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Legislative Bulletin……………………………………October 26, 2011

Contents:

H.R. 2576 – To amend the Internal Revenue Code of 1986 to modify the calculations of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs (Black, R-TN)

Order of Business: The bill is scheduled to be considered on Thursday, October 27, 2011, under a closed rule to be considered today (H.Res. 448). The rule provides one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Ways and Means. It also directs the Clerk of the House to combine this bill with the text of H.R. 674—the repeal of the 3% Withholding bill—upon passage of both bills.

Summary: H.R. 2576 amends section 36B(d)(2)(B) of the Internal Revenue Code to adjust the calculation of modified adjusted gross income (MAGI) in determining eligibility for federal health care-related programs created in the Patient Protection and Affordable Care Act (Obamacare).[1] Specifically, the bill requires all income derived from Social Security and tier I Railroad benefits to be included in determining eligibility for enrollment in Medicaid, the Children's Health Insurance Program (CHIP), and the amount of federal premium assistance tax credits for the purchase of qualified private health insurance offered through a state-based health exchange beginning on January 1, 2014. Under current law, eligibility for these healthcare-related programs will be considered in 2014 by assessing the amount of Social Security benefits that are considered taxable gross income—only a portion (not the entirety) of a taxpayer's Social Security benefits. Table 3 on page 6 of the Committee House Report 112-254 summarizes the taxation of Social Security benefits.

A July 2011 Hill article indicates that this standard will lead to millions of unanticipated middle class taxpayers either being enrolled in state Medicaid programs or receiving

[1] Public Law 111-148 as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152)

richer premium tax credits once the requirement (Individual Mandate) for nearly all Americans to be covered by a health care insurance plan that satisfies the minimum essential health benefits starts in 2014.[2] Also, Richard Foster, the Chief Actuary for the Centers for Medicare and Medicaid Services (CMS) testified before the House Budget Committee this summer that:

> "The estimated increase in Medicaid enrollment is based on an assumption that Social Security benefits would continue to be included in the definition of income for determining Medicaid eligibility. If a strict application of the modified adjusted gross income definition is instead applied, as may be intended by the Act [Obamacare], then an additional 5 million or more Social Security early retirees would be potentially eligible for Medicaid coverage."[3]

H.R. 2576 amends this definition of MAGI by aligning federal income eligibility standards for other federal social welfare programs (such as public housing, food stamps, and Supplemental Security Income) with the eligibility standards for federal health care-related programs created in Obamacare. According to the Committee report (pg. 7), "Taking the full amount of Social Security benefits into account for these purposes provides consistency with eligibility for other Federal needs-based programs and furthers the goal of deficit reduction."

Additional Information: H.R. 2576 corrects an Obamacare unintended consequence of permitting more middle-class taxpayers to qualify for Medicaid as well as receive richer premium tax subsidies than what was originally intended. Additionally, according the rule for its floor consideration (H.Res. 448), upon passage, its text will be added to the text of H.R. 674 presumably to off-set the reduction of federal revenues of implementing H.R. 674. The Congressional Budget Office (CBO) estimates implementing H.R. 674 will reduce revenues and increase the federal deficit by $11.2 billion over the 2012-2021 period.

Committee Action: Representative Diane Black (R-TN) introduced H.R. 2576 on July 18, 2011, which was referred to the Committee on Ways and Means. The Committee marked up the bill and reported it out by a vote of 23-12 on October 13, 2011.

Administration Position: The Obama Administration released a Statement of Administration Policy (SAP) on October 25, 2011 supporting passage of the bill. Also, a recent Congressional Research Service (CRS) report notes that President Obama has recommended revising the definition of MAGI for determining health care-related eligibility in his deficit reduction proposal.

Cost to Taxpayers: The CBO released a cost estimate for the bill on October 14, 2011. It estimates that enacting the bill would reduce deficits by approximately $13 billion over

[2] The Department of Health and Human Services (HHS) has not yet defined what health care benefits will be included in the definition of the term minimum essential health benefits. HHS has received and is reviewing an Institute of Medicine report of recommendations for inclusion.

[3] July 13, 2011 Budget Committee hearing titled, "Medicare and Social Security: The Fiscal Facts."

the 2012-2021 period through a combination of $21.7 billion of spending cuts and $8.7 billion of decreased revenues. Of course, these savings will be reduced by the amount that CBO estimates H.R. 674 will reduce revenues ($11.2 billion over 2012-2021).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Yes. The Committee report 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 [clause 9 of rule XXI of the Rules of the House]."

Constitutional Authority: The Constitutional Authority Statement accompanying introduction of this bill states:

> "Congress has the power to enact this legislation pursuant to the following: This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 1 of the United States Constitution; whereby the Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.
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> Furthermore, this bill makes specific changes to existing law, in accordance with the Sixteenth Amendment of the United States Constitution; whereby the Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

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