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Health Insurance Tax Targets Consumers and Small Businesses

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Obamacare imposes a tax on health insurance premiums[1] that will increase individual and small group health insurance premiums by an additional 2 percent to 3 percent in 2018.

After the 2017s moratorium ends,[2] this tax will once again be imposed in 2018 and thereafter. The tax is projected to increase individual and small group health insurance premiums by an additional 2 percent to 3 percent in 2018. The tax will have an adverse impact on consumers and reduce employment but have little effect on large employers and their employees because large firms usually self-insure. The tax is hidden from consumers, and directly increases the cost of health insurance. Like the other Obamacare taxes, it should be repealed.[3]

How the Health Insurance Tax Works

The Internal Revenue Service (IRS) calls the excise tax a "Health Insurance Provider Fee."[4] Opponents call it the health insurance tax (HIT).[5]

The HIT is not imposed at a specified rate; rather, the effective rate is set annually by the Department of the Treasury to raise an amount of revenue specified by law.[6] The amount of revenue that the Congressional Budget Office projects that the tax will raise is shown in Table 1.

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The amount of tax revenue raised will increase substantially over time. In 2026, the HIT is projected to raise 54 percent more revenue than it did in 2018.

The HIT is imposed on net health insurance premiums for any U.S. health risk to the extent that the insurer's premiums exceed $50 million annually.[7] The tax is not tax deductible, which raises its effective tax rate by 54 percent.[8]

Most Large Employers and Their Employees Are Exempt

Employers that self-insure are explicitly exempted from the HIT.[9] Most large employers self-insure, while most small employers do not. Thus, the HIT will affect almost exclusively small businesses and individual consumers. In 2015, 80.4 percent of employers with 500 or more employees were in self-insured plans; 30.1 percent of employers with 100–499 employees self-insured; and 14.2 percent of employers with fewer than 100 employees self-insured.[10]

In general, with self-insured plans, the employer establishes and contributes money to a trust. Employee health care costs are paid in accordance with the trust or plan document. The employer will often use a third party to administer the health care plan. The plan usually uses a preferred provider network or other network of health care providers to contain costs. Small or mid-size employers that self-insure usually purchase stop-loss insurance that limits either their aggregate or per person losses or both. In all of these cases, self-insurers are exempt from the HIT.

Table 1 summarizes the findings of four studies of the impact of the HIT on health insurance premi-

TABLE 1

Estimated Impact of the Health Insurance Tax on Premiums

Analysis	Estimated Premium Increase
Oliver Wyman (2017)	2.5%–2.7%
American Action Forum (2014)	$139 per employee (single coverage), $476 per employee (family coverage)
American Action Forum (2011)	3.0%
Joint Committee on Taxation (2011)	2.0%–2.5%

SOURCES: Chris Carlson, Glenn Giese, and Steven Armstrong, "Analysis of the Impacts of the ACA's Tax on Health Insurance in 2018 and Beyond," Oliver Wyman, August 8, 2017, https://s3.amazonaws.com/assets.fiercemarkets.net/public/004-Healthcare/external_Q32017/Analysis+of+Impact+of+ACA+Health+Insurance+Tax.pdf (accessed October 24, 2017); Robert A. Book, "Impact of the Health Insurance 'Annual Fee' Tax," American Action Forum, February 20, 2014, http://americanactionforum.aaf.rededge.com/uploads/files/research/Impact_of_the_Health_Insurance_Tax.pdf (accessed October 24, 2017); Douglas Holtz-Eakin, "Higher Costs and the Affordable Care Act: The Case of the Premium Tax," American Action Forum, March 9, 2011, https://www.americanactionforum.org/wp-content/uploads/sites/default/files/Case%20of%20the%20Premium%20Tax.pdf (October 24, 2017); and Thomas A. Barthold, Chief of Staff, Joint Committee on Taxation, letter to Senator Jon Kyl (R–AZ), June 3, 2011.

ums. Each study is clear that the HIT imposes more costs on consumers. However, the results vary to some degree because they:

1. **Consider** different time periods;
2. **Use** different data sources and estimates about the amount of health insurance premium revenue that insurance companies will have; and
3. **Employ** different estimates about how many firms will move toward self-insurance rather than buying health insurance over time.

