

From: Capitol Counsel

Date: May 15, 2025

Re: Ways and Means Health and Small Business Provisions

OVERVIEW

On May 13-14, 2025, the House Ways and Means Committee held its [markup](#) of budget reconciliation recommendations, as directed by [H. Con. Res. 14](#) (“budget resolution”), establishing the congressional budget for the U.S. government for FY 2025 and setting forth budgetary levels for FY 2026 through FY 2034. Pursuant to H. Con. Res. 14, the Committee was directed to submit changes in laws within its jurisdiction that increase the deficit by not more than \$4.5 trillion for FY 2025 through 2034, and increase the statutory debt limit by \$4 trillion. The Committee is responsible for the extension of the 2017 tax cuts and other tax provisions at the heart of the reconciliation effort.

Health related provisions within the Committee’s package include: enhancing Medicare rural emergency hospitals (REHs); restricting Affordable Care Act benefits for undocumented immigrants; modifying eligibility for certain health programs, including those related to the ACA and Medicare; reducing waste, fraud and abuse, including allocation of \$25 million for the Secretary of Health and Human Services (HHS) to implement artificial intelligence tools to reduce and recoup Medicare improper payments; and incorporating tax related health provisions, including expansions related to health savings accounts (HSAs) and other tax advantaged savings accounts for health care, and elimination of the ACA tax on indoor tanning services.

Small business related provisions within the Committee’s package include: maintenance of the lower individual rate structure; expanded small business deduction; restoration of full expensing / bonus depreciation; enhanced deduction under Sec. 179 specifically for small businesses; permanent estate tax relief at a higher exemption level; and no tax on overtime.

The Committee released its original [Committee Print](#), providing the Committee’s budget reconciliation recommendations, Title XI—Committee on Ways and Means; and the Chairman’s [Amendment in the Nature of a Substitute](#) – which served as the base bill for amendments considered.

The Committee: adopted the amendment in the nature of a substitute by voice vote; adopted the Committee Print as amended, by a party line vote of 26 to 19; and sent recommendations and accompanying material to the Budget Committee by a party line vote of 26 to 19.

This memo provides an overview the health and small business related provisions included in the adopted Committee Print.

HEALTH

Medicare Provisions

- **Sec. 111201. Expanding the definition of rural emergency hospital under the Medicare program.**
This provision updates current law, under which only certain hospitals enrolled in Medicare as of December 27, 2020, are eligible to convert to the Rural Emergency Hospital (REH) designation. The

provision establishes a “look-back” from January 1, 2014, to December 26, 2020, such that qualifying rural hospitals open during that time, but have since closed, may reopen under the REH designation. Specifies that: (1) hospitals located less than 35 miles from the nearest hospital, Critical Access Hospital (CAH), or REH are not eligible for the five percent increase on outpatient payments; and (2) facilities located less than 10 miles from the nearest hospital, CAH, or REH are not eligible for the REH facility fee.

ACA & Health Coverage Provisions

- **Sec. 112101. Permitting premium tax credit only for certain individuals.** This provision eliminates ACA premium tax credit eligibility for illegal immigrants and only allows eligibility for Lawful Permanent Residents, certain Cuban immigrants, and individuals living in the United States through a Compact of Free Association.
- **Sec. 112102. Certain aliens treated as ineligible for premium tax credit.** This provision prohibits individuals with immigration status granted by asylum (or pending an asylum application), parole, temporary protected status, deferred enforced departure, and withholding of removal from receiving ACA premium tax credits.
- **Sec. 112103. Disallowing premium tax credit during periods of Medicaid ineligibility due to alien status.** This provision eliminates a provision of law allowing aliens who are “lawfully present” in the U.S., who report income below 100 percent of the federal poverty level, and who are in their five-year Medicaid waiting period (due to immigration status) to receive premium tax credits to purchase health insurance on the Exchange.
- **Sec. 112104. Limiting Medicare coverage of certain individuals.** This provision only allows Medicare eligibility for Lawful Permanent Residents, certain Cuban immigrants, and individuals living in the United States through a Compact of Free Association.

