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SELF-EMPLOYED HEALTH INSURANCE DEDUCTION: NICE TAX BREAK OR GROSS INEQUITY?

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Equity, one of the basic principles of public finance, is often a consideration in discussions of tax policy or tax reform. Otherwise largely ignored, this paper considers the horizontal equity position of the self-employed health insurance deduction. Enacted by the Tax Reform Act of 1986, lawmakers intended for this deduction to bring more parity to the self-employed taxpayer and the employed taxpayer. However, an illustration comparing a self-employed taxpayer to an employed taxpayer in similar situations demonstrates that the two are taxed inequitably. This paper also illustrates a simple solution to bring more fairness to this deduction.

INTRODUCTION

Equity is a major goal in the writing of tax legislation in the United States. The type of equity most often discussed is vertical equity: as income rises, so does the tax rate. Another aspect of equity—horizontal equity—is perhaps assumed to be in effect; therefore, it is often overlooked. Horizontal equity is the notion that people with equal incomes and standards of living should be taxed equally. In their book, *Taxes in America: What Everyone Needs to Know*, Leonard Burman and Joel Slemrod add that "the tax system should not discriminate on the basis of irrelevant

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characteristics or tastes."[1] One such "irrelevant characteristic" is income source—the employed and the self-employed should be taxed equitably.[2]

Legislators in the United States have made numerous attempts to bridge the taxation gap between the employed and the self-employed by adding many Internal Revenue Code (the Code) provisions over the past century. The focus of this paper is § 162(*l*), which addresses the deductibility of health insurance premiums paid by self-employed taxpayers.

The Tax Reform Act of 1986 added the self-employed health insurance deduction to address inequities between the taxation of health insurance for the employed and the self-employed.[3] The taxable wages/salary of an employee participating in an employer-sponsored health insurance plan are decreased by the employee's share of health insurance premiums for both income tax and employment taxes.[4] The self-employed health insurance deduction initially allowed self-employed taxpayers to deduct *some* of their health insurance costs in calculating income tax, but did not allow a similar deduction in calculating self-employment tax (the equivalent of employment taxes paid on wages/salaries).[5]

Since its inception more than three decades ago, the self-employed health insurance deduction has been regularly modified through legislation. Most changes, however, have been subtle, and the deduction as codified today is generally consistent with the initial provision. The most substantive changes are a permanent extension of the deduction and a gradual increase in the percentage of premiums deductible from 25 to 100 percent.[6]

The addition of the self-employed health insurance deduction led to a significant enhancement in the tax equity of health insurance costs between employed and self-employed taxpayers. However, legislators stopped short of complete equity by including language that limited the deduction to only the income tax of self-employed taxpayers.[7] This limitation gives employed taxpayers an annual tax advantage over self-employed taxpayers when purchasing health insurance. While the self-employed health insurance deduction is widely regarded as one of the best tax breaks available to self-employed taxpayers, the inequity

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[1] LEONARD E. BURMAN & JOEL SLEMROD, TAXES IN AMERICA: WHAT EVERYONE NEEDS TO KNOW 163 (2nd ed. 2020).

[2] Employed taxpayers, referenced throughout the paper, are taxpayers who earn their income working as employees. Self-employed taxpayers, referenced throughout the paper, are generally sole proprietors and partners in partnerships. Many other aspects of the income-source argument exist but are irrelevant to this paper and not discussed.

[3] Pub. L. No. 99-514, § 1161, 100 Stat. 2509 (1986).

[4] I.R.C. § 106. Section 3101 levies employment taxes on wages "as defined in section 3121(a)." Section 3121(a)(2) excludes any amounts paid to or on behalf of an employee for insurance through an employer-provided plan from wages. Proposed Regulation § 1.125-1 considers employee salary reductions as employer contributions and thus not subject to employment taxes.

[5] Employment taxes, referenced throughout the paper, include the Social Security tax and the Medicare tax. These taxes are commonly referred to collectively as "FICA (Federal Insurance Contributions Act) taxes."

[6] *See infra* Table 1 for a list of public laws providing for the initial deductibility and subsequent percentage increases.

[7] I.R.C. § 162(*l*)(4).

created by its inapplicability for self-employment tax purposes has often been ignored.

