



May 21, 2010

Honorable Sander M. Levin
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office (CBO) and the staff of the Joint Committee on Taxation (JCT) have prepared the enclosed estimate of budgetary effects of H.R. 4213, the American Jobs and Closing Tax Loopholes Act, as posted on the Web site of the Committee on Ways and Means on May 20, 2010.

Cumulative Budgetary Effects

In total, CBO and JCT estimate that the legislation would increase budget deficits by about \$123 billion for fiscal years 2010 and 2011, by about \$141 billion over the 2010-2015 period, and by about \$134 billion over the 2010-2020 period, as shown in the enclosed table.

Revenue Provisions. The legislation would reduce federal revenues by about \$23 billion in 2010 and 2011, but would lead to a net increase in revenues totaling about \$40 billion over the 2010-2020 period. That increase includes an off-budget revenue gain (from increased collections of Social Security payroll taxes) of about \$6 billion and an on-budget revenue gain of about \$34 billion over the same period.

The revenue effects are the net result of provisions that both increase and decrease revenues. Revenue reductions would result mainly from the extension for one year of various tax provisions that expired at the end of 2009—including the tax credit for research and experimentation expenses, which would lower revenues by an estimated \$7 billion from 2010 through 2020, and the 15-year straight-line cost recovery method allowed for specified leasehold, restaurant, and retail improvements, which would reduce revenues by an estimated \$5 billion over that period. Revenue increases would result from a number of provisions including: taxing as ordinary income a portion of the income of partners from performing

investment management services (so-called “carried interest”), which is estimated to increase revenues by \$19 billion over the 2010-2020 period; altering various rules that corporations use to calculate their foreign tax credits and foreign-source income, which is estimated to increase revenues by \$14 billion over the 10-year period; and modifying the employment tax treatment of income earned by individuals in professional service businesses, which is estimated to increase revenues by \$11 billion over the period (\$6 billion of which is off-budget).

Spending Provisions. H.R. 4213 would increase outlays by \$174 billion over the 2010-2020 period, mostly between 2010 and 2015. The bill would extend benefits under the unemployment insurance program, at a total cost of about \$47 billion, primarily in 2010 and 2011. (CBO estimates that those unemployment provisions would increase outlays by \$46 billion and reduce revenues by \$1 billion over the 2010-2020 period.) In addition, the legislation would extend (for an additional six months) the increase in the federal share of Medicaid costs that was originally enacted in the American Recovery and Reinvestment Act of 2009 (ARRA). That extension, through June 30, 2011, would cost about \$24 billion (primarily in fiscal year 2011).

H.R. 4213 would amend the system for payments to physicians under Medicare, at an estimated net cost of \$64.6 billion over the 2010-2015 period and \$63.1 billion over the 2010-2020 period. Those amounts include interactions of the changes in Medicare’s payment for physicians’ services with payments to Medicare Advantage plans, premiums paid by Medicare enrollees, and payments by the Medicaid and TRICARE programs. Payment rates for physicians would increase by 1.3 percent on June 1, 2010, and by another 1.0 percent on January 1, 2011. (Under current law, those payment rates would fall by about 21 percent on June 1 and by another 6 percent on January 1, 2011.) During 2012 and 2013, a new formula would increase or freeze payment rates to physicians depending on the type of service performed and on whether they participate in a new practice arrangement established by Public Law 111-148 (the Patient Protection and Affordable Care Act). Payment rates would be reduced by about 35 percent in 2014 to approximately the levels they would have been without the changes made between 2010 and 2013. For years after 2014, CBO estimates that payment rates would decline by an average of about 2 percent per year, keeping spending close to the amounts expected under current law in those years.

Statutory Pay-As-You-Go Impact

Under the Statutory Pay-As-You-Go Act of 2010 (Title I of Public Law 111-139), three types of budgetary impacts are excluded from the pay-as-you-go calculations specified by the act: off-budget effects, emergency requirements, and certain current-policy adjustments.

After excluding the bill's off-budget effects (on Social Security payroll taxes), CBO estimates that H.R. 4213 would increase on-budget deficits by \$144.5 billion over the 2010-2015 period and by \$140.0 billion over the 2010-2020 period.

Emergency Designations. H.R. 4213 would designate three sections as emergency requirements, reducing the effects of the legislation that are subject to pay-as-you-go procedures. Emergency designations would apply to sections 501, 511, and 516, which pertain to extension of unemployment compensation, extension of premium assistance for COBRA health care insurance, and extension of the ARRA Medicaid payment rates, respectively. The three emergency designations result in removing \$78.7 billion from the on-budget costs over the 2010-2020 period that are subject to pay-as-you-go procedures.

Current-Policy Adjustments. The Statutory Pay-As-You-Go Act specifies current-policy adjustments for the pay-as-you-go calculation for certain legislation, including provisions that would amend or supersede the system for payments to physicians under Medicare. Such an adjustment would apply to H.R. 4213 because it contains provisions (in section 523) that would change those Medicare payments (as described under "Spending Provisions" above), resulting in net costs of about \$63 billion over the 2010-2020 period.

However, CBO has not completed an estimate of the current-policy adjustment because there are a number of ambiguities regarding how to apply the specifications in the Statutory Pay-As-You-Go Act. In particular, it is unclear whether the maximum current-policy adjustment available for H.R. 4213 is equivalent to freezing current policy through December 31, 2013, or December 31, 2014. It is also unclear whether the current-policy adjustment should be: (1) applied to the costs of changes to policy through 2013 or 2014, which would leave savings from changes to policy in subsequent years as savings for pay-as-you-go purposes, or (2) applied after the budgetary effects in all years have been combined, resulting in no net savings. Finally, it is unclear how to treat costs resulting from interactions of the physician payment policy with other aspects of Medicare.

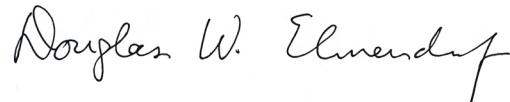
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Section 12 of the Statutory Pay-As-You-Go Act of 2010 permits CBO to consult with the Chairmen of the House and Senate Budget Committees to resolve ambiguities in that act. CBO is currently engaged in such consultations.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Sam Papenfuss and Tom Bradley.

Sincerely,

A handwritten signature in cursive script that reads "Douglas W. Elmendorf".

Douglas W. Elmendorf
Director

Enclosure

cc: Honorable Dave Camp
Ranking Member