How a Little-Used Tax Law Was Sidelined as U.S. Health Care Costs Soared

A statute enacted to curb kickbacks was never repealed, but decades of non-enforcement coincided with the rise of managed-care pricing, leaving Americans paying more than three times what patients in other industrialized nations now pay.

Washington, D.C, District of Columbia Jan 20, 2026 (Issuewire.com**)** - For nearly a century, the prosecution of Al Capone has served as a touchstone of American tax enforcement. When federal authorities failed to convict the Chicago crime boss for violence or racketeering, they turned instead to a simpler standard: income earned was income taxed. The principle was direct and uncompromising. Inside today's U.S. healthcare system, that principle has quietly slipped away.

A review of federal law, healthcare billing practices, and cost data shows that a tax statute enacted to prevent corporate kickbacks — Section 162(c) of the Internal Revenue Code, passed by Congress in 1969, has largely fallen out of enforcement. Its retreat coincided with a sharp and unprecedented rise in American healthcare costs.

Before the early 1980s, U.S. health spending tracked closely with that of other advanced industrial nations. While Americans paid somewhat more, costs remained broadly comparable to those in Western Europe, Canada, and Japan. Healthcare had not yet become an economic outlier. That changed with the rise of managed care.

Beginning in the early 1980s, insurers and hospitals formed preferred provider networks designed to steer patients to selected providers. At the time, negotiated discounts averaged about 2 percent of billed charges, modest reductions in exchange for predictable patient volume. Over the next several decades, those discounts grew steadily, then rapidly.

Today, so-called "contractual adjustments" routinely exceed 88 percent of standard hospital charges. Only about 12 percent of billed amounts are ultimately collected. Yet even that remaining share is nearly three times the average cost of medical care paid in other industrialized countries. The explanation is not higher utilization or better outcomes. It is accounting.

Hospitals largely operate under the accrual method of accounting, which requires income to be recognized when the right to payment arises, not when cash is received. Patients are billed full list prices, creating legally enforceable receivables under contract law. In most industries, forgiving such debt would trigger tax consequences, such as income, cancellation-of-debt income, or a nondeductible kickback if the forgiveness were exchanged for business.

Congress enacted Section 162(c) specifically to prevent that result. The statute bars tax deductions for bribes and kickbacks disguised as ordinary business expenses, reflecting lawmakers' intent that corruption is not subsidized through the tax code. But beginning in the 1980s, hospitals and insurers adopted a different approach. Forgiven receivables were relabeled as "contractual adjustments," treated as though the income had never existed. Tax authorities accepted that characterization, and over time, it became standard practice. What may have started as administrative accommodation hardened into policy. Income was recognized only when cash changed hands. The forgiven portion — now amounting to hundreds of billions of dollars annually - disappeared entirely from taxable income.

Reversing the practice today would require revisiting decades of financial statements, reassessing tax

liabilities, and confronting regulatory decisions that allowed the system to take root. Instead, the pricing structure became entrenched.

The consequences have reshaped the healthcare market. As prices lost their role as meaningful signals, competition weakened. Smaller providers, unable to absorb large, opaque discounts, were pushed out or acquired. New entrants struggled to compete against prices untethered from underlying costs. Consumers were left facing inflated list prices that function largely as bargaining tools rather than reflections of value. Congress never repealed Section 162(c). The statute remains in effect. What changed was enforcement.

The responsibility to police these practices fell to the Internal Revenue Service, which did not enforce. Whether that failure reflects bureaucratic inertia, regulatory capture, or concern over unraveling an entrenched system remains unresolved. What is clear is the outcome: Americans now pay the highest healthcare prices in the world, more than three times what patients in other industrialized nations pay. Often, for outcomes no better. Al Capone went to prison to preserve the integrity of the tax system. In healthcare, abandoning that same principle helped produce the most expensive medical system on earth.

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