This paper reviews the development of the self-employed health insurance deduction tax provision and illustrates the inequity of the provision as compared to health insurance tax benefits for employed taxpayers. Part I discusses the history of the self-employed health insurance deduction, while Part II presents the current structure of § 162(*l*). Part III offers evidence related to the fairness of the deduction, and the paper concludes that a law change is needed to enhance horizontal equity.

I. HISTORY OF THE SELF-EMPLOYED HEALTH INSURANCE DEDUCTION

A. Creation and Motivation

The self-employed health insurance deduction was provided to taxpayers with the enactment of the Tax Reform Act of 1986.[8] Prior to the passage of this new tax law, the only medical insurance-based income tax benefit extended to self-employed taxpayers was a medical expense deduction, which is an itemized deduction.[9] At the time the law was passed, these expenses were subject to a 5 percent of adjusted gross income phase-out. Thus, prior to 1986, self-employed individuals only received tax benefits for health insurance if they itemized deductions and had total medical expenses in excess of the 5-percent-of-adjusted-gross-income threshold. Employed taxpayers, on the other hand, had long received the tax benefit of income exclusion for any amount of health insurance premiums paid by (or through) their employers under § 106.[10] Because this exclusion applied (and still applies) only to employees, self-employed taxpayers had to purchase their own health insurance without subsidization, often reaping no tax benefits.

The Joint Committee on Taxation's *General Explanation of the Tax Reform Act of 1986* indicates that Congress added the self-employed health insurance deduction to the Code because the existing law "created unfair distinctions between self-employed individuals (the owners of unincorporated business) and the owners of corporations," and incentivized incorporation.[11] An additional motivation came from Congress's desire to change social behavior through the Code. Knowing that employer health plans were least prevalent among small employers (i.e., self-employed employers), members of Congress felt compelled to act to increase access to proper medical benefits.[12]

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[8] Pub. L. No. 99-514, 100 Stat. 2509 (1986).
[9] I.R.C. § 213(d)(1)(D).
[10] Section 106 provides an income exclusion for health insurance premiums employers pay for the employer's portion of the premium, as well as the employee's portion paid by the employer on the employee's behalf.
[11] STAFF OF THE JOINT COMM. ON TAX'N, 100th Cong., 1st Sess., *General Explanation of the Tax Reform Act of 1986* at 815 (Comm. Print 1982).
[12] *Id.*

B. Initial Provision

The Tax Reform Act of 1986 enacted § 162(*l*),[13] which initially allowed self-employed taxpayers to deduct 25 percent of the health insurance premiums paid for the taxpayer, the taxpayer's spouse, and the taxpayer's dependents.[14] The provision set forth three "limitations" related to income, non-discrimination requirements, and eligibility for other health insurance coverage. Two additional paragraphs in the original provision coordinated the deduction with the itemized medical expense deduction and established the deduction's sunset date of taxable years beginning after December 31, 1989.[15] The provision was effective for taxable years beginning after December 31, 1986.[16]

II. CURRENT STRUCTURE OF § 162(*l*)

While much of the original language of the provision still exists in the Code today, legislation has affected the self-employed health insurance deduction since its inception. The changes are summarized below in Table 1 with substantial changes in bold text.

[13] Section 162(m) was re-designated as Section 162(*l*) by Pub. L. No. 100-647, § 3011(b)(3)(B), 102 Stat. 3625 (1988).
[14] Pub. L. No. 99-514, § 1161(a), 100 Stat. 2509 (1986).
[15] *Id*.
[16] *Id.* § 1161(b).

