

TITLE 26 - INTERNAL REVENUE CODE
Subtitle D - Miscellaneous Excise Taxes
CHAPTER 47 - CERTAIN GROUP HEALTH PLANS

§ 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.)

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.”

Effective Date of 1993 Amendment

Section 13561(d)(3) of Pub. L. 103–66 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.