It is generally agreed that the economic incidence of the HIT will fall primarily on consumers and small employers.[11] The higher costs that small employers face will tend to reduce employment. A study by the National Federal of Independent Business Research Foundation found that the health insurance tax will reduce private-sector employment by as little as 152,000 jobs and as much as 286,000 jobs in 2023.[12]

Because of the HIT, the health insurance underwriting restrictions in Obamacare (notably the age bands limiting the ratio of the premiums for the oldest workers to no more than three times those for the youngest workers) and the Essential Health Benefits requirements for health insurance, an increasing number of employers will find self-insurance to be an attractive option under Obamacare. This effect will be particularly pronounced for employers with relatively young and healthy employee populations.

In fact, since Obamacare was enacted, the percentage of private-sector enrollees in self-insured plans has increased from 57.5 percent in 2010 to 60 percent in 2015.[13] The proportion of small and medium-sized firms that self-insure has increased as well.[14] Similarly, enrollment in fully insured employer group plans dropped by 8.6 million individuals, from 60.6 million at the end of 2013 to 52 million at the end of 2016 and the number of individuals in self-insured plans increased from 100.6 million in 2013 to 105.6 million in 2016.[15] These effects would probably be larger but because the repeal of Obamacare seemed likely, some firms deferred moving toward an unfamiliar means of providing health benefits.

To the extent this movement toward self-insurance occurs, it will reduce the amount of premiums underwritten (i.e., the size of the taxable base for the HIT) and increase the required health insurance effective tax rate to raise the set dollar amounts that must be raised. The higher effective tax rate will increase the percentage by which premiums must increase in subsequent years.

A Hidden Tax

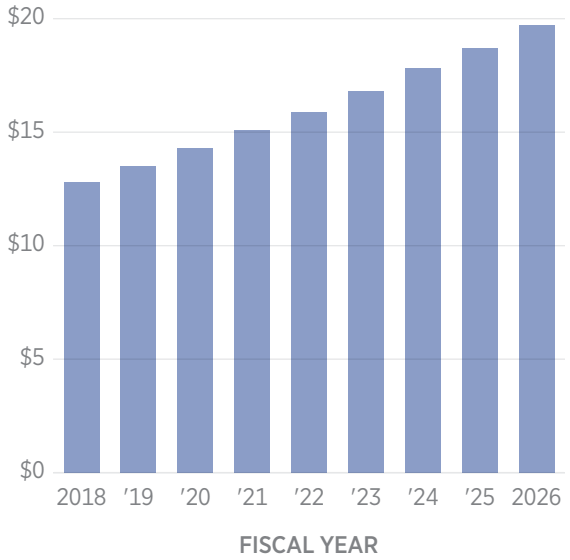
Because the HIT is collected from insurance companies, it is effectively hidden from health insurance buyers, including both individual consumers and small employers. However, because the HIT is functionally an excise tax, it directly increases premi-

CHART 1

Health Insurance Tax Revenues

The health insurance premium tax will increase federal revenues by more than $144 billion from 2018 to 2026.

REVENUE PROJECTIONS, IN BILLIONS OF DOLLARS



SOURCE: Congressional Budget Office, "American Health Care Act Budget Reconciliation Recommendations of the House Committees on Ways and Means and Energy and Commerce of March 9, 2017," Table 2, March 13, 2017, https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/americanhealthcareact.pdf (accessed October 24, 2017).

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ums. Current estimates are that when the tax goes back into effect in 2018 it will increase premiums by an average of 2 to 3 percent. Even worse, that tax rate will further increase as more employers shift to self-insuring their plans, thus shrinking the tax base for the health insurance tax (which is applied only to policies purchased from commercial health insurers). That is because the law requires the IRS to extract fixed amounts of revenue from that tax base.

Those effects make the health insurance tax one of Obamacare's more damaging taxes. As with the other Obamacare taxes, it should be repealed.

