



May 27, 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 the budgetary effects of H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010, reflecting an amendment offered by Chairman Levin, as posted on the Web site of the House Committee on Rules on May 26, 2010. (On May 20, 2010, the Committee on Ways and Means posted on its Web site a proposed House amendment to the version of H.R. 4213 that was passed by the Senate on March 10, 2010. This estimate thus reflects the combination of that House amendment and the proposed modification posted by the Rules Committee on May 26, 2010.)

Cumulative Budgetary Effects

In total, CBO and JCT estimate that the legislation would increase budget deficits by about \$115 billion for fiscal years 2010 and 2011 and by about \$84 billion over the 2010-2015 and 2010-2020 periods (see Table 1).

Revenue Provisions. The legislation would reduce federal revenues by about \$22 billion in 2010 and 2011, but would lead to a net increase in revenues totaling about \$43 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 \$37 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 \$127 billion over the 2010-2020 period; \$113 billion of that increase would occur between 2010 and 2015. The bill would extend benefits under the unemployment insurance program, at a total cost of about \$40 billion, primarily in 2010 and 2011. (CBO estimates that those unemployment provisions would increase outlays by about \$39 billion and reduce revenues by about \$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 about \$23 billion over the 2010-2020 period. That amount includes interactions of the changes in Medicare’s payments 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 2.2 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.) In 2012, payment rates would be reduced by about 33 percent to approximately the levels they would have been without the changes made in 2010 and 2011.

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 legislation's off-budget effects (on Social Security payroll taxes), CBO estimates that H.R. 4213 would increase on-budget deficits by roughly \$87 billion over the 2010-2015 period and by roughly \$91 billion over the 2010-2020 period. Removing the effects of provisions designated as emergency requirements and making the current-policy adjustment called for under P.L. 111-139 yields net pay-as-you-go savings of about \$5 billion over the 2010-2015 period and about \$2 billion over the 2010-2020 period (see Table 2).

Emergency Designations. H.R. 4213 would designate three sections as emergency requirements, reducing the budgetary 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 increase in the federal share of Medicaid costs, respectively. The three emergency designations result in removing about \$70 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, as amended) that would change those Medicare payments (as described under "Spending Provisions" above).

In its May 21, 2010, cost estimate for H.R. 4213, as posted on the Web site of the Committee on Ways and Means, CBO noted that it had not completed an estimate of the current-policy adjustment for that version of the legislation because there were a number of ambiguities regarding how to apply the specifications in the Statutory Pay-As-You-Go Act.

In accordance with section 12 of the Statutory Pay-As-You-Go Act, CBO consulted with the Chairmen of the House and Senate Budget Committees to resolve ambiguities in that act regarding how to make a current-policy

adjustment with respect to H.R. 4213. Based on those consultations, CBO concludes that:

- (1) The maximum allowable adjustment for a policy changing payments to physicians through December 31, 2011, as in section 523, as amended, equals the net cost of freezing current payment rates to physicians through that date, and
- (2) The current-policy adjustment should be applied so as to offset the net costs of section 523 occurring in any year over the 2010-2020 period, up to the maximum allowable adjustment.

The net costs of section 523—about \$23 billion over the 2010-2015 and 2010-2020 periods—are above the maximum allowable adjustment for that policy, which CBO estimates is about \$22 billion. Therefore, the current-policy adjustment equals the maximum allowable adjustment as shown in Table 2.

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,

Douglas W. Elmendorf
Director

Enclosure

cc: Honorable Dave Camp
Ranking Member