual may be
13 taken into account by the taxpayer under sub-
14 paragraph (B)(ii).

15 “(4) COVERAGE MONTH.—For purposes of this
16 subsection—

17 “(A) IN GENERAL.—The term ‘coverage
18 month’ means, with respect to an individual,
19 any month if—

20 “(i) as of the first day of such month
21 such individual is covered by qualified
22 health insurance, and

23 “(ii) the premium for coverage under
24 such insurance for such month is paid by
25 the taxpayer.

1 “(B) EMPLOYER-SUBSIDIZED COV-
2 ERAGE.—

3 “(i) IN GENERAL.—Such term shall
4 not include any month for which such indi-
5 vidual is eligible to participate in any sub-
6 sidized health plan (within the meaning of
7 section 162(1)(2)) maintained by any em-
8 ployer of the taxpayer or of the spouse of
9 the taxpayer.

10 “(ii) PREMIUMS TO NONSUBSIDIZED
11 PLANS.—If an employer of the taxpayer or
12 the spouse of the taxpayer maintains a
13 health plan which is not a subsidized
14 health plan (as so defined) and which con-
15 stitutes qualified health insurance, em-
16 ployee contributions to the plan shall be
17 treated as amounts paid for qualified
18 health insurance.

19 “(C) CAFETERIA PLAN AND FLEXIBLE
20 SPENDING ACCOUNT BENEFICIARIES.—Such
21 term shall not include any month during a tax-
22 able year if any amount is not includible in the
23 gross income of the taxpayer for such year
24 under section 106 with respect to—

1 “(i) a benefit chosen under a cafeteria
2 plan (as defined in section 125(d)), or

3 “(ii) a benefit provided under a flexi-
4 ble spending or similar arrangement.

5 “(D) MEDICARE AND MEDICAID.—Such
6 term shall not include any month with respect
7 to an individual if, as of the first day of such
8 month, such individual—

9 “(i) is entitled to any benefits under
10 title XVIII of the Social Security Act, or

11 “(ii) is a participant in the program
12 under title XIX or XXI of such Act.

13 “(E) CERTAIN OTHER COVERAGE.—Such
14 term shall not include any month during a tax-
15 able year with respect to an individual if, at any
16 time during such year, any benefit is provided
17 to such individual under—

18 “(i) chapter 89 of title 5, United
19 States Code,

20 “(ii) chapter 55 of title 10, United
21 States Code,

22 “(iii) chapter 17 of title 38, United
23 States Code, or

24 “(iv) any medical care program under
25 the Indian Health Care Improvement Act.

1 “(F) PRISONERS.—Such term shall not in-
2 clude any month with respect to an individual
3 if, as of the first day of such month, such indi-
4 vidual is imprisoned under Federal, State, or
5 local authority.

6 “(G) INSUFFICIENT PRESENCE IN UNITED
7 STATES.—Such term shall not include any
8 month during a taxable year with respect to an
9 individual if such individual is present in the
10 United States on fewer than 183 days during
11 such year (determined in accordance with sec-
12 tion 7701(b)(7)).

13 “(c) QUALIFIED HEALTH INSURANCE.—For pur-
14 poses of this section—

15 “(1) IN GENERAL.—The term ‘qualified health
16 insurance’ means insurance which constitutes med-
17 ical care as defined in section 213(d) without regard
18 to—

19 “(A) paragraph (1)(C) thereof, and

20 “(B) so much of paragraph (1)(D) thereof
21 as relates to qualified long-term care insurance
22 contracts.

23 “(2) EXCLUSION OF CERTAIN OTHER CON-
24 TRACTS.—Such term shall not include insurance if a

1 substantial portion of its benefits are excepted bene-
2 fits (as defined in section 9832(c)).

3 “(d) ARCHER MSA AND HEALTH SAVINGS ACCOUNT
4 CONTRIBUTIONS.—

5 “(1) IN GENERAL.—If a deduction would (but
6 for paragraph (2)) be allowed under section 220 or
7 223 to the taxpayer for a payment for the taxable
8 year to the Archer MSA or health savings account
9 of an individual, subsection (a) shall be applied by
10 treating such payment as a payment for qualified
11 health insurance for such individual.

12 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
13 tion shall be allowed under section 220 or 223 for
14 that portion of the payments otherwise allowable as
15 a deduction under section 220 or 223 for the taxable
16 year which is equal to the amount of credit allowed
17 for such taxable year by reason of this subsection.

18 “(e) SPECIAL RULES.—For purposes of this sec-
19 tion—

20 “(1) MARRIED COUPLES MUST FILE JOINT RE-
21 TURN.—If the taxpayer is married at the close of
22 the taxable year, the credit shall be allowed under
23 subsection (a) only if the taxpayer and the tax-
24 payer’s spouse file a joint return for the taxable
25 year.