Table 1

Summary of Legislative Changes to the Self-Employed Health Insurance Deduction

Public Law	Section	Year of Change	Effect
100-647	1011B(b)(1)	1988	**Added paragraph declaring the deduction inapplicable to the self-employment tax**
100-647	1011B(b)(3)	1988	Supplemental language added regarding the limitation based on earned income
100-647	3011(b)(3)(B)	1988	Re-designated the Code section from § 162(m) to § 162(*l*)
101-140	203(a)(4)	1989	Eliminated paragraph regarding nondiscrimination requirements after § 89 was repealed
101-239	7107(a)(1)	1989	Extended sunset date of deduction from December 31, 1989, to September 30, 1990
101-239	7107(b)	1989	**Added paragraph to address the deduction's applicability to shareholders of S corporations**
101-508	11111(d)(2)	1990	Modified paragraph regarding coordination with itemized medical expense deduction
101-508	11410(a)	1990	Extended sunset date of deduction from September 30, 1990, to December 31, 1991
102-227	110(a)(1)	1991	Extended sunset date of deduction from December 31, 1991, to June 30, 1992
103-66	13131(d)(2)	1993	Modified paragraph regarding coordination with itemized medical expense deduction
103-66	13174(a)(1)	1993	Extended sunset date of deduction from June 30, 1992, to December 31, 1993
103-66	13174(b)(1)	1993	Modified paragraph regarding the limitation based on other coverage
104-7	1(a)	1995	**Provision made permanent by removing the paragraph regarding a sunset date**
104-7	1(b)	1995	**Deductible percentage of premiums increased from 25 to 30 percent**
104-191	311(a)	1996	Modified paragraph regarding allowance of deduction to reflect a schedule of increases from 30 to 80 percent
104-191	322(b)(2)(B)	1996	**Added paragraph to address the deduction's applicability to premiums paid for long-term care insurance**
105-34	934(a)	1997	**Modified paragraph regarding allowance of deduction to reflect a modified schedule of percentage increases; 100 percent deductibility included for first time**
105-34	1602(c)	1997	Added clarifying language to paragraph regarding deduction's applicability to premiums paid for long-term care insurance
105-277	2002(a)	1998	Modified paragraph regarding allowance of deduction to reflect a modified schedule of percentage increases
111-240	2042(a)	2010	**Added language to paragraph regarding self-employment tax to allow the deduction for self-employment tax purposes for calendar year 2010**
111-152	1004(d)(2)	2010	**Modified paragraph regarding allowance of deduction to reflect insurance change in PPACA 2013 allowing children under age 27 to remain on parents' insurance**
111-152	1004(d)(3)	2010	Modified paragraph regarding other coverage for consistency with change immediately above

Source: Internal Revenue Code: History for Code Section 162, available at https://checkpoint.riag.com (last visited Jan. 31, 2020)

Following the changes detailed in Table 1, the current provision allows any self-employed taxpayer a deduction for the full amount paid for health insurance premiums during a taxable year for the taxpayer, the taxpayer's spouse, and the taxpayer's dependents.[17] The deduction under current law additionally applies to insurance purchased for the taxpayer's children under the age of 27 at the end of the taxable year.[18]

Section 162(*l*) includes subsection (4), which sets forth the deduction's inapplicability to the self-employment tax. Interestingly, this subsection was excluded from the legislation that enacted §162(*l*).[19] In May 1987, the Joint Committee on Taxation indicated that "A technical correction may be needed so that the statute reflects this intent."[20] Subsection (4) of §162(*l*) was officially added in 1988.[21]

III. FAIRNESS OF THE SELF-EMPLOYED HEALTH INSURANCE DEDUCTION

A. General Fairness

The self-employed health insurance deduction is the product of Congress's attempt at making taxation associated with health insurance premiums more equitable between the employed and the self-employed. Before the deduction was added to the Code in 1986, self-employed taxpayers paid all their health insurance costs with dollars that were fully taxed for income tax and self-employment tax purposes. Employed taxpayers, on the other hand, often enjoyed subsidized premiums fully exempt from both income and employment taxation.[22] The self-employed health insurance deduction was a positive step in improving equity between employees and the self-employed. Whether the deduction went far enough, however, remains open for debate.

