

### Internal Revenue Code Section 162(l)(5)

#### Special rules for health insurance costs of self-employed individuals

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#### (1) Allowance of deduction.

In the case of a taxpayer who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for-

- (A) the taxpayer,
- (B) the taxpayer's spouse,
- (C) the taxpayer's dependents, and
- (D) any child (as defined in section 152(f)(1)) of the taxpayer who as of the end of the taxable year has not attained age 27.

#### (2) Limitations.

(A) Dollar amount. No deduction shall be allowed under paragraph (1) to the extent that the amount of such deduction exceeds the taxpayer's earned income (within the meaning of section 401(c)) derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established.

(B) Other coverage. Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of, or any dependent, or individual described in subparagraph (D) of paragraph (1) with respect to, the taxpayer. The preceding sentence shall be applied separately with respect to-

(i) plans which include coverage for qualified long-term care services (as defined in section 7702B(c)) or are qualified long-term care insurance contracts (as defined in section 7702B(b)), and

(ii) plans which do not include such coverage and are not such contracts.

(C) Long-term care premiums. In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in section 213(d)(10)) shall be taken into account under paragraph (1).

#### (3) Coordination with medical deduction.

Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

(4) Deduction not allowed for self-employment tax purposes.

The deduction allowable by reason of this subsection shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a) ) for purposes of chapter 2 for taxable years beginning before January 1, 2010, or after December 31, 2010.



(5) Treatment of certain S corporation shareholders.

This subsection shall apply in the case of any individual treated as a partner under section 1372(a) , except that-

(A) for purposes of this subsection , such individual's wages (as defined in section 3121 ) from the S corporation shall be treated as such individual's earned income (within the meaning of section 401(c)(1) ), and

(B) there shall be such adjustments in the application of this subsection as the Secretary may by regulations prescribe.

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