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Endnotes

1. Patient Protection and Affordable Care Act (PPACA), Public Law 111–148 (March 23, 2010), §9010, https://www.congress.gov/111/plaws/publ148/PLAW-111publ148.pdf (accessed October 24, 2017), as amended by §1406 of the Health Care and Education Reconciliation Act of 2010 (HCERA), Public Law 111–152 (March 30, 2010), https://www.gpo.gov/fdsys/pkg/PLAW-111publ152/pdf/PLAW-111publ152.pdf (accessed October 24, 2017).
2. The moratorium was imposed by §201 of Division P of the 2016 Consolidated Appropriations Act, Public Law 114–113 (December 18, 2015), https://www.congress.gov/114/plaws/publ113/PLAW-114publ113.pdf (accessed October 24, 2017). See also "Health Insurance Provider Fee: 2017 Moratorium—Questions and Answers," Internal Revenue Service, January 23, 2017 https://www.irs.gov/businesses/corporations/health-insurance-provider-fee-2017-moratorium-questions-and-answers (accessed October 24, 2017).
3. H. R. 246, 115th Congress, 1st Sess., introduced by Representative Kristi Noem (R–SD) and Kyrsten Sinema (D–AZ), would permanently repeal the health insurance tax.
4. Health Insurance Providers Fee, Final Regulations, *Federal Register*, Vol. 78, No. 230 (November 29, 2013), pp. 71476–71493, https://www.gpo.gov/fdsys/pkg/FR-2013-11-29/pdf/2013-28412.pdf (accessed October 24, 2017), and 26 Code of Federal Regulations §57, https://www.law.cornell.edu/cfr/text/26/part-57 (accessed October 24, 2017).
5. Stop The HIT Coalition, http://www.stopthehit.com/ (accessed October 24, 2017).
6. The aggregate amounts specified in section 9010 of the PPACA are as follows for each calendar year: $8 billion (2014), $11.3 billion (2015), $11.3 billion (2016), $13.9 billion (2017), and $14.3 billion (2018). See also, §1406(e) of the HCERA. After 2018, the amount to be raised increases with premium growth. The tax is not being collected during calendar year 2017 because a moratorium was placed on collection of the tax by the 2016 Consolidated Appropriations Act.
7. PPACA §9010(b). Half of premiums written between $25 million and $50 million are subject to tax. An insurer's premiums up to $25 million annually are exempt.
8. PPACA §9010(f)(2) and Internal Revenue Code §275(a)(6). A deductible tax of $100 costs $100 but reduces the corporate tax paid by $35 for a net cost of $65, because the $100 is treated as a deductible expense for corporate income-tax purposes. A non-deductible tax costs $100 but does reduce corporate taxes due; $100 is 54 percent higher than $65.
9. PPACA §9010(c)(2)(A).
10. Employee Benefit Research Institute, "Self-Insured Health Plans: Recent Trends by Firm Size, 1996–2015," *Notes*, Vol. 37, No. 7 (July 2016), Figure 2, p. 4, https://www.ebri.org/pdf/notespdf/EBRI_Notes_07-no7-July16.Self-Ins.pdf (accessed October 24, 2017).
11. It is a fundamental tenet of price theory (microeconomics) that the *legal* incidence of a tax (in this case, on insurance companies) does not affect the *economic* incidence of the tax, except perhaps in the very short run. In a competitive market, price will tend to equal marginal cost, which, in this case, includes the cost of paying the health insurance tax. Consumers would normally be able to substitute away from insurance toward either self-financing of health care costs or making other forms of expenditure. This would cause the overall health insurance market to shrink in size. However, in the Obamacare case, they do not have this choice because of the individual mandate. Thus, the typical analysis of shared incidence between buyer and seller (the magnitudes depending on various factors) is inapposite.
12. Michael J. Chow, "Effects of the PPACA Health Insurance Premium Tax on Small Businesses and Their Employees," National Federation of Independent Business Research Foundation, May 5, 2014 http://www.nfib.com/assets/BSIM_HIPREMTAX_UPDATE_2014_WITH_STATES-May5.pdf (accessed October 24, 2017).
13. Employee Benefit Research Institute, "Self-Insured Health Plans: Recent Trends by Firm Size, 1996–2015," Figure 2, p. 4.
14. Ibid.
15. Edmund F. Haislmaier and Drew Gonshorowski, "2016 Health Insurance Enrollment: Private Coverage Declined, Medicaid Growth Slowed," Heritage Foundation *Issue Brief* No. 4743, July 26, 2017, p. 1, http://www.heritage.org/sites/default/files/2017-07/IB4743_0.pdf.