

112TH CONGRESS  
2D SESSION

# H. R. 4064

To amend the Internal Revenue Code of 1986 to repeal certain tax increases.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2012

Mr. MULVANEY (for himself, Mr. DUNCAN of South Carolina, Mr. WILSON of South Carolina, Mr. WALSH of Illinois, Mr. CANSECO, Mr. BROUN of Georgia, Mr. FINCHER, Mr. WESTMORELAND, Mr. GRAVES of Georgia, Mr. SCHWEIKERT, Mr. MARCHANT, Mr. FLORES, Mr. ROE of Tennessee, Mr. YODER, and Mr. HUELSKAMP) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to repeal  
certain tax increases.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Keeping Promises to Taxpayers Act of 2012”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Repeal of employer health insurance mandate.
- Sec. 3. Repeal of excise tax on high cost employer-sponsored health coverage.
- Sec. 4. Repeal of over-the-counter drug limitation.
- Sec. 5. Repeal of increase in medical expense threshold.
- Sec. 6. Repeal of limitation on health flexible spending arrangements under cafeteria plans.
- Sec. 7. Repeal of annual fee on health insurance providers.
- Sec. 8. Repeal of annual fee on branded prescription pharmaceutical manufacturers and importers.
- Sec. 9. Repeal of excise tax on medical device manufacturers.
- Sec. 10. Repeal of tax on indoor tanning services.
- Sec. 11. Repeal of PCORTF and fees imposed on insured and self-insured health plans.
- Sec. 12. Repeal of increase in additional tax on non-qualified distributions from HSAs and Archer MSAs.
- Sec. 13. Repeal of tobacco product excise tax increase.

**1 SEC. 2. REPEAL OF EMPLOYER HEALTH INSURANCE MAN-**  
**2 DATE.**

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

**5 (b) REPEAL OF RELATED REPORTING REQUIRE-**  
**6 MENTS.**—Subpart D of part III of subchapter A of chap-  
**7 ter 61 of such Code is amended by striking section 6056.**

**8 (c) CONFORMING AMENDMENTS.**—

**9 (1)** Subparagraph (B) of section 6724(d)(1) of  
**10 such Code is amended by striking clause (xxv), by**  
**11 inserting “or” at the end of clause (xxiii), by strik-**  
**12 ing “or” and inserting “and” at the end of clause**  
**13 (xxiv).**

**14 (2)** Paragraph (2) of section 6724(d) of such  
**15 Code is amended by striking subparagraph (HH), by**  
**16 inserting “or” at the end of subparagraph (FF), and**

1 by striking “or” at the end of subparagraph (GG)  
 2 and inserting a period.

3 (3) The table of sections for chapter 43 of such  
 4 Code is amended by striking the item relating to sec-  
 5 tion 4980H.

6 (4) The table of sections for subpart D of part  
 7 III of subchapter A of chapter 61 of such Code is  
 8 amended by striking the item relating to section  
 9 6056.

10 (5) Section 1513 of the Patient Protection and  
 11 Affordable Care Act is amended by striking sub-  
 12 section (c).

13 (d) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as otherwise pro-  
 15 vided in this subsection, the amendments made by  
 16 this section shall apply to months and other periods  
 17 beginning after December 31, 2013.

18 (2) REPEAL OF STUDY AND REPORT.—The  
 19 amendment made by subsection (c)(5) shall take ef-  
 20 fect on the date of the enactment of this Act.

21 **SEC. 3. REPEAL OF EXCISE TAX ON HIGH COST EMPLOYER-**

22 **SPONSORED HEALTH COVERAGE.**

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

1 (b) CLERICAL AMENDMENT.—The table of sections  
2 for chapter 43 of such Code is amended by striking the  
3 item relating to section 4980I.

4 **SEC. 4. REPEAL OF OVER-THE-COUNTER DRUG LIMITA-**  
5 **TION.**

6 (a) HSAs.—Subparagraph (A) of section 223(d)(2)  
7 of the Internal Revenue Code of 1986 is amended by strik-  
8 ing the last sentence.

9 (b) ARCHER MSAs.—Subparagraph (A) of section  
10 220(d)(2) of such Code is amended by striking the last  
11 sentence.

12 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS  
13 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-  
14 tion 105 of such Code is amended by striking subsection  
15 (f).

16 (d) EFFECTIVE DATES.—

17 (1) DISTRIBUTIONS.—The amendments made  
18 by subsections (a) and (b) shall apply to amounts  
19 paid with respect to taxable years beginning after  
20 the date of the enactment of this Act.

21 (2) REIMBURSEMENTS.—The amendment made  
22 by subsection (c) shall apply to expenses incurred  
23 with respect to taxable years beginning after the  
24 date of the enactment of this Act.

1 **SEC. 5. REPEAL OF INCREASE IN MEDICAL EXPENSE**  
2 **THRESHOLD.**

3 Section 9013 of the Patient Protection and Afford-  
4 able Care Act, and the amendments made thereby, are  
5 hereby repealed; and the Internal Revenue Code of 1986  
6 shall be applied and administered as if such section and  
7 amendments had never been enacted.

