

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13604(b), Dec. 22, 2017, 131 Stat. 2165, provided that: “The amendment made by this section [amending this section] shall apply to corporations first becoming expatriated corporations (as defined in section 4985 of the Internal Revenue Code of 1986) after the date of enactment of this Act [Dec. 22, 2017].”

EFFECTIVE DATE

Pub. L. 108-357, title VIII, §802(d), Oct. 22, 2004, 118 Stat. 1568, provided that: “The amendments made by this section [enacting this chapter and amending sections 162, 275, and 3121 of this title] shall take effect on March 4, 2003; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 4985 of the Internal Revenue Code of 1986, as added by this section.”

**CHAPTER 46—GOLDEN PARACHUTE PAYMENTS**

Sec. 4999. Golden parachute payments.

**§ 4999. Golden parachute payments**

**(a) Imposition of tax**

There is hereby imposed on any person who receives an excess parachute payment a tax equal to 20 percent of the amount of such payment.

**(b) Excess parachute payment defined**

For purposes of this section, the term “excess parachute payment” has the meaning given to such term by section 280G(b).

**(c) Administrative provisions**

**(1) Withholding**

In the case of any excess parachute payment which is wages (within the meaning of section 3401) the amount deducted and withheld under section 3402 shall be increased by the amount of the tax imposed by this section on such payment.

**(2) Other administrative provisions**

For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

(Added Pub. L. 98-369, div. A, title I, §67(b)(1), July 18, 1984, 98 Stat. 587.)

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section applicable to payments under agreements entered into or renewed after June 14, 1984, in taxable years ending after such date, with contracts entered into before June 15, 1984, which are amended after June 14, 1984, in any significant relevant aspect to be treated as a contract entered into after June 14, 1984, see section 67(e) of Pub. L. 98-369, set out as a note under section 280G of this title.

**CHAPTER 47—CERTAIN GROUP HEALTH PLANS**

Sec. 5000. Certain group health plans.

**Editorial Notes**

AMENDMENTS

1989—Pub. L. 101-239, title VI, §6202(b)(4)(A), Dec. 19, 1989, 103 Stat. 2233, struck out “LARGE” after “CERTAIN”

in chapter heading and “large” after “Certain” in item 5000.

**§ 5000. Certain group health plans**

**(a) Imposition of tax**

There is hereby imposed on any employer (including a self-employed person) or employee organization that contributes to a nonconforming group health plan a tax equal to 25 percent of the employer’s or employee organization’s expenses incurred during the calendar year for each group health plan to which the employer or employee organization contributes.

**(b) Group health plan and large group health plan**

For purposes of this section—

**(1) Group health plan**

The term “group health plan” means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

**(2) Large group health plan**

The term “large group health plan” means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year. For purposes of the preceding sentence—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer,

(B) all employees of the members of an affiliated service group (as defined in section 414(m)) shall be treated as employed by a single employer, and

(C) leased employees (as defined in section 414(n)(2)) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n).

**(c) Nonconforming group health plan**

For purposes of this section, the term “nonconforming group health plan” means a group health plan or large group health plan that at any time during a calendar year does not comply with the requirements of subparagraphs (A) and (C) or subparagraph (B), respectively, of paragraph (1), or with the requirements of paragraph (2), of section 1862(b) of the Social Security Act.

**(d) Government entities**

For purposes of this section, the term “employer” does not include a Federal or other governmental entity.

(Added Pub. L. 99-509, title IX, §9319(d)(1), Oct. 21, 1986, 100 Stat. 2012; amended Pub. L. 101-239,

title VI, § 6202(b)(2), Dec. 19, 1989, 103 Stat. 2233; Pub. L. 103-66, title XIII, § 13561(d)(2), (e)(2)(A), Aug. 10, 1993, 107 Stat. 594, 595.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 1862(b) of the Social Security Act, referred to in subsec. (c), is classified to section 1395y(b) of Title 42, The Public Health and Welfare.

