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Health Care Bill's 1099 Reporting Burdens Businesses

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One of the most troubling policies in the Patient Protection and Affordable Care Act (PPACA) is a new requirement that businesses report more information on their activities to the Internal Revenue Service. This new requirement will force businesses to divert scarce resources to complying with additional bureaucratic red tape that they could better use creating new jobs.

Burdensome Requirement. The new information reporting requirement is an expansion of a law already in place. Businesses currently have to report to the IRS all payments of \$600 or more to individuals for the performance of services on 1099 forms. This makes it harder for individuals to avoid paying taxes on income they earned from businesses that did not employ them full-time. The PPACA expanded this requirement to include all transactions with *other businesses* of more than \$600, including those involving tangible goods.

This provision takes effect in 2012, and Congress estimates it will raise \$17 billion over 10 years. It was one of 18 separate tax hikes that are part of the law that, combined, will increase taxes more than \$500 billion over 10 years.

Few observers recognized the trouble the 1099 reporting requirement would cause businesses at the time Congress passed the PPACA. Other tax hikes in the PPACA—such as the new excise tax on high cost “Cadillac” health insurance plans, higher payroll taxes, and a new tax on investment—garnered more attention in the debate leading up to congressional passage because they will raise considerably more revenue.¹ But the bureaucratic bur-

den the 1099 reporting requirement will put on businesses will be immense.

It gained attention after passage of the PPACA once businesses realized the heavy toll it will inflict on them. Businesses conduct numerous transactions with other businesses that often cost more than \$600. Businesses will now have to issue more paperwork every time they pay rent for their offices, buy new equipment to make their workers more efficient or increase capacity, or simply purchase basic office supplies like coffee and paper towels for their break rooms.

The expanded 1099 reporting requirement will bury businesses in an avalanche of paperwork for often basic and routine activities.

Slows Job Creation. Large businesses can more easily absorb the cost of this new bureaucracy with their large legal and accounting teams than small businesses that do not have such manpower. The new requirements will slam small businesses hard, because the paperwork burden will force them to redirect scarce resources from productive activities that could grow the business, add jobs, and pay higher wages to complying with the onerous new reporting requirements.²

But even though the expanded 1099 reporting requirements will hit small businesses hardest, big-

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ger businesses will still need to divert some of their resources to complying with this onerous regulation. The same negative impact on job creation will result.

This is no time to be discouraging businesses from hiring new workers. With economic recovery stagnant, Americans cannot afford to stop the creation of any jobs.

No Revenue Raised. The 1099 reporting requirement is based on flawed logic. The IRS does not have the capacity to examine all the new 1099s businesses will file. Most of the new 1099s will never pass through an examiner's hands. Instead, Congress believes that the 1099 reporting requirement will compel businesses to report more income to the IRS, because they will all of a sudden either recognize income they were not reporting before or feel it necessary to report income they were sheltering from taxation. Supposedly, if businesses report more income, they will pay more taxes.

But more reporting will not bring in more revenue, because Congress overestimates how much income businesses overlook or shelter from tax. This effort is another in Congress's long-fought battle to shrink the elusive "tax gap": the amount of revenue the tax code should raise but does not for a variety of reasons. Congress misdiagnoses the cause of the tax gap when it tries to reduce it by cracking down on willful or negligent underreporting of income.

The tax gap is largely the result of a tax code that is overly complex and imposes tax rates that are too high. The tax code is so complex that individuals and businesses make errors attempting in good faith to accurately compute their tax liability. High marginal income tax rates and high tax rates on investment also contribute to the tax gap. They create

large incentives for individuals to search for ways to shelter their income from those rates, both legitimately and through outright evasion. If Congress simplified the tax code and reduced tax rates, a majority of the tax gap would disappear without inflicting onerous new burdens on businesses.

No Need to Offset. Some argue that if Congress does repeal the 1099 requirement, it needs to offset the lost revenue by raising other taxes. Congress does not need to offset individual elements of the PPACA on the way to full repeal—especially poorly conceived tax hikes that will burden the economy. Raising other taxes to replace revenue that the PPACA was supposed to raise will leave taxes higher than they need to be.

Congress passed all the tax hikes in the PPACA to cover the cost of the new spending the law put in place. Most of that spending has not started yet. If some in Congress remain adamant that the cost of repealing the 1099 requirement be offset, they can simply not spend the money they planned to spend in the PPACA, including simply delaying spending provisions.

Moreover, the revenue the 1099 requirement purports to raise is phantom revenue that will likely never materialize. So attempting to offset it is unnecessary.

Repeal Immediately. The heavy and unnecessary burden the 1099 reporting requirement will place on businesses is yet another example of the damaging effects of the new health care law. Not only should the 1099 reporting requirement be repealed, but so should the entire PPACA law.

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1. See Curtis Dubay, "Obamacare: Impact on Taxpayers," Heritage Foundation *Backgrounder* No. 2402, April 14, 2010, at <http://www.heritage.org/Research/Reports/2010/04/Obamacare-Impact-on-Taxpayers>.
2. See Curtis Dubay, "Small Businesses Face Steep Tax Hikes Unless Congress Acts Soon," testimony before the Committee on Small Business, U.S. House of Representatives, May 5, 2010, at <http://www.heritage.org/Research/Testimony/Small-Businesses-Face-Steep-Tax-Hikes-Unless-Congress-Acts-Soon>.