

**SEC. 1515. OFFERING OF EXCHANGE-PARTICIPATING QUALIFIED HEALTH PLANS THROUGH CAFETERIA PLANS.**

(a) IN GENERAL.—Subsection (f) of section 125 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) CERTAIN EXCHANGE-PARTICIPATING QUALIFIED HEALTH PLANS NOT QUALIFIED.—

“(A) IN GENERAL.—The term ‘qualified benefit’ shall not include any qualified health plan (as defined in section 1301(a) of the Patient Protection and Affordable Care Act) offered through an Exchange established under section 1311 of such Act.

“(B) EXCEPTION FOR EXCHANGE-ELIGIBLE EMPLOYERS.—Subparagraph (A) shall not apply with respect to any employee if such employee’s employer is a qualified employer (as defined in section 1312(f)(2) of the Patient Protection and Affordable Care Act) offering the employee the opportunity to enroll through such an Exchange in a qualified health plan in a group market.”.

(b) CONFORMING AMENDMENTS.—Subsection (f) of section 125 of such Code is amended—

(1) by striking “For purposes of this section, the term” and inserting “For purposes of this section—

“(1) IN GENERAL.—The term”, and

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(2) by striking “Such term shall not include” and inserting the following:

“(2) LONG-TERM CARE INSURANCE NOT QUALIFIED.—The term ‘qualified benefit’ shall not include”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2013.

**[Note: Section 10108 provides for Free Choice Vouchers as follows:]**

**SEC. 10108 [42 U.S.C. 18101]. FREE CHOICE VOUCHERS**

**[copied from title Xx and shown here for information purposes only].**

(a) *IN GENERAL.*—An offering employer shall provide free choice vouchers to each qualified employee of such employer.

(b) *OFFERING EMPLOYER.*—For purposes of this section, the term “offering employer” means any employer who—

(1) offers minimum essential coverage to its employees consisting of coverage through an eligible employer-sponsored plan; and

(2) pays any portion of the costs of such plan.

(c) *QUALIFIED EMPLOYEE.*—For purposes of this section—

(1) *IN GENERAL.*—The term “qualified employee” means, with respect to any plan year of an offering employer, any employee—

(A) whose required contribution (as determined under section 5000A(e)(1)(B)) for minimum essential coverage through an eligible employer-sponsored plan—

(i) exceeds 8 percent of such employee’s household income for the taxable year described in section 1412(b)(1)(B) which ends with or within in the plan year; and

(ii) does not exceed 9.8 percent of such employee’s household income for such taxable year;

(B) whose household income for such taxable year is not greater than 400 percent of the poverty line for a family of the size involved; and

(C) who does not participate in a health plan offered by the offering employer.

(2) *INDEXING.*—In the case of any calendar year beginning after 2014, the Secretary shall adjust the 8 percent under paragraph (1)(A)(i) and 9.8 percent under paragraph (1)(A)(ii) for the calendar year to reflect the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for such period.

(d) *FREE CHOICE VOUCHER.*—

(1) *AMOUNT.*—

(A) *IN GENERAL.*—The amount of any free choice voucher provided under subsection (a) shall be equal to the monthly portion of the cost of the eligible employer-sponsored plan which would have been paid by the employer if the employee were covered under the plan with respect to which the employer pays the largest portion of the cost of the plan. Such amount shall be equal to the amount the employer would pay for an employee with self-only coverage

*unless such employee elects family coverage (in which case such amount shall be the amount the employer would pay for family coverage).*

(B) *DETERMINATION OF COST.*—*The cost of any health plan shall be determined under the rules similar to the rules of section 2204 of the Public Health Service Act, except that such amount shall be adjusted for age and category of enrollment in accordance with regulations established by the Secretary.*

(2) *USE OF VOUCHERS.*—*An Exchange shall credit the amount of any free choice voucher provided under subsection (a) to the monthly premium of any qualified health plan in the Exchange in which the qualified employee is enrolled and the offering employer shall pay any amounts so credited to the Exchange.*

(3) *PAYMENT OF EXCESS AMOUNTS.*—*If the amount of the free choice voucher exceeds the amount of the premium of the qualified health plan in which the qualified employee is enrolled for such month, such excess shall be paid to the employee.*

(e) *OTHER DEFINITIONS.*—*Any term used in this section which is also used in section 5000A of the Internal Revenue Code of 1986 shall have the meaning given such term under such section 5000A.*

(f) *EXCLUSION FROM INCOME FOR EMPLOYEE.*—

(1) *IN GENERAL.*—*Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139C the following new section:*

**“SEC. 139D. FREE CHOICE VOUCHERS.**

*“Gross income shall not include the amount of any free choice voucher provided by an employer under section 10108 of the Patient Protection and Affordable Care Act to the extent that the amount of such voucher does not exceed the amount paid for a qualified health plan (as defined in section 1301 of such Act) by the taxpayer.”.*

(2) *CLERICAL AMENDMENT.*—*The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139C the following new item:*

*“Sec. 139D. Free choice vouchers.”.*

(3) *EFFECTIVE DATE.*—*The amendments made by this subsection shall apply to vouchers provided after December 31, 2013.*

(g) *DEDUCTION ALLOWED TO EMPLOYER.*—

(1) *IN GENERAL.*—*Section 162(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “For purposes of paragraph (1), the amount of a free choice voucher provided under section 10108 of the Patient Protection and Affordable Care Act shall be treated as an amount for compensation for personal services actually rendered.”.*

(2) *EFFECTIVE DATE.*—*The amendments made by this subsection shall apply to vouchers provided after December 31, 2013.*

(h) *VOUCHER TAKEN INTO ACCOUNT IN DETERMINING PREMIUM CREDIT.*—

(1) **【Added a subparagraph (D) to section 36(c)(2) of the IRC, added by section 1401】**

(2) *EFFECTIVE DATE.*—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2013.

(i) *COORDINATION WITH EMPLOYER RESPONSIBILITIES.*—

(1) *SHARED RESPONSIBILITY PENALTY.*—

(A) **【Added a paragraph (3) to section 4980H(c) of the IRC, added by section 1513】**

(B) *EFFECTIVE DATE.*—The amendment made by this paragraph shall apply to months beginning after December 31, 2013.

(2) **【Amended section 18B(a)(3) of FLSA, added by section 1512】**

(j) *EMPLOYER REPORTING.*—

(1) **【Amended section 6056(a) of the IRC, added by section 1514】**

(2) **【Replaced subsection (f) of section 6056 of the IRC, added by section 1514】**

(3) **【Made miscellaneous conforming amendments to sections 6056 and 6724(d) of the IRC, added by section 1514, as well as a table of sections amendment】**

(4) *EFFECTIVE DATE.*—The amendments made by this subsection shall apply to periods beginning after December 31, 2013.

## Subtitle G—Miscellaneous Provisions