

1 the employee may contact the Exchange to request as-
2 sistance;

3 “(2) if the employer plan’s share of the total al-
4 lowed costs of benefits provided under the plan is less
5 than 60 percent of such costs, that the employee may
6 be eligible for a premium tax credit under section
7 36B of the Internal Revenue Code of 1986 and a cost
8 sharing reduction under section 1402 of the Patient
9 Protection and Affordable Care Act if the employee
10 purchases a qualified health plan through the Ex-
11 change; and

12 “(3) if the employee purchases a qualified health
13 plan through the Exchange, the employee will lose the
14 employer contribution (if any) to any health benefits
15 plan offered by the employer and that all or a portion
16 of such contribution may be excludable from income
17 for Federal income tax purposes.

18 “(b) *EFFECTIVE DATE*.—Subsection (a) shall take ef-
19 fect with respect to employers in a State beginning on
20 March 1, 2013.”.

21 **SEC. 1513. SHARED RESPONSIBILITY FOR EMPLOYERS.**

22 (a) *IN GENERAL*.—Chapter 43 of the Internal Revenue
23 Code of 1986 is amended by adding at the end the following:

1 **“SEC. 4980H. SHARED RESPONSIBILITY FOR EMPLOYERS**
2 **REGARDING HEALTH COVERAGE.**

3 **“(a) LARGE EMPLOYERS NOT OFFERING HEALTH**
4 **COVERAGE.—If—**

5 *“(1) any applicable large employer fails to offer*
6 *to its full-time employees (and their dependents) the*
7 *opportunity to enroll in minimum essential coverage*
8 *under an eligible employer-sponsored plan (as defined*
9 *in section 5000A(f)(2)) for any month, and*

10 *“(2) at least one full-time employee of the appli-*
11 *cable large employer has been certified to the em-*
12 *ployer under section 1411 of the Patient Protection*
13 *and Affordable Care Act as having enrolled for such*
14 *month in a qualified health plan with respect to*
15 *which an applicable premium tax credit or cost-shar-*
16 *ing reduction is allowed or paid with respect to the*
17 *employee,*

18 *then there is hereby imposed on the employer an assessable*
19 *payment equal to the product of the applicable payment*
20 *amount and the number of individuals employed by the em-*
21 *ployer as full-time employees during such month.*

22 **“(b) LARGE EMPLOYERS WITH WAITING PERIODS EX-**
23 **CEEDING 30 DAYS.—**

24 *“(1) IN GENERAL.—In the case of any applicable*
25 *large employer which requires an extended waiting*
26 *period to enroll in any minimum essential coverage*

1 under an employer-sponsored plan (as defined in sec-
2 tion 5000A(f)(2)), there is hereby imposed on the em-
3 ployer an assessable payment, in the amount specified
4 in paragraph (2), for each full-time employee of the
5 employer to whom the extended waiting period ap-
6 plies.

7 “(2) *AMOUNT.*—For purposes of paragraph (1),
8 the amount specified in this paragraph for a full-time
9 employee is—

10 “(A) in the case of an extended waiting pe-
11 riod which exceeds 30 days but does not exceed
12 60 days, \$400, and

13 “(B) in the case of an extended waiting pe-
14 riod which exceeds 60 days, \$600.

15 “(3) *EXTENDED WAITING PERIOD.*—The term
16 ‘extended waiting period’ means any waiting period
17 (as defined in section 2701(b)(4) of the Public Health
18 Service Act) which exceeds 30 days.

19 “(c) *LARGE EMPLOYERS OFFERING COVERAGE WITH*
20 *EMPLOYEES WHO QUALIFY FOR PREMIUM TAX CREDITS*
21 *OR COST-SHARING REDUCTIONS.*—

22 “(1) *IN GENERAL.*—If—

23 “(A) an applicable large employer offers to
24 its full-time employees (and their dependents) the
25 opportunity to enroll in minimum essential cov-

1 *erage under an eligible employer-sponsored plan*
2 *(as defined in section 5000A(f)(2)) for any*
3 *month, and*

4 *“(B) 1 or more full-time employees of the*
5 *applicable large employer has been certified to*
6 *the employer under section 1411 of the Patient*
7 *Protection and Affordable Care Act as having en-*
8 *rolled for such month in a qualified health plan*
9 *with respect to which an applicable premium tax*
10 *credit or cost-sharing reduction is allowed or*
11 *paid with respect to the employee,*

12 *then there is hereby imposed on the employer an as-*
13 *sessable payment equal to the product of the number*
14 *of full-time employees of the applicable large employer*
15 *described in subparagraph (B) for such month and*
16 *400 percent of the applicable payment amount.*

17 *“(2) OVERALL LIMITATION.—The aggregate*
18 *amount of tax determined under paragraph (1) with*
19 *respect to all employees of an applicable large em-*
20 *ployer for any month shall not exceed the product of*
21 *the applicable payment amount and the number of*
22 *individuals employed by the employer as full-time*
23 *employees during such month.*

24 *“(d) DEFINITIONS AND SPECIAL RULES.—For pur-*
25 *poses of this section—*

1 “(1) *APPLICABLE PAYMENT AMOUNT.*—*The term*
2 *‘applicable payment amount’ means, with respect to*
3 *any month, 1/12 of \$750.*

4 “(2) *APPLICABLE LARGE EMPLOYER.*—

5 “(A) *IN GENERAL.*—*The term ‘applicable*
6 *large employer’ means, with respect to a cal-*
7 *endar year, an employer who employed an aver-*
8 *age of at least 50 full-time employees on business*
9 *days during the preceding calendar year.*

10 “(B) *EXEMPTION FOR CERTAIN EMPLOY-*
11 *ERS.*—

12 “(i) *IN GENERAL.*—*An employer shall*
13 *not be considered to employ more than 50*
14 *full-time employees if—*