Provisions Related to Waste, Fraud, and Abuse

- **Sec. 112201. Requiring Exchange verification of eligibility for health plan.** This provision prohibits an individual from claiming the ACA premium tax credit if the individual’s eligibility related to income, enrollment, and other requirements is not actively verified annually.
- **Sec. 112202. Disallowing premium tax credit in case of certain coverage enrolled in during special enrollment period.** This provision prohibits individuals from receiving ACA premium tax credits if they enroll in health coverage on the Exchange through a special enrollment period associated with their income.
- **Sec. 112203. Eliminating limitation on recapture of advance payment of premium tax credit.** This provision removes repayment limits for individuals who misestimate projected income and benefit from a more generous advance payment of the ACA premium tax credit; requires affected individuals to reimburse the IRS for the full amount of excess tax credit received.
- **Sec. 112204. Implementing artificial intelligence tools for purposes of reducing and recouping improper payments under Medicare.** This provision provides \$25 million for the Secretary of Health and Human Services to contract with artificial intelligence contractors and data scientists to examine Medicare improper payments and recoup overpayments; requires a report to Congress.

Tax Related Health Provisions

- **Sec. 110201. Treatment of health reimbursement arrangements integrated with individual market coverage.** This provision codifies final regulations expanding the use of health reimbursement arrangements (HRAs) to allow employers to offer “Individual Coverage HRAs” which, in addition to existing medical expenses, can also be used to purchase qualified health insurance on the individual market without violating group health plan requirements.

- **Sec. 110202. Participants in CHOICE arrangement eligible for purchase of Exchange insurance under cafeteria plan.** This provision permits employees enrolled in a CHOICE arrangement to use a salary reduction to pay for health plan premiums purchased through an Exchange.
- **Sec. 110203. Employer credit for CHOICE arrangement.** This provision creates a new two-year tax credit for small businesses with fewer than 50 employees offering coverage through CHOICE arrangements.
- **Sec. 110204. Individuals entitled to Part A of Medicare by reason of age allowed to contribute to health savings accounts.** This provision permits individuals entitled to Medicare Part A who are working and enrolled in a private high-deductible health plan (HDHP) to continue contributing to an HAS, with specified guardrails.
- **Sec. 110205. Treatment of direct primary care service arrangements.** This provision allows individuals with HDHPs to also enroll in direct primary care (DPC) arrangements (and maintain their HSA); and allows HSA funds to be used to pay for DPC services.
- **Sec. 110206. Allowance of bronze and catastrophic plans in connection with health savings accounts.** This provision allows all bronze and catastrophic health insurance plans on the Exchange to be eligible plans for the purpose of making HSA contributions.
- **Sec. 110207. On-site employee clinics.** This provision allows individuals who utilize discounted health care services at a health clinic at their worksite to contribute to an HSA.
- **Sec. 110208. Certain amounts paid for physical activity, fitness, and exercise treated as amounts paid for medical care.** This provision allows individuals to use their HSA for physical fitness memberships and instructional physical activity up to \$500 per year for an individual and \$1,000 per year for a family with up to onetwelfth of such expenses allowed per month.
- **Sec. 110209. Allow both spouses to make catch-up contributions to the same health savings account.** This provision allows both spouses to deposit catch-up contributions into one account.
- **Sec. 110210. FSA and HRA terminations or conversions to fund HSAs.** This provision allows employees, at the employer's discretion, to convert flexible spending arrangement (FSA) and HRA balances into an HSA contribution upon enrolling in an HDHP-HAS, with a cap.
- **Sec. 110211. Special rule for certain medical expenses incurred before establishment of health savings account.** This provision allows medical services incurred within 60 days before the establishment of an account to be eligible qualified medical expenses (QMEs).
- **Sec. 110212. Contributions permitted if spouse has health flexible spending arrangement.** This provision allows individuals to be eligible for an HSA even if the individual's spouse is enrolled in an FSA.
- **Sec. 110213. Increase in health savings account contribution limitation for certain individuals.** This provision allows individuals who make less than \$75,000 annually (\$150,000 for families) to contribute an additional \$4,300 (\$8,550 for families) each year to their HSA, indexed for inflation, with a phase out of the additional amounts for individuals making \$100,000 annually (\$200,000 for families).
- **Sec. 110214. Regulations.** This provision allows the Secretaries of the Treasury and Health and Human Services to prescribe rules and guidance as appropriate to enact the policies in this Part.

