

News from Congressman Phil Roe

REPRESENTING TENNESSEE'S 1st CONGRESSIONAL DISTRICT

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For Immediate Release

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Roe Seeks to Amend Contradictory Regulation from the Affordable Care Act

Sends letter to Commissioner of Internal Revenue

WASHINGTON D.C. – U.S. Congressman Phil Roe, M.D. (TN-01), along with several of his colleagues, sent the following letter to the Commissioner of Internal Revenue, Douglas Shulman, asking him to amend an IRS regulation regarding federal health insurance tax credits that contradicts the explicit statutory language from the Affordable Care Act describing individuals' eligibility for receipt of these tax credits:

Recent reports indicate that proposed rule REG-13149-10 (rule) released on August 17, 2011 relating to the federal health insurance premium assistance tax credits (tax credits) included in the Patient Protection and Affordable Care Act (PPACA, P.L. 111-148) contradicts the explicit statutory language describing individuals' eligibility for receipt of these tax credits.

Section 1401(b)(2)(A) of Subtitle E of Title I of PPACA states that the tax credit amount determined under this section shall be provided to eligible individuals in a qualified health plan who are "...enrolled in through an Exchange established by the State under [Section] 1311 of the Patient Protection and Affordable Care Act..." However, the rule expands individuals' eligibility for tax credits beyond PPACA's explicit text to individuals enrolled in qualified health plans who reside in states which the federal government has established an Exchange pursuant to PPACA's authority under Section 1321. Specifically, the rule states "The proposed regulations provide that a taxpayer is eligible for the credit for a taxable year if the taxpayer...is enrolled in one or more qualified health plans through an Exchange established under section 1311 or 1321 [emphasis added] of the Affordable Care Act [PPACA]..."¹¹

Section 1 of Article I of the U.S. Constitution vested the Congress of the United States with the power to enact legislation. Federal administrative agencies like the Internal Revenue Service do

explicit statutory text of dually-enacted public laws. Therefore, the proposed rule—allowing individuals enrolled in qualified health plans through a federally-operated exchange to receive a tax credit—is in violation of Section 1401(b)(2)(A) of PPACA.

We request that you amend the proposed rule's language to be consistent with PPACA's statutory text. Should your agency fail to make such a change, we will be left to consider a legislative solution that enforces Congressional intent.

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