15 “(I) *the employer’s workforce ex-*
16 *ceeds 50 full-time employees for 120*
17 *days or fewer during the calendar*
18 *year; and*

19 “(II) *the employees in excess of 50*
20 *employed during such 120-day period*
21 *were seasonal workers.*

22 “(ii) *DEFINITION OF SEASONAL WORK-*
23 *ERS.*—*The term ‘seasonal worker’ means a*
24 *worker who performs labor or services on a*
25 *seasonal basis as defined by the Secretary of*

1 *Labor, including workers covered by section*
2 *500.20(s)(1) of title 29, Code of Federal*
3 *Regulations and retail workers employed ex-*
4 *clusively during holiday seasons.*

5 “(C) *RULES FOR DETERMINING EMPLOYER*
6 *SIZE.—For purposes of this paragraph—*

7 “(i) *APPLICATION OF AGGREGATION*
8 *RULE FOR EMPLOYERS.—All persons treated*
9 *as a single employer under subsection (b),*
10 *(c), (m), or (o) of section 414 of the Internal*
11 *Revenue Code of 1986 shall be treated as 1*
12 *employer.*

13 “(ii) *EMPLOYERS NOT IN EXISTENCE*
14 *IN PRECEDING YEAR.—In the case of an em-*
15 *ployer which was not in existence through-*
16 *out the preceding calendar year, the deter-*
17 *mination of whether such employer is an*
18 *applicable large employer shall be based on*
19 *the average number of employees that it is*
20 *reasonably expected such employer will em-*
21 *ploy on business days in the current cal-*
22 *endar year.*

23 “(iii) *PREDECESSORS.—Any reference*
24 *in this subsection to an employer shall in-*

1 *clude a reference to any predecessor of such*
2 *employer.*

3 “(3) *APPLICABLE PREMIUM TAX CREDIT AND*
4 *COST-SHARING REDUCTION.—The term ‘applicable*
5 *premium tax credit and cost-sharing reduction’*
6 *means—*

7 “(A) *any premium tax credit allowed under*
8 *section 36B,*

9 “(B) *any cost-sharing reduction under sec-*
10 *tion 1402 of the Patient Protection and Afford-*
11 *able Care Act, and*

12 “(C) *any advance payment of such credit or*
13 *reduction under section 1412 of such Act.*

14 “(4) *FULL-TIME EMPLOYEE.—*

15 “(A) *IN GENERAL.—The term ‘full-time em-*
16 *ployee’ means an employee who is employed on*
17 *average at least 30 hours of service per week.*

18 “(B) *HOURS OF SERVICE.—The Secretary,*
19 *in consultation with the Secretary of Labor,*
20 *shall prescribe such regulations, rules, and guid-*
21 *ance as may be necessary to determine the hours*
22 *of service of an employee, including rules for the*
23 *application of this paragraph to employees who*
24 *are not compensated on an hourly basis.*

25 “(5) *INFLATION ADJUSTMENT.—*

1 “(A) *IN GENERAL.*—*In the case of any cal-*
2 *endar year after 2014, each of the dollar*
3 *amounts in subsection (b)(2) and (d)(1) shall be*
4 *increased by an amount equal to the product*
5 *of—*

6 “(i) *such dollar amount, and*

7 “(ii) *the premium adjustment percent-*
8 *age (as defined in section 1302(c)(4) of the*
9 *Patient Protection and Affordable Care Act)*
10 *for the calendar year.*

11 “(B) *ROUNDING.*—*If the amount of any in-*
12 *crease under subparagraph (A) is not a multiple*
13 *of \$10, such increase shall be rounded to the next*
14 *lowest multiple of \$10.*

15 “(6) *OTHER DEFINITIONS.*—*Any term used in*
16 *this section which is also used in the Patient Protec-*
17 *tion and Affordable Care Act shall have the same*
18 *meaning as when used in such Act.*

19 “(7) *TAX NONDEDUCTIBLE.*—*For denial of de-*
20 *duction for the tax imposed by this section, see section*
21 *275(a)(6).*

22 “(e) *ADMINISTRATION AND PROCEDURE.*—

23 “(1) *IN GENERAL.*—*Any assessable payment pro-*
24 *vided by this section shall be paid upon notice and*
25 *demand by the Secretary, and shall be assessed and*

1 *collected in the same manner as an assessable penalty*
2 *under subchapter B of chapter 68.*

3 *“(2) TIME FOR PAYMENT.—The Secretary may*
4 *provide for the payment of any assessable payment*
5 *provided by this section on an annual, monthly, or*
6 *other periodic basis as the Secretary may prescribe.*

7 *“(3) COORDINATION WITH CREDITS, ETC.—The*
8 *Secretary shall prescribe rules, regulations, or guid-*
9 *ance for the repayment of any assessable payment*
10 *(including interest) if such payment is based on the*
11 *allowance or payment of an applicable premium tax*
12 *credit or cost-sharing reduction with respect to an*
13 *employee, such allowance or payment is subsequently*
14 *disallowed, and the assessable payment would not*
15 *have been required to be made but for such allowance*
16 *or payment.”.*

17 *(b) CLERICAL AMENDMENT.—The table of sections for*
18 *chapter 43 of such Code is amended by adding at the end*
19 *the following new item:*

“Sec. 4980II. Shared responsibility for employers regarding health coverage.”.

20 *(c) STUDY AND REPORT OF EFFECT OF TAX ON WORK-*
21 *ERS’ WAGES.—*

22 *(1) IN GENERAL.—The Secretary of Labor shall*
23 *conduct a study to determine whether employees’*
24 *wages are reduced by reason of the application of the*
25 *assessable payments under section 4980II of the Inter-*