8 **SEC. 6. REPEAL OF LIMITATION ON HEALTH FLEXIBLE**  
9 **SPENDING ARRANGEMENTS UNDER CAFE-**  
10 **TERIA PLANS.**

11 Section 125 of the Internal Revenue Code of 1986  
12 is amended by striking subsection (i) and by redesignating  
13 subsections (j) and (k) as subsections (i) and (j), respec-  
14 tively.

15 **SEC. 7. REPEAL OF ANNUAL FEE ON HEALTH INSURANCE**  
16 **PROVIDERS.**

17 Section 9010 of the Patient Protection and Afford-  
18 able Care Act is hereby repealed.

19 **SEC. 8. REPEAL OF ANNUAL FEE ON BRANDED PRESCRIP-**  
20 **TION PHARMACEUTICAL MANUFACTURERS**  
21 **AND IMPORTERS.**

22 Effective for calendar years beginning after 2011,  
23 section 9008 of the Patient Protection and Affordable  
24 Care is repealed.

1 **SEC. 9. REPEAL OF EXCISE TAX ON MEDICAL DEVICE MAN-**  
2 **UFACTURERS.**

3 (a) IN GENERAL.—Subchapter E of chapter 32 of the  
4 Internal Revenue Code of 1986 is hereby repealed.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Subsection (a) of section 4221 of such Code  
7 is amended by striking the last sentence.

8 (2) Paragraph (2) of section 6416(b) of such  
9 Code is amended by striking the last sentence.

10 (3) The table of subchapters for chapter 32 of  
11 such Code is amended by striking the item relating  
12 to subchapter E.

13 **SEC. 10. REPEAL OF TAX ON INDOOR TANNING SERVICES.**

14 (a) IN GENERAL.—Chapter 49 of the Internal Rev-  
15 enue Code of 1986 is hereby repealed.

16 (b) CLERICAL AMENDMENT.—The table of chapters  
17 for subtitle D of such Code is amended by striking the  
18 item relating to chapter 49.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to services performed after the  
21 date of the enactment of this Act.

22 **SEC. 11. REPEAL OF PCORTF AND FEES IMPOSED ON IN-**  
23 **SURED AND SELF-INSURED HEALTH PLANS.**

24 (a) TRUST FUND.—Section 9511 of the Internal Rev-  
25 enue Code of 1986 is hereby repealed.

1 (b) INSURED AND SELF-INSURED HEALTH PLANS  
 2 FEE.—Subchapter B of chapter 34 of such Code is hereby  
 3 repealed.

4 (c) CLERICAL AMENDMENTS.—

5 (1) The table of sections for subchapter A of  
 6 chapter 98 of such Code is amended by striking the  
 7 item relating to section 9511.

8 (2) The table of subchapters for chapter 34 of  
 9 such Code is amended by striking the item relating  
 10 to subchapter B.

11 **SEC. 12. REPEAL OF INCREASE IN ADDITIONAL TAX ON**  
 12 **NON-QUALIFIED DISTRIBUTIONS FROM HSAS**  
 13 **AND ARCHER MSAS.**

14 (a) HSAS.—Subparagraph (A) of section 223(f)(4)  
 15 of the Internal Revenue Code of 1986 is amended by strik-  
 16 ing “20 percent” and inserting “10 percent”.

17 (b) ARCHER MSAS.—Subparagraph (A) of section  
 18 220(f)(4) of such Code is amended by striking “20 per-  
 19 cent” and inserting “10 percent”.

20 (c) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply to distributions made after the  
 22 date of the enactment of this Act.

1 **SEC. 13. REPEAL OF TOBACCO PRODUCT EXCISE TAX IN-**  
2 **CREASE.**

3 (a) IN GENERAL.—Each provision of the Internal  
4 Revenue Code of 1986 amended by section 701 of the  
5 Children’s Health Insurance Program Reauthorization  
6 Act of 2009 is amended as such provision would read if  
7 such section had never been enacted.

8 (b) FLOOR STOCKS REFUND.—

9 (1) IN GENERAL.—On tobacco products and  
10 cigarette papers and tubes manufactured in or im-  
11 ported into the United States which are removed on  
12 or before the date of the enactment of this Act, and  
13 held on such date for sale by any person, there shall  
14 be credited or refunded (without interest) to the per-  
15 son who paid such tax (hereafter in this subsection  
16 referred to as the “taxpayer”) an amount equal to  
17 the excess of the tax paid by the taxpayer on the ar-  
18 ticle over the amount of such tax which would be im-  
19 posed on such article had the article been removed  
20 on the day after the date of the enactment of this  
21 Act.

22 (2) TIME FOR FILING CLAIMS.—No credit or re-  
23 fund shall be allowed or made under this subsection  
24 unless claim therefor is filed with the Secretary of  
25 the Treasury before the date which is 6 months  
26 after the date of the enactment of this Act.



1           (3) DEFINITIONS.—Any term used in this sub-  
2           section which is also used in section 5702 of the In-  
3           ternal Revenue Code of 1986 shall have the same  
4           meaning as such term has in such section.

5           (4) CONTROLLED GROUPS.—Rules similar to  
6           the rules of section 5061(e)(3) of such Code shall  
7           apply for purposes of this subsection.

8           (c) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to articles removed (as defined in  
10          section 5702(j) of the Internal Revenue Code of 1986)  
11          after the date of the enactment of this Act.

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