Rollback of Expanded Form 1099 Reporting under PPACA – and how Congress Paid for Repeal

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On April 14, 2011, President Obama signed H.R. 4, the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011." Half of that catchy title is self-evident: the Act repeals Section 9006 of PPACA which, starting in 2012, would have expanded Form 1099 reporting to include payments of $600 or more to corporations providing services or goods. (Form 1099 currently is limited (generally) to reporting services worth $600 or more received from individuals or non-corporate entities.) Repeal of expanded Form 1099 reporting duties was almost inevitable after President Obama singled out the expanded reporting measure in his January State of the Union address as an expendable provision of PPACA. And although expanded reporting was unpopular with both political parties, they disagreed on how to pay for repeal of the measure, which was expected to generate approximately $22 billion over 10 years, largely by capturing formerly unreported cash transactions.

The second, less intelligible part of the Act's title ("Repayment of Exchange Subsidy Overpayments Act") explains how Congress decided to pay for the repeal. Under PPACA, individuals earning between 133% and 400% of the federal poverty level will in 2014 become eligible for "premium assistance credits" they can use towards purchase of coverage on a state exchange. The credits are designed to limit this group's health insurance premium costs to an amount that is between 2% and 9.5% of total household income. The government will fund the credits in advance, through direct payments to insurance carriers, which permits eligible individuals to pay reduced premiums right away. Similarly, an individual's current-year income is used to "pre-determine" the size of his or her subsidy in the subsequent calendar year. If the advance payments exceed the premium credit the individual qualifies for based on income earned in that subsequent year, the excess must be repaid in the form of additional tax on the person's Form 1040.

PPACA limited the amount that could be recaptured from modest earners to a fairly small amount. Specifically, under newly-created Internal Revenue Code Section 36B(f)(2)(B)(i), no more than $400 could be recaptured from individuals with family income up to 400% of the federal poverty line ($250 for single taxpayers). H.R. 4 amends Section 36B to significantly increase the recapture amounts from the $400/$250 levels. The new levels are as follows:

• $600 for persons with household income less than 200% of the federal poverty line ($300 for single taxpayers),
• $1,500 for persons with household income from 200% to less than 300% of the federal poverty line ($750 for single taxpayers), or
• $2,500 for persons with household income from 300% to less than 400% of the federal poverty line ($1,250 for single taxpayers).

Thus, a family of four earning up to 400% of the federal poverty level ($89,400) potentially could owe $2,500 instead of $400 with their taxes in order to repay the government for the subsidy it received based on a prior year's, lower income level. Also under H.R. 4, individuals whose household income exceeds 400% of the federal poverty level must repay all premium assistance credits received; previously the repayment amount was capped at $3,500 and only applied to individuals with household income of 450% to 500% of FPL.

This significant expansion of repayment obligations (in the form of increased income taxes) in order to replace revenue lost upon repeal of the expanded Form 1099 reporting duties passed without much controversy, I expect, because explaining it is so complicated.

http://www.gpo.gov/fdsys/pkg/BILLS-112hr4enr/pdf/BILLS-112hr4enr.pdf