1 “(2) DENIAL OF CREDIT TO DEPENDENTS.—No
2 credit shall be allowed under this section to any indi-
3 vidual with respect to whom a deduction under sec-
4 tion 151 is allowable to another taxpayer for a tax-
5 able year beginning in the calendar year in which
6 such individual’s taxable year begins.

7 “(3) DENIAL OF DOUBLE BENEFIT.—No credit
8 shall be allowed under subsection (a) if the credit
9 under section 35 is allowed and no credit shall be al-
10 lowed under 35 if a credit is allowed under this sec-
11 tion.

12 “(4) COORDINATION WITH DEDUCTION FOR
13 HEALTH INSURANCE COSTS.—In the case of a tax-
14 payer who is eligible to deduct any amount under
15 section 162(l) or 213 for the taxable year, this sec-
16 tion shall apply only if the taxpayer elects not to
17 claim any amount as a deduction under such section
18 for such year.

19 “(5) ELECTION NOT TO CLAIM CREDIT.—This
20 section shall not apply to a taxpayer for any taxable
21 year if such taxpayer elects to have this section not
22 apply for such taxable year.

23 “(6) INFLATION ADJUSTMENT.—In the case of
24 any taxable year beginning in a calendar year after
25 2008, each dollar amount contained in subsection

1 (b)(2)(B) shall be increased by an amount equal
2 to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-
5 mined under section 1(f)(3) for the calendar
6 year in which the taxable year begins, deter-
7 mined by substituting ‘calendar year 2007’ for
8 ‘calendar year 1992’ in subparagraph (B)
9 thereof.

10 Any increase determined under the preceding sen-
11 tence shall be rounded to the nearest multiple of
12 \$50.”.

13 (b) INFORMATION REPORTING.—

14 (1) IN GENERAL.—Subpart B of part III of
15 subchapter A of chapter 61 of the Internal Revenue
16 Code of 1986 (relating to information concerning
17 transactions with other persons) is amended by in-
18 serting after section 6050V the following new sec-
19 tion:

20 **“SEC. 6050W. RETURNS RELATING TO PAYMENTS FOR**
21 **QUALIFIED HEALTH INSURANCE.**

22 “(a) IN GENERAL.—Any person who, in connection
23 with a trade or business conducted by such person, re-
24 ceives payments during any calendar year from any indi-
25 vidual for coverage of such individual or any other indi-

1 vidual under creditable health insurance, shall make the
2 return described in subsection (b) (at such time as the
3 Secretary may by regulations prescribe) with respect to
4 each individual from whom such payments were received.

5 “(b) FORM AND MANNER OF RETURNS.—A return
6 is described in this subsection if such return—

7 “(1) is in such form as the Secretary may pre-
8 scribe, and

9 “(2) contains—

10 “(A) the name, address, and TIN of the
11 individual from whom payments described in
12 subsection (a) were received,

13 “(B) the name, address, and TIN of each
14 individual who was provided by such person
15 with coverage under creditable health insurance
16 by reason of such payments and the period of
17 such coverage, and

18 “(C) such other information as the Sec-
19 retary may reasonably prescribe.

20 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
21 poses of this section, the term ‘creditable health insurance’
22 means qualified health insurance (as defined in section
23 36(c)) other than—

24 “(1) insurance under a subsidized group health
25 plan maintained by an employer, or

1 “(2) to the extent provided in regulations pre-
2 scribed by the Secretary, any other insurance cov-
3 ering an individual if no credit is allowable under
4 section 36 with respect to such coverage.

5 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
6 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
7 QUIRED.—Every person required to make a return under
8 subsection (a) shall furnish to each individual whose name
9 is required under subsection (b)(2)(A) to be set forth in
10 such return a written statement showing—

11 “(1) the name and address of the person re-
12 quired to make such return and the phone number
13 of the information contact for such person,

14 “(2) the aggregate amount of payments de-
15 scribed in subsection (a) received by the person re-
16 quired to make such return from the individual to
17 whom the statement is required to be furnished, and

18 “(3) the information required under subsection
19 (b)(2)(B) with respect to such payments.

20 The written statement required under the preceding sen-
21 tence shall be furnished on or before January 31 of the
22 year following the calendar year for which the return
23 under subsection (a) is required to be made.

24 “(e) RETURNS WHICH WOULD BE REQUIRED TO BE
25 MADE BY 2 OR MORE PERSONS.—Except to the extent

1 provided in regulations prescribed by the Secretary, in the
2 case of any amount received by any person on behalf of
3 another person, only the person first receiving such
4 amount shall be required to make the return under sub-
5 section (a).”.