#### AMENDMENTS

1993—Subsec. (a). Pub. L. 103-66, § 13561(e)(2)(A)(i), which directed insertion of “(including a self-employed person)” after “employer”, was executed by making the insertion after “employer” the first time it appeared, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 103-66, § 13561(e)(2)(A)(ii), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “The term ‘group health plan’ means any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer’s employees, former employees, or the families of such employees or former employees.”

Subsec. (b)(2). Pub. L. 103-66, § 13561(d)(2), inserted at end “For purposes of the preceding sentence—” and added subpars. (A) to (C).

Subsec. (c). Pub. L. 103-66, § 13561(e)(2)(A)(iii), substituted “of paragraph (1), or with the requirements of paragraph (2), of section 1862(b)” for “of section 1862(b)(1)”.

1989—Pub. L. 101-239, § 6202(b)(2)(A), struck out “large” after “Certain” in section catchline.

Subsec. (a). Pub. L. 101-239, § 6202(b)(2)(B), substituted “group health plan” for “large group health plan” in two places.

Subsec. (b). Pub. L. 101-239, § 6202(b)(2)(C), substituted “Group health plan and large” for “Large” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘large group health plan’ means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.”

Subsec. (c). Pub. L. 101-239, § 6202(b)(2)(C), substituted “group” for “large group” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘nonconforming large group health plan’ means a large group health plan that at any time during a calendar year does not comply with the requirements of section 1862(b)(4)(A)(i) of the Social Security Act.”

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, § 13561(d)(3), Aug. 10, 1993, 107 Stat. 594, provided that: “The amendments made by this subsection [amending this section and section 1395y of Title 42, The Public Health and Welfare] shall take effect 90 days after the date of the enactment of this Act [Aug. 10, 1993].”

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to items and services furnished after Dec. 19, 1989, see section 6202(b)(5) of Pub. L. 101-239, set out as a note under section 162 of this title.

#### EFFECTIVE DATE

Section applicable to items and services furnished on or after Jan. 1, 1987, see section 9319(f) of Pub. L. 99-509,

set out as an Effective Date of 1986 Amendment note under section 1395y of Title 42, The Public Health and Welfare.

## CHAPTER 48—MAINTENANCE OF MINIMUM ESSENTIAL COVERAGE

Sec.

5000A. Requirement to maintain minimum essential coverage.

### § 5000A. Requirement to maintain minimum essential coverage

#### (a) Requirement to maintain minimum essential coverage

An applicable individual shall for each month beginning after 2013 ensure that the individual, and any dependent of the individual who is an applicable individual, is covered under minimum essential coverage for such month.

#### (b) Shared responsibility payment

##### (1) In general

If a taxpayer who is an applicable individual, or an applicable individual for whom the taxpayer is liable under paragraph (3), fails to meet the requirement of subsection (a) for 1 or more months, then, except as provided in subsection (e), there is hereby imposed on the taxpayer a penalty with respect to such failures in the amount determined under subsection (c).

##### (2) Inclusion with return

Any penalty imposed by this section with respect to any month shall be included with a taxpayer’s return under chapter 1 for the taxable year which includes such month.

##### (3) Payment of penalty

If an individual with respect to whom a penalty is imposed by this section for any month—

(A) is a dependent (as defined in section 152) of another taxpayer for the other taxpayer’s taxable year including such month, such other taxpayer shall be liable for such penalty, or

(B) files a joint return for the taxable year including such month, such individual and the spouse of such individual shall be jointly liable for such penalty.

#### (c) Amount of penalty

##### (1) In general

The amount of the penalty imposed by this section on any taxpayer for any taxable year with respect to failures described in subsection (b)(1) shall be equal to the lesser of—

(A) the sum of the monthly penalty amounts determined under paragraph (2) for months in the taxable year during which 1 or more such failures occurred, or

(B) an amount equal to the national average premium for qualified health plans which have a bronze level of coverage, provide coverage for the applicable family size involved, and are offered through Exchanges for plan years beginning in the calendar year with or within which the taxable year ends.

##### (2) Monthly penalty amounts

For purposes of paragraph (1)(A), the monthly penalty amount with respect to any tax-