B. Fairness Specific to Employment Taxes

As explained above, the self-employed health insurance deduction does not reduce income from self-employment in computing self-employment tax. Employed taxpayers working for employers that offer the benefit of health insurance are taxed differently. Under §§ 106 and 125, employed taxpayers are exempt from both income and employment taxation on amounts paid for health insurance premiums by their employers. For employed taxpayers who have access to an employer-provided plan that is not completely subsidized by the employer, salary reductions for the employee's share of health insurance premiums are excluded from income for both income tax and employment tax purposes. An

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[17] I.R.C. § 162(*l*)(1).
[18] I.R.C. § 162(*l*)(1)(D).
[19] Pub. L. No. 99-514, § 1161(a), 100 Stat. 2509 (1986).
[20] STAFF OF THE JOINT COMM. ON TAX'N, 100th Cong., 1st Sess., *General Explanation of the Tax Reform Act of 1986* at 816 (Comm. Print 1982).
[21] Pub. L. No. 100-647, § 1011B(b)(1), 102 Stat. 3488 (1988). The deduction also applies to shareholders of S corporations. See I.R.C. § 162(*l*)(5).
[22] *See supra* text accompanying notes 9–10.

employed taxpayer earning a salary of $100,000 who elects to have his salary reduced by $5,000 to pay for health insurance premiums is taxed on $95,000 for income tax and employment tax purposes. If the total cost of the insurance is $7,500 and the employer pays the remaining $2,500, the employee's taxable income is still $95,000, because both the $5,000 salary reduction and the $2,500 paid by the employer are not included in the employee's income.

An illustration is also helpful in understanding the economic consequences of the difference in the tax treatment of health insurance premiums for the employed and self-employed. Table 2, Panel A, provides a comprehensive comparison of the tax consequences of purchasing or not purchasing health insurance for two identical taxpayers that differ only in employment status. Panel A compares the tax consequences for a single taxpayer who earns $100,000 of salary income with a single taxpayer who earns $100,000 of net income as a sole proprietor.

Table 2
Comparison of Total Tax Paid Between Employed and Self-Employed

Panel A: Single Taxpayer

2019 TAX YEAR FACTS:			
Salary/Net Income from Schedule C	$	100,000	
Health Insurance (HI) Premiums	$	7,188	*
Deductions from AGI: Standard Deduction			

	WITHOUT HI Employed	WITHOUT HI Self-Employed	WITH HI Employed	WITH HI Self-Employed
Taxable Wages/Salary	$ 100,000	$ -	$ 92,812	$ -
Schedule C Income	-	100,000	-	100,000
Self-Employed Health Insurance Deduction	-	-	-	(7,188)
1/2 Self-Employment Tax Deduction	-	(7,065)	-	(7,065)
Adjusted Gross Income	100,000	92,935	92,812	85,747
Standard Deduction	(12,200)	(12,200)	(12,200)	(12,200)
Qualified Business Income Deduction	-	(16,147)	-	(14,709)
Taxable Income	87,800	64,588	80,612	58,838
Income Tax	15,246	10,068	13,593	8,803
Self-Employment Tax	-	14,130	-	14,130
Employment Taxes	7,650	-	7,100	-
TOTAL TAX PAID	$ 22,896	$ 24,198	$ 20,693	$ 22,933

Decrease in Tax After Health Insurance Exclusion/Deduction

	Employed	Self-Employed	"Penalty" for SE
Dollar Decrease:	$ 2,203	$ 1,265	$ 938
Percentage Decrease:	9.62%	5.23%	

* *Employer Health Benefits 2019 Annual Survey*, The Kaiser Family Foundation and the Health Research & Educational Trust, available at https://www.kff.org/health-costs/report/2019-employer-health-benefits-survey/ (last visited Oct. 2, 2020)

Table 2 (continued)
Comparison of Total Tax Paid Between Employed and Self-Employed

Panel B: Married Taxpayer (MFJ), Two Qualifying Children under 17

2019 TAX YEAR FACTS:

Salary/Net Income from Schedule C	$	100,000	
Health Insurance (HI) Premiums	$	20,576	*
Deductions from AGI: Standard Deduction			

	WITHOUT HI Employed	WITHOUT HI Self-Employed	WITH HI Employed	WITH HI Self-Employed
Taxable Wages/Salary	$ 100,000	$ -	$ 79,424	$ -
Schedule C Income	-	100,000	-	100,000
Self-Employed Health Insurance Deduction	-	-	-	(20,576)
1/2 Self-Employment Tax Deduction	-	(7,065)	-	(7,065)
Adjusted Gross Income	100,000	92,935	79,424	72,359
Standard Deduction	(24,400)	(24,400)	(24,400)	(24,400)
Qualified Business Income Deduction	-	(13,707)	-	(9,592)
Taxable Income	75,600	54,828	55,024	38,367
Income Tax, before Credits	8,684	6,191	6,215	4,216
Child Tax Credit	(4,000)	(4,000)	(4,000)	(4,000)
Total Income Tax	4,684	2,191	2,215	216
Self-Employment Tax	-	14,130	-	14,130
Employment Taxes	7,650	-	6,076	-
TOTAL TAX PAID	$ 12,334	$ 16,321	$ 8,291	$ 14,346