6 (2) ASSESSABLE PENALTIES.—

7 (A) Subparagraph (B) of section
8 6724(d)(1) of such Code (relating to defini-
9 tions) is amended by redesignating clauses (xv)
10 through (xx) as clauses (xvi) through (xxi), re-
11 spectively, and by inserting after clause (xi) the
12 following new clause:

13 “(xv) section 6050W (relating to re-
14 turns relating to payments for qualified
15 health insurance),”.

16 (B) Paragraph (2) of section 6724(d) of
17 such Code is amended by striking the period at
18 the end of subparagraph (CC) and inserting “,
19 or” and by adding at the end the following new
20 subparagraph:

21 “(DD) section 6050W(d) (relating to re-
22 turns relating to payments for qualified health
23 insurance).”.

24 (3) CLERICAL AMENDMENT.—The table of sec-
25 tions for subpart B of part III of subchapter A of

1 chapter 61 of such Code is amended by inserting
 2 after the item relating to section 6050V the fol-
 3 lowing new item:

“Sec. 6050W. Returns relating to payments for qualified health insurance.”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Paragraph (2) of section 1324(b) of title
 6 31, United States Code, is amended by inserting be-
 7 fore the period “, or from section 36 of such Code”.

8 (2) The table of sections for subpart C of part
 9 IV of subchapter A of chapter 1 of the Internal Rev-
 10 enue Code of 1986 is amended by striking the last
 11 item and inserting the following new items:

“Sec. 36. Health insurance costs.

“Sec. 37. Overpayments of tax.”.

12 (d) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 2007.

15 **SEC. 3. ADVANCE PAYMENT OF CREDIT FOR PURCHASERS**
 16 **OF QUALIFIED HEALTH INSURANCE.**

17 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
 18 enue Code of 1986 (relating to miscellaneous provisions)
 19 is amended by adding at the end the following new section:

1 **“SEC. 7529. ADVANCE PAYMENT OF HEALTH INSURANCE**
2 **CREDIT FOR PURCHASERS OF QUALIFIED**
3 **HEALTH INSURANCE.**

4 “(a) **GENERAL RULE.**—In the case of an eligible indi-
5 vidual, the Secretary shall make payments to the provider
6 of such individual’s qualified health insurance equal to
7 such individual’s qualified health insurance credit advance
8 amount with respect to such provider.

9 “(b) **ELIGIBLE INDIVIDUAL.**—For purposes of this
10 section, the term ‘eligible individual’ means any indi-
11 vidual—

12 “(1) who purchases qualified health insurance
13 (as defined in section 36(c)), and

14 “(2) for whom a qualified health insurance
15 credit eligibility certificate is in effect.

16 “(c) **QUALIFIED HEALTH INSURANCE CREDIT ELIGI-**
17 **BILITY CERTIFICATE.**—For purposes of this section, a
18 qualified health insurance credit eligibility certificate is a
19 statement furnished by an individual to the Secretary
20 which—

21 “(1) certifies that the individual will be eligible
22 to receive the credit provided by section 36 for the
23 taxable year,

24 “(2) estimates the amount of such credit for
25 such taxable year, and

1 to accident and health plans) is amended by adding at the
2 end the following new subsection:

3 “(e) LIMITATION ON EMPLOYER-PROVIDED HEALTH
4 CARE COVERAGE.—

5 “(1) IN GENERAL.—The amount of any exclu-
6 sion under subsection (a) for any taxable year with
7 respect to—

8 “(A) any employer-provided coverage
9 under an accident or health plan which con-
10 stitutes medical care, and

11 “(B) any employer contribution to an Ar-
12 cher MSA or a health savings account which is
13 treated by subsection (b) or (d) as employer-
14 provided coverage for medical expenses under
15 an accident or health plan,

16 shall not exceed \$5,000 per employee for self-only
17 coverage and \$11,500 for family coverage.

18 “(2) INFLATION ADJUSTMENT.—In the case of
19 any taxable year beginning in a calendar year after
20 2008, each dollar amount contained in paragraph
21 (1) shall be increased by an amount equal to—

22 “(A) such dollar amount, multiplied by

23 “(B) the cost-of-living adjustment deter-
24 mined under section 1(f)(3) for the calendar
25 year in which the taxable year begins, deter-

1 mined by substituting ‘calendar year 2007’ for
2 ‘calendar year 1992’ in subparagraph (B)
3 thereof.

4 Any increase determined under the preceding sen-
5 tence shall be rounded to the nearest multiple of
6 \$50.

7 “(3) MEDICAL CARE DEFINED.—For purposes
8 of paragraph (1), the term ‘medical care’ has the
9 meaning given to such term in section 213(d) deter-
10 mined without regard to—

11 “(A) paragraph (1)(C) thereof, and

12 “(B) so much of paragraph (1)(D) thereof
13 as relates to qualified long-term care insur-
14 ance.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to taxable years beginning after
17 December 31, 2007.

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