

**SEC. 9016. MODIFICATION OF SECTION 833 TREATMENT OF CERTAIN HEALTH ORGANIZATIONS.**

(a) IN GENERAL.—Subsection (c) of section 833 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(5) NONAPPLICATION OF SECTION IN CASE OF LOW MEDICAL LOSS RATIO.—Notwithstanding the preceding paragraphs, this section shall not apply to any organization unless such organization’s percentage of total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies during such taxable year (as reported under section 2718 of the Public Health Service Act) is not less than 85 percent.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

**[SEC. 9017. [EXCISE TAX ON ELECTIVE COSMETIC MEDICAL PROCEDURES][NULLIFIED].]**

*[This section, and the amendments made by this section, are null, void, and of no effect under section 10907(a), but was not formally repealed; section 10907(b), which provides for an excise tax on indoor tanning services, effectively substitutes for this section.]*

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new chapter:]

**[“CHAPTER 49—ELECTIVE COSMETIC MEDICAL PROCEDURES]**

“Sec. 5000B. Imposition of tax on elective cosmetic medical procedures.

**[“SEC. 5000B. IMPOSITION OF TAX ON ELECTIVE COSMETIC MEDICAL PROCEDURES.]**

[(a) IN GENERAL.—There is hereby imposed on any cosmetic surgery and medical procedure a tax equal to 5 percent of the amount paid for such procedure (determined without regard to this section), whether paid by insurance or otherwise.]

[(b) COSMETIC SURGERY AND MEDICAL PROCEDURE.—For purposes of this section, the term ‘cosmetic surgery and medical procedure’ means any cosmetic surgery (as defined in section 213(d)(9)(B)) or other similar procedure which—]

[(1) is performed by a licensed medical professional, and]

[(2) is not necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.]

[(c) PAYMENT OF TAX.—]

[(1) IN GENERAL.—The tax imposed by this section shall be paid by the individual on whom the procedure is performed.]

[(2) COLLECTION.—Every person receiving a payment for procedures on which a tax is imposed under subsection (a) shall collect the amount of the tax from the individual on

whom the procedure is performed and remit such tax quarterly to the Secretary at such time and in such manner as provided by the Secretary.】

【“(3) SECONDARY LIABILITY.—Where any tax imposed by subsection (a) is not paid at the time payments for cosmetic surgery and medical procedures are made, then to the extent that such tax is not collected, such tax shall be paid by the person who performs the procedure.”.】

【(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986, as amended by this Act, is amended by inserting after the item relating to chapter 48 the following new item:】

“CHAPTER 49—ELECTIVE COSMETIC MEDICAL PROCEDURES”.

【(c) EFFECTIVE DATE.—The amendments made by this section shall apply to procedures performed on or after January 1, 2010.】

## **Subtitle B—Other Provisions**