Decrease in Tax After Health Insurance Exclusion/Deduction

	Employed	Self-Employed	"Penalty" for SE
Dollar Decrease:	$ 4,043	$ 1,975	$ 2,068
Percentage Decrease:	32.78%	12.10%	

* *Employer Health Benefits 2019 Annual Survey*, The Kaiser Family Foundation and the Health Research & Educational Trust, https://www.kff.org/health-costs/report/2019-employer-health-benefits-survey/ (last visited Oct. 2, 2020)

To control for the possibility that employed taxpayers are taxed differently than self-employed taxpayers as a function of tax laws other than those related to health insurance premiums, tax was first calculated under the assumption that neither taxpayer purchased health insurance. Both taxpayers were assumed to deduct the 2019 standard deduction amount of $12,200, and the self-employed taxpayer received tax benefits from the deduction for half the self-employment tax and the qualified business income deduction.[23] Before considering the tax effect of health insurance, the self-employed taxpayer paid $1,302 more in total income and (self-) employment taxes than the employed taxpayer. The gap widened in favor of the employed taxpayer when the employee health insurance premium exclusion and the self-employed health insurance deduction were incorporated. (For better comparison to the self-employed taxpayer, the employed taxpayer's health insurance costs are assumed to not be subsidized by the employer.) The self-employed taxpayer paid $2,240 more in total income and (self-) employment taxes than the employed taxpayer when health insurance tax benefits were included in the calculations. Because health insurance premiums yield tax benefits for both employed and self-employed taxpayers, one can confidently expect that the tax bills for each taxpayer would be reduced as a result of incorporating health insurance into the calculation. The employed taxpayer experienced a $2,203 decrease in total tax (a 9.62 percent decrease), while the self-employed taxpayer experienced a $1,265 decrease in total tax (a 5.23 percent decrease).[24]

The difference in the tax consequences of a taxpayer having health insurance is noteworthy in the case of single taxpayers earning $100,000 from employment or self-employment. An even wider gap is revealed when considering the case of identical families of four earning the same $100,000. Table 2, Panel B, provides a similar calculation to the calculation for a single taxpayer in Panel A, except the filing status is changed to married filing jointly with two qualifying children living in a home with their married parents. The calculation differs only because of a different 2019 standard deduction for married filing jointly taxpayers ($24,400), higher health insurance premiums consistent with the need for family coverage, and the inclusion of child tax credits for the qualifying children (two children at $2,000 each for a total of $4,000 in credits).

The self-employed taxpayer-family again has a tax disadvantage compared to the employed taxpayer-family, paying $3,987 more in total tax than the employed taxpayer-family before considering health insurance tax benefits. When incorporating the tax benefits associated with the payment of health insurance premiums, the self-employed taxpayer-family pays $6,055 more in total tax than the employed taxpayer-family. As a result of the health insurance tax benefits, the employed taxpayer-family experienced a $4,043 decrease in total tax (a 32.78

[23] The qualified business income deduction is a deduction from adjusted gross income generally equal to the lesser of 20 percent of qualified business income or 20 percent of taxable income before considering the deduction, net capital gains, and qualified dividends. I.R.C. § 199A. The deduction is available to taxpayers with qualified business income earned through a sole proprietorship, a partnership, or an S corporation.

[24] This illustration does not consider the potential impact of any possible basis, at-risk, or passive activity loss limitations on the actual deductibility of the self-employed health insurance deduction.

percent decrease), while the self-employed taxpayer-family experienced a $1,975 decrease in total tax (a 12.10 percent decrease).

