

## Description

# Tax Equity for Health Plan Beneficiaries

*Legislation introduced by Representative Jim McDermott*

For tax purposes, current law does not treat domestic partner benefits as it does typical employer-provided health insurance benefits, which are exempt from income and payroll tax. When a domestic partner benefit is extended to an eligible beneficiary designated by the employee in accordance with employer policy, a federal income and payroll tax is imposed on the portion of the benefit extended to the designated eligible beneficiary. This tax not only imposes an unfair burden on employees, it also imposes an additional payroll tax on employers. The Tax Equity for Health Plan Beneficiaries Act would remedy this inequity.

First, it would exempt from income and payroll tax all employer-provided health benefits that qualify under sections 105 and 106 of the Internal Revenue Code insofar as the benefits are provided to beneficiaries deemed eligible by the employer.

Second, the bill ensures that health benefits provided under self-employed plans are exempt from income and payroll tax.

Third, the Tax Equity for Health Plan Beneficiaries would address inequities that occur within Voluntary Employees Beneficiary Association plans and Health Reimbursement Arrangements, too.

Many employers, particularly in the collectively bargained context, use tax-exempt Voluntary Employees' Beneficiary Associations (VEBAs) to provide health coverage. Today, VEBAs are prohibited from providing more than de minimis benefits to domestic partners and other non-spouse, non-dependent beneficiaries. The legislation permits a VEBA to provide full health benefits to non-spouse, non-dependent beneficiaries (and the dependents of such beneficiaries) without endangering its tax-exempt status.

Health reimbursement arrangements (HRAs) are a type of employer-maintained health plan that generally reimburses employees and their spouses and dependents for medical expenses that are not covered by insurance. HRAs are often used to provide retiree health coverage or to supplement basic health insurance. Rules provided by the Department of Treasury prevent these arrangements from reimbursing medical expenses covering non-spouse, non-dependent beneficiaries. The bill directs Treasury to issue rules that allow employees to elect to have their HRAs reimburse the uninsured medical expenses of a domestic partner or other designated beneficiary.

This bill does not make any changes to the laws or guidelines that govern Health Savings Accounts, as the impact of this policy is not as well known to many in Congress at this point.