Other

- **Sec. 111106. Repeal of excise tax on indoor tanning services.** Effective on the date of enactment, this provision repeals the 10 percent excise tax on amounts paid for indoor tanning services.

SMALL BUSINESS

Sec. 110001. Extension of modification of rates (maintenance of the lower individual rate structure). This provision makes permanent the modified federal income tax bracket schedule and lower tax rates created by the Tax Cuts and Jobs Act. The provision also adds an additional year of inflation adjustment to all brackets except for the top bracket (37 percent)

Tax Rates & Brackets (2026)		
Bracket	Current Law	Provision
1	10.0%	10.0%
2	15.0%	12.0%
3	25.0%	22.0%
4	28.0%	24.0%
5	33.0%	32.0%
6	35.0%	35.0%
7	39.6%	37.0%

Sec. 110005. Extension of deduction for qualified business income and permanent enhancement (expanded small business deduction). This provision makes the deduction for qualified business income permanent. For taxable years beginning after December 31, 2025, this provision also increases the deduction percentage from 20 percent to 23 percent. This provision also modifies the phase-in of the wage and investment limitation and the SSTB limitation. Under this provision, instead of phasing in over a fixed range of taxable income, these limitations phase in at a fixed rate. Specifically, for each dollar of taxable income over the threshold amount, a taxpayer's deduction for qualified business income is reduced by 75 cents until both limitations are fully phased in. This change prevents taxpayers from being subject to marginal tax rates close to 70 percent. Additionally, this provision modifies the calculation of the threshold amount by adding an additional year of inflation adjustment. This provision also makes certain income of business development companies (as defined in the Investment Company Act of 1940) eligible for the qualified business income deduction.

Sec. 111001. Extension of special depreciation allowance for certain property (restoration of full expensing / bonus depreciation). This provision allows taxpayers to immediately expense 100 percent of the cost of qualified property acquired on or after January 20, 2025, and before January 1, 2030.

Sec. 111103. Increased dollar limitations for expensing of certain depreciable business assets (enhanced deduction under Sec. 179 specifically for small businesses). This provision increases the maximum amount a taxpayer may expense under IRC section 179 to \$2.5 million, reduced by the amount by which the cost of qualifying property exceeds \$4 million. The \$2.5 million and \$4 million amounts are adjusted for inflation for taxable years beginning after 2025. The proposal applies to property placed in service in taxable years beginning after December 31, 2024.

Sec. 110006. Extension of increased estate and gift tax exemption amounts and permanent enhancement (permanent estate tax relief at a higher exemption level). This provision permanently extends the estate and lifetime gift tax exemption, increases the exemption amount to \$15 million for single filers (\$30 million for married filing jointly) in 2026, and indexes the exemption amount for inflation going forward.

Sec. 110102. No tax on overtime. This provision creates an above-the-line deduction for overtime premium pay during a given taxable year. Qualified overtime compensation means overtime compensation paid to an individual required under Section 7 of the Fair Labor Standards Act of 1938 that is in excess of the regular rate (as used in such section) at which such individual is employed. Additionally, taxpayers who are highly compensated employees or with earned income exceeding the dollar amount in effect under IRC section 414(q)(1)(B)(i) are ineligible to receive the deduction. A work-eligible Social Security number is required in order to claim the deduction. The deduction is allowed from tax years 2025 through 2028.

Sec. 110111. Certain postsecondary credentialing expenses treated as qualified higher education expenses for purposes of 529 accounts. Under current law, 529 savings plans are tax-advantaged accounts designed to fund education expenses, with federal law allowing tax-free withdrawals for the following qualified expenses: tuition (including up to \$10,000 annually for K-12 education), fees, books, supplies, equipment required for enrollment, room and board (for students enrolled at least half-time), computers, software, internet access, special needs services, and costs for registered apprenticeship programs. This provision allows tax-exempt distributions from 529 savings plans to be used for additional qualified higher education expenses, including “qualified postsecondary credentialing expenses” in connection with “recognized postsecondary credential programs” and “recognized postsecondary credentials.”