This difference in taxation between employed and self-employed taxpayers is a clear inequity that benefits employed taxpayers at the expense of self-employed taxpayers. One could reasonably expect that such an obvious difference in horizontal equity between employed and self-employed taxpayers would be followed by continuous criticism and even public outcry. However, few people are calling for change, and even fewer in leadership positions seem willing to lead the charge, as only a handful of lawmakers have proposed legislation to address this inequity. Representative Ron Kind (D-WI),[25] Senator Jeff Bingaman (D-NM),[26] Senator David Vitter (R-LA),[27] and Representative Steve Chabot (R-OH)[28] have proposed various bills, all of which have failed to advance beyond introduction in the House and/or Senate.

The National Association for the Self-Employed (NASE) is one of the few organizations, perhaps the only organization, concerned about this inequity. NASE offers evidence similar to that presented above and has made at least a few attempts at lobbying in Washington, D.C., through letter writing and working with small business-related committees of Congress.[29] The organization has publicly supported the bills introduced to eliminate this unfairness.

Congress should take the appropriate action(s) to correct this inequity by allowing self-employed taxpayers to deduct the cost of premiums paid for health insurance when computing self-employment tax. To illustrate the effect of this proposal, Table 3 presents the differences in tax based on employment status as if the proposed change were in effect for 2019. The only difference between Tables 2 and 3 is the "With HI Self-Employed" column, which subtracts the self-employed health insurance deduction *before* calculating the self-employment tax and qualified business income deductions. Panel A shows the "penalty" for the self-employed single taxpayer to be only $11, which is far less than the "penalty" under the current law of $938. In Panel B, the married self-employed taxpayer actually receives a more beneficial tax position ($700) than the married employed counterpart.

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[25] Equity for Our Nation's Self-Employed Act of 2009, H.R. 1470, 111th Cong. (2009).
[26] Equity for Our Nation's Self-Employed Act of 2009, S. 725, 111th Cong. (2009).
[27] Small Business Tax Compliance Relief Act of 2015, S. 1827, 114th Cong. (2015).
[28] Small Business Owners' Tax Simplification Act of 2019, H.R. 593, 116th Cong. (2019).
[29] NAT'L ASS'N FOR THE SELF-EMPLOYED, *Self-Employment Tax on Health Insurance Premiums* (Mar. 28, 2009), http://www.nase.org/nase-in-action/legislative-priorities/2009/03/29/Self-Employment_Tax_on_Health_Insurance_Premiums (last visited Sept. 18, 2020).

Table 3
Comparison of Total Tax Paid Between Employed and Self-Employed - Adjusted for Proposed Change

Panel A: Single Taxpayer

2019 TAX YEAR FACTS:			
Salary/Net Income from Schedule C	$	100,000	
Health Insurance (HI) Premiums	$	7,188	*
Deductions from AGI: Standard Deduction			

	WITHOUT HI Employed	WITHOUT HI Self-Employed	WITH HI Employed	WITH HI Self-Employed
Taxable Wages/Salary	$ 100,000	$ -	$ 92,812	$ -
Schedule C Income	-	100,000	-	100,000
Self-Employed Health Insurance Deduction	-	-	-	(7,188)
1/2 Self-Employment Tax Deduction	-	(7,065)	-	(6,557)
Adjusted Gross Income	100,000	92,935	92,812	86,255
Standard Deduction	(12,200)	(12,200)	(12,200)	(12,200)
Qualified Business Income Deduction	-	(16,147)	-	(14,811)
Taxable Income	87,800	64,588	80,612	59,244
Income Tax	15,246	10,068	13,593	8,892
Self-Employment Tax	-	14,130	-	13,114
Employment Taxes	7,650	-	7,100	-
TOTAL TAX PAID	$ 22,896	$ 24,198	$ 20,693	$ 22,006

Decrease in Tax After Health Insurance Exclusion/Deduction

	Employed	Self-Employed	"Penalty" for SE
Dollar Decrease:	$ 2,203	$ 2,192	$ 11
Percentage Decrease:	9.62%	9.06%	

* *Employer Health Benefits 2019 Annual Survey*, The Kaiser Family Foundation and the Health Research & Educational Trust, https://www.kff.org/health-costs/report/2019-employer-health-benefits-survey/ (last visited Oct. 2, 2020)

Table 3 (continued)
Comparison of Total Tax Paid Between Employed and Self-Employed - Adjusted for Proposed Change

