

or annuity contract” means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

(f) Policy of reinsurance

For the purpose of section 4371(3), the term “policy of reinsurance” means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

(Aug. 16, 1954, ch. 736, 68A Stat. 521; Pub. L. 85-859, title I, §141(a), Sept. 2, 1958, 72 Stat. 1300; Pub. L. 94-455, title XIX, §1904(a)(12), Oct. 4, 1976, 90 Stat. 1812.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455 substituted “section 4371” for “this subchapter”, and inserted provision that term does not include a foreign government, or municipal or other corporation exercising the taxing power.

Subsec. (c). Pub. L. 94-455 substituted “this chapter” for “this subchapter”.

1958—Subsec. (d)(2). Pub. L. 85-859 inserted “against, or” before “with respect to”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

§ 4373. Exemptions

The tax imposed by section 4371 shall not apply to—

(1) Effectively connected items

Any amount which is effectively connected with the conduct of a trade or business within the United States unless such amount is exempt from the application of section 882(a) pursuant to a treaty obligation of the United States.

(2) Indemnity bond

Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant or check, issued by the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 522; Pub. L. 85-859, title I, §141(a), Sept. 2, 1958, 72 Stat. 1301; Pub. L. 94-455, title XIX, §1904(a)(12), Oct. 4, 1976, 90 Stat. 1813; Pub. L. 100-647, title I, §1012(q)(13)(A), Nov. 10, 1988, 102 Stat. 3525.)

AMENDMENTS

1988—Par. (1). Pub. L. 100-647 amended par. (1) generally, substituting provisions relating to effectively connected items for provisions relating to domestic agent.

1976—Par. (1). Pub. L. 94-455 substituted “State, or in the District of Columbia, within” for “State, Territory, or District of the United States within”.

1958—Pub. L. 85-859 reenacted section without change.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1012(q)(13)(B), Nov. 10, 1988, 102 Stat. 3525, provided that: “The amendment made by subparagraph (A) [amending this section] shall apply with respect to premiums paid after the date 30 days after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

§ 4374. Liability for tax

The tax imposed by this chapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 522; Pub. L. 85-859, title I, §141(a), Sept. 2, 1958, 72 Stat. 1301; Pub. L. 89-44, title VIII, §804(a)(1), (2), June 21, 1965, 79 Stat. 160; Pub. L. 94-455, title XIX, §1904(a)(12), Oct. 4, 1976, 90 Stat. 1813.)

PRIOR PROVISIONS

For provisions of prior sections 4375, 4381 to 4384, see Prior Provisions note preceding section 4371 of this title.

AMENDMENTS

1976—Pub. L. 94-455 substituted in section catchline “Liability for tax” for “Payment of tax” and in text provisions relating to payment of tax on basis of a return and to tax-exempt status of United States and its agencies and instrumentalities for provisions relating to placing of stamps on any policy, indemnity bond, or annuity contract referred to in section 4371 and to regulation by Secretary that tax be paid on basis of a return.

1965—Pub. L. 89-44 substituted “Payment of tax” for “Affixing of stamps” in section catchline, and inserted sentence authorizing Secretary or his delegate to provide by regulation for payment on basis of a return of tax imposed by section 4371.

1958—Pub. L. 85-859 reenacted section without change.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §804(c), June 21, 1965, 79 Stat. 160, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on July 1, 1965. The amendments made by subsection (b) [amending section 4371 of this title] shall apply with respect to policies, bonds, and contracts with respect to which the tax imposed by section 4371 of the Code is required to be paid on the basis of a return.”

DETERMINATION OF PARTNERSHIP AS CONTINUING OR TERMINATED PARTNERSHIP

Pub. L. 85-859, title I, §141(b), Sept. 2, 1958, 72 Stat. 1304, mandated that only changes in the partnership oc-

curing on or after the effective date specified in section 1(c) of Pub. L. 85-859 shall be taken into account in the determination of whether a partnership is a continuing or terminated one.

Subchapter B—Insured and Self-Insured Health Plans

Sec.	
4375.	Health insurance.
4376.	Self-insured health plans.
4377.	Definitions and special rules.

§ 4375. Health insurance

(a) Imposition of fee

There is hereby imposed on each specified health insurance policy for each policy year ending after September 30, 2012, a fee equal to the product of \$2 (\$1 in the case of policy years ending during fiscal year 2013) multiplied by the average number of lives covered under the policy.

(b) Liability for fee

The fee imposed by subsection (a) shall be paid by the issuer of the policy.

(c) Specified health insurance policy

For purposes of this section:

(1) In general

Except as otherwise provided in this section, the term “specified health insurance policy” means any accident or health insurance policy (including a policy under a group health plan) issued with respect to individuals residing in the United States.

(2) Exemption for certain policies

The term “specified health insurance policy” does not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

(3) Treatment of prepaid health coverage arrangements

(A) In general

In the case of any arrangement described in subparagraph (B), such arrangement shall be treated as a specified health insurance policy, and the person referred to in such subparagraph shall be treated as the issuer.

(B) Description of arrangements

An arrangement is described in this subparagraph if under such arrangement fixed payments or premiums are received as consideration for any person’s agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided.

(d) Adjustments for increases in health care spending

In the case of any policy year ending in any fiscal year beginning after September 30, 2014, the dollar amount in effect under subsection (a) for such policy year shall be equal to the sum of such dollar amount for policy years ending in the previous fiscal year (determined after the application of this subsection), plus an amount equal to the product of—

- (1) such dollar amount for policy years ending in the previous fiscal year, multiplied by

- (2) the percentage increase in the projected per capita amount of National Health Expenditures, as most recently published by the Secretary before the beginning of the fiscal year.

(e) Termination

This section shall not apply to policy years ending after September 30, 2019.

(Added Pub. L. 111-148, title VI, § 6301(e)(2)(A), Mar. 23, 2010, 124 Stat. 743.)

§ 4376. Self-insured health plans

(a) Imposition of fee

In the case of any applicable self-insured health plan for each plan year ending after September 30, 2012, there is hereby imposed a fee equal to \$2 (\$1 in the case of plan years ending during fiscal year 2013) multiplied by the average number of lives covered under the plan.

(b) Liability for fee

(1) In general

The fee imposed by subsection (a) shall be paid by the plan sponsor.

(2) Plan sponsor

For purposes of paragraph (1) the term “plan sponsor” means—

(A) the employer in the case of a plan established or maintained by a single employer,

(B) the employee organization in the case of a plan established or maintained by an employee organization,

(C) in the case of—

(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

(ii) a multiple employer welfare arrangement, or

(iii) a voluntary employees’ beneficiary association described in section 501(c)(9), the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, or

(D) the cooperative or association described in subsection (c)(2)(F) in the case of a plan established or maintained by such a cooperative or association.

(c) Applicable self-insured health plan

For purposes of this section, the term “applicable self-insured health plan” means any plan for providing accident or health coverage if—

- (1) any portion of such coverage is provided other than through an insurance policy, and
- (2) such plan is established or maintained—

(A) by 1 or more employers for the benefit of their employees or former employees,

(B) by 1 or more employee organizations for the benefit of their members or former members,

(C) jointly by 1 or more employers and 1 or more employee organizations for the benefit of employees or former employees,

(D) by a voluntary employees’ beneficiary association described in section 501(c)(9),

(E) by any organization described in section 501(c)(6), or