

Congressman Jim Sensenbrenner

Religious Freedom Tax Repeal Act of 2012: Topline

- Allows those employers that do not wish to offer specific preventive services in their health care plans because they conflict with their religious beliefs or moral convictions to do so, WITHOUT facing taxes, penalties, or enforcement actions for their non-compliance with the HHS mandate.
- Does NOT eliminate any of the current preventive services included in the Essential Health Benefits Package.
- Prohibits the federal government from enforcing the penalties of non-compliance with the HHS mandate under ERISA, the PHSA, and the IRC for not complying based on religious beliefs and moral convictions.

Background:

- The individual mandate, recently declared a “tax” by the Supreme Court, is not the only tax in the Affordable Care Act (ACA) that will cover the costs of Obamacare.
- Tucked away in various corners of the bill are additional taxes to fund the ACA. As the law currently stands, a tax can be imposed on employers that have objections to mandates in Obamacare based on the core tenets of their beliefs.
- According to a February 2012 Congressional Research Service Report, insurers and employers that do not comply with the HHS mandate could face a federal tax of \$100 per day per employee, or a yearly tax of \$36,500 per employee. **Religious employers with hundreds of employees could be fined millions of dollars annually.**
- Organizations that do not agree with specific provisions of the bill – provisions created by unelected bureaucrats – will have to face an additional tax. Not only is this an overwhelming encroachment by the government into the practice of religion, but it is another way to levy an unfair tax in order to pay for Obamacare.
- **Therefore, the Religious Freedom Tax Repeal Act was created to ensure that religious entities and employers will not face federal penalties for objecting to portions of Obamacare that violate their faith.**

Penalties and Taxes for Exercising Religious Beliefs:

- **The Public Health Service Act (PHSA)** - Title XXVII of the PHSA
 - **Covers:** Health insurance issuers and non-federal self-funded governmental group plans
 - **Penalty:** \$100 penalty per day for each individual with respect to which such failure occurs
- **Internal Revenue Code (IRC)** - Chapter 100 of the IRC
 - **Covers:** Group health plans- single-employer and multiemployer plans
 - **Penalty:** \$100 tax for each day in the non-compliance period
 - Multiemployer Plan – tax is imposed on the PLAN
 - Single-Employer Plans – tax is imposed on the EMPLOYER
- **Employee Retirement Income Security Act (ERISA)** - Part 7 of the ERISA
 - **Covers:** Employers who offer Group Health plans
 - **Penalty:** Civil Action

Entities Affected by Non-Compliance Penalties:

- Any group health plans and health insurance issuer subject to insurance market reforms in Title I of the ACA that objects to coverage requirements based on religious and moral convictions and DO NOT qualify for an exemption.

Entities Helped by the Religious Freedom Tax Repeal Act:

- The Religious Freedom Tax Repeal Act of 2012 would exempt ANY employer from any excise tax and certain suits and penalties in the case of a failure of a group health plan to provide coverage to which an employer objects on the basis of religious belief or moral conviction.