

- “(A) eyeglasses,
  - “(B) contact lenses,
  - “(C) hearing aids, and
  - “(D) any other medical device determined by the Secretary to be of a type which is generally purchased by the general public at retail for individual use.”, and
- (2) by inserting after the item relating to subchapter D in the table of subchapters for such chapter the following new item:

“SUBCHAPTER E. MEDICAL DEVICES”.

(b) CERTAIN EXEMPTIONS NOT TO APPLY.—

(1) Section 4221(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “In the case of the tax imposed by section 4191, paragraphs (3), (4), (5), and (6) shall not apply.”

(2) Section 6416(b)(2) of such Code is amended by adding at the end the following: “In the case of the tax imposed by section 4191, subparagraphs (B), (C), (D), and (E) shall not apply.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 2012.

(d) REPEAL OF SECTION 9009 OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT.—Section 9009 of the Patient Protection and Affordable Care Act, as amended by section 10904 of such Act, is repealed effective as of the date of enactment of that Act.

**SEC. 1406. HEALTH INSURANCE PROVIDERS.**

(a) IN GENERAL.—Section 9010 of the Patient Protection and Affordable Care Act, as amended by section 10905 of such Act, is amended—

(1) in subsection (a)(1), by striking “2010” and inserting “2013”;

(2) in subsection (b)(2)—

(A) by striking “For purposes of paragraph (1), the net premiums” and inserting “For purposes of paragraph (1)—

“(A) IN GENERAL.—The net premiums”; and

(B) by adding at the end the following subparagraph:

“(B) PARTIAL EXCLUSION FOR CERTAIN EXEMPT ACTIVITIES.—After the application of subparagraph (A), only 50 percent of the remaining net premiums written with respect to health insurance for any United States health risk that are attributable to the activities (other than activities of an unrelated trade or business as defined in section 513 of the Internal Revenue Code of 1986) of any covered entity qualifying under paragraph (3), (4), (26), or (29) of section 501(c) of such Code and exempt from tax under section 501(a) of such Code shall be taken into account.”;

(3) in subsection (c)—

(A) by inserting “during the calendar year in which the fee under this section is due” in paragraph (1) after “risk”;

(B) in paragraph (2), by striking subparagraphs (C), (D), and (E) and inserting the following new subparagraphs:

“(C) any entity—

“(i) which is incorporated as a nonprofit corporation under a State law,

“(ii) no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in section 501(h) of the Internal Revenue Code of 1986), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

“(iii) more than 80 percent of the gross revenues of which is received from government programs that target low-income, elderly, or disabled populations under titles XVIII, XIX, and XXI of the Social Security Act, and

“(D) any entity which is described in section 501(c)(9) of such Code and which is established by an entity (other than by an employer or employers) for purposes of providing health care benefits.”;

(C) in paragraph (3)(A), by striking “subparagraph (C)(i)(I), (D)(i)(I), or (E)(i)” and inserting “subparagraph (C) or (D)”;

(D) by adding at the end the following new paragraph:

“(4) JOINT AND SEVERAL LIABILITY.—If more than one person is liable for payment of the fee under subsection (a) with respect to a single covered entity by reason of the application of paragraph (3), all such persons shall be jointly and severally liable for payment of such fee.”;

(4) by striking subsection (e) and inserting the following:

“(e) APPLICABLE AMOUNT.—For purposes of subsection (b)(1)—

“(1) YEARS BEFORE 2019.—In the case of calendar years beginning before 2019, the applicable amount shall be determined in accordance with the following table:

<b>“Calendar year</b>	<b>Applicable amount</b>
2014 .....	\$8,000,000,000
2015 .....	\$11,300,000,000
2016 .....	\$11,300,000,000
2017 .....	\$13,900,000,000
2018 .....	\$14,300,000,000.

“(2) YEARS AFTER 2018.—In the case of any calendar year beginning after 2018, the applicable amount shall be the applicable amount for the preceding calendar year increased by the rate of premium growth (within the meaning of section 36B(b)(3)(A)(ii) of the Internal Revenue Code of 1986) for such preceding calendar year.”;

(5) in subsection (g), by adding at the end the following new paragraphs:

“(3) ACCURACY-RELATED PENALTY.—

“(A) IN GENERAL.—In the case of any understatement of a covered entity’s net premiums written with respect to health insurance for any United States health risk for any calendar year, there shall be paid by the covered entity making such understatement, an amount equal to the excess of—

“(i) the amount of the covered entity’s fee under this section for the calendar year the Secretary determines should have been paid in the absence of any such understatement, over

“(ii) the amount of such fee the Secretary determined based on such understatement.

“(B) UNDERSTATEMENT.—For purposes of this paragraph, an understatement of a covered entity’s net premiums written with respect to health insurance for any United States health risk for any calendar year is the difference between the amount of such net premiums written as reported on the return filed by the covered entity under paragraph (1) and the amount of such net premiums written that should have been reported on such return.

“(C) TREATMENT OF PENALTY.—The penalty imposed under subparagraph (A) shall be subject to the provisions of subtitle F of the Internal Revenue Code of 1986 that apply to assessable penalties imposed under chapter 68 of such Code.

“(4) TREATMENT OF INFORMATION.—Section 6103 of the Internal Revenue Code of 1986 shall not apply to any information reported under this subsection.”; and

(6) by striking subsection (j) and inserting the following new subsection:

“(j) EFFECTIVE DATE.—This section shall apply to calendar years beginning after December 31, 2013.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9010 of the Patient Protection and Affordable Care Act.

**SEC. 1407. DELAY OF ELIMINATION OF DEDUCTION FOR EXPENSES ALLOCABLE TO MEDICARE PART D SUBSIDY.**

Section 9012(b) of the Patient Protection and Affordable Care Act is amended by striking “2010” and inserting “2012”.

**SEC. 1408. ELIMINATION OF UNINTENDED APPLICATION OF CELLULOSIC BIOFUEL PRODUCER CREDIT.**

(a) IN GENERAL.—Section 40(b)(6)(E) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

“(iii) EXCLUSION OF UNPROCESSED FUELS.—The term ‘cellulosic biofuel’ shall not include any fuel if—

“(I) more than 4 percent of such fuel (determined by weight) is any combination of water and sediment, or

“(II) the ash content of such fuel is more than 1 percent (determined by weight).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used on or after January 1, 2010.

**SEC. 1409. CODIFICATION OF ECONOMIC SUBSTANCE DOCTRINE AND PENALTIES.**

(a) IN GENERAL.—Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

“(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.—