Panel B: Married Taxpayer (MFJ), Two Qualifying Children Under 17

2019 TAX YEAR FACTS:		
Salary/Net Income from Schedule C	$ 100,000	
Health Insurance (HI) Premiums	$ 20,576	*
Deductions from AGI: Standard Deduction		

	WITHOUT HI Employed	WITHOUT HI Self-Employed	WITH HI Employed	WITH HI Self-Employed
Taxable Wages/Salary	$ 100,000	$ -	$ 79,424	$ -
Schedule C Income	-	100,000	-	100,000
Self-Employed Health Insurance Deduction	-	-	-	(20,576)
1/2 Self-Employment Tax Deduction	-	(7,065)	-	(5,611)
Adjusted Gross Income	100,000	92,935	79,424	73,813
Standard Deduction	(24,400)	(24,400)	(24,400)	(24,400)
Qualified Business Income Deduction	-	(13,707)	-	(9,883)
Taxable Income	75,600	54,828	55,024	39,530
Income Tax, before Credits	8,684	6,191	6,215	4,356
Child Tax Credit	(4,000)	(4,000)	(4,000)	(4,000)
Total Income Tax	4,684	2,191	2,215	356
Self-Employment Tax	-	14,130	-	11,222
Employment Taxes	7,650	-	6,076	-
TOTAL TAX PAID	$ 12,334	$ 16,321	$ 8,291	$ 11,578

Decrease in Tax After Health Insurance Exclusion/Deduction

	Employed	Self-Employed	"Benefit" for SE
Dollar Decrease:	$ 4,043	$ 4,743	$ 700
Percentage Decrease:	32.78%	29.06%	

* *Employer Health Benefits 2019 Annual Survey*, The Kaiser Family Foundation and the Health Research & Educational Trust, https://www.kff.org/health-costs/report/2019-employer-health-benefits-survey/ (last visited Oct. 2, 2020)

The inequity of the self-employed health insurance deduction is best demonstrated through the percentage decreases in total tax. For single (married) employed taxpayers with health insurance, total taxes decrease 9.62 (32.78) percent as a result of health insurance tax benefits, while single (married) self-employed taxpayers only see a decrease of 5.23 (12.10) percent. When adjusting for the proposed change in Table 3, health insurance tax benefits lead to percentage decreases in total tax among employed and self-employed taxpayers that are remarkably similar: 9.62 percent (9.06 percent) for single employed (self-employed) taxpayers and 32.78 percent (29.06 percent) for married employed (self-employed taxpayer-families). Although the self-employed taxpayer-family actually has a $700 "benefit" over the employed taxpayer-family, the percentage decrease in total tax is still less than that of the employed taxpayer-family.

Modifying § 162(*l*) to allow self-employed taxpayers to deduct the cost of premiums paid for health insurance when computing self-employment tax would only require rewording or eliminating a single subsection in the Code. Any concerns about budgetary effects should be shifted in a way that addresses all tax breaks for health insurance. A reform that achieves revenue neutrality by requiring employees to include a portion of health insurance premiums paid in taxable wages/salaries would still greatly enhance equity. It is possible that this issue is so poorly understood and so rarely noticed that Congress has largely forgotten about it or perhaps has chosen to ignore it. The continued tendency of Congress to ignore legislation that addresses this inequity is unacceptable, and self-employed individuals and their advocates must remain diligent in their efforts to be heard.

CONCLUSION

The enactment of the self-employed health insurance deduction by the Tax Reform Act of 1986 was an important step in bridging the gap in tax treatment between employed and self-employed taxpayers. The motivation, creation, and evolution of the deduction make clear the positive impact the deduction has had on tax equity between the employed and the self-employed. Yet there is still inequity left unsolved by the deduction: the self-employed taxpayer's inability to deduct the cost of health insurance premiums when calculating self-employment tax. While tax law cannot be perfectly equitable, horizontal equity would be drastically improved with rewording or eliminating a single paragraph in the Code. No reasonable or logical explanation exists for allowing employed taxpayers an exclusion for health insurance premiums while not offering a deduction to self-employed taxpayers. Congressional action must be taken to "right the wrong" that has been left unaddressed since the enactment of § 162(*l*) in 1986.