

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 occurring 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

(F) in the case of a plan not described in the preceding subparagraphs, by a multiple employer welfare arrangement (as defined in section 3(40) of Employee Retirement Income Security Act of 1974), a rural electric cooperative (as defined in section 3(40)(B)(iv) of such Act), or a rural telephone cooperative association (as defined in section 3(40)(B)(v) of such Act).

**(d) Adjustments for increases in health care spending**

In the case of any plan year ending in any fiscal year beginning after September 30, 2014, the dollar amount in effect under subsection (a) for such plan year shall be equal to the sum of such dollar amount for plan 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 plan 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 plan years ending after September 30, 2019.

(Added Pub. L. 111-148, title VI, §6301(e)(2)(A), Mar. 23, 2010, 124 Stat. 744.)

## REFERENCES IN TEXT

Section 3(40) of Employee Retirement Income Security Act of 1974, referred to in subsec. (c)(2)(F), is classified to section 1002(40) of Title 29, Labor.

**§ 4377. Definitions and special rules****(a) Definitions**

For purposes of this subchapter—

**(1) Accident and health coverage**

The term “accident and health coverage” means any coverage which, if provided by an insurance policy, would cause such policy to be a specified health insurance policy (as defined in section 4375(c)).

**(2) Insurance policy**

The term “insurance policy” means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

**(3) United States**

The term “United States” includes any possession of the United States.

**(b) Treatment of governmental entities****(1) In general**

For purposes of this subchapter—

(A) the term “person” includes any governmental entity, and

(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the fees imposed by this subchapter except as provided in paragraph (2).

**(2) Treatment of exempt governmental programs**

In the case of an exempt governmental program, no fee shall be imposed under section 4375 or section 4376 on any covered life under such program.

**(3) Exempt governmental program defined**

For purposes of this subchapter, the term “exempt governmental program” means—

(A) any insurance program established under title XVIII of the Social Security Act,

(B) the medical assistance program established by title XIX or XXI of the Social Security Act,

(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being members of the Armed Forces of the United States or veterans, and

(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

**(c) Treatment as tax**

For purposes of subtitle F, the fees imposed by this subchapter shall be treated as if they were taxes.