

Tax Alert: Key Provisions of New Healthcare Law



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PVWLaw is developing detailed material on the opportunities and challenges presented by the comprehensive health care reform bill passed earlier this year. We are hearing a lot of concern from our clients and associates about how they will be impacted by the new law. While we agree that the bill presents challenges, the bill also presents opportunities for many of our clients. This bulletin is provided for the purpose of letting you know key changes overall and those that apply for 2010. We will be providing more detail in future materials. We will also be posting information on our website and health care law blog. See www.pvwlaw.com or www.pvwlaw.wordpress.com.

Small Business Tax Credit

Impact on Small Businesses

The law provides a temporary, sliding-scale tax credit to small employers to help offset the cost of employer-provided coverage. A "small" employer is one with no more than 25 employees and average annual wages of less than \$50,000.

From 2010 through 2013, such eligible employers may qualify for a tax credit of up to 35% of their contribution toward the employee's health insurance premium. In 2014 and later years, eligible employers who purchase coverage through a state exchange may qualify for a credit for two years of up to 50% of their contribution. Qualified tax-exempt employers will be eligible for a reduced credit. Salary reduction contributions are not counted.

Employers with 10 or fewer employees and average annual wages of less than \$25,000 will be eligible for the full credit.

•Planning Note: Businesses should look at restructuring their benefits plans (i.e. premium only plans, flex plans and reimbursement plans) in order to take advantage of the tax credit. The definition of "full-time employee" does not include 2% S corporation shareholders, more-than-5% owners of the employer, or seasonal workers.

Impact on Medium and Large Businesses

While the law does not require employers to provide health insurance coverage, large employers that do not provide minimum essential coverage will have to pay an additional tax. The health care package also requires automatic enrollment in health insurance plans sponsored by large and medium size employers.

For purposes of the Act, "large" employers are essentially businesses with 50 or more full-time employees. Large employers that do not offer minimum essential coverage during any month for which a full-time employee has enrolled in a subsidized plan using the premium assistance tax credit or cost-sharing reductions will be liable for an additional tax. The tax penalty will equal the applicable payment amount (with respect to any month, 1/12 of \$2,000) multiplied by the number of full-time employees employed by the employer during that month.

Key Changes Effective in 2010:

- *Small business tax credits*
- *Ban on lifetime limits on coverage*
- *Ban on restrictive annual limits on coverage*
- *Prohibits discrimination based on salary*
- *Hold insurance companies accountable for unreasonable rate hikes*
- *Tax relief for health professionals with state loan repayment*
- *Group and individual plans must provide an effective appeals process for coverage determination*
- *Dependent coverage increases to age 26*

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Additional Medicare Tax

Estates and Trusts

A portion of the cost of health care reform will be funded from a new Medicare surtax. A 3.8% surtax will be imposed on estates and trusts when undistributed net investment income exceeds the threshold amount. The threshold amount is reached when the trust or estate's taxable income is taxed at the highest income tax rate, which is \$11,200 in 2010. The threshold amount for estates and trusts is indexed for inflation. This provision takes effect in 2013.

Increase in Medicare Withholding Tax and Tax Base

Earned income is currently subject to a 2.9% Medicare tax with the employer and employee each paying 1.45% of the tax. Self-employed individuals pay the entire 2.9%. For 2013, earned income in excess of \$200,000 for individuals and \$250,000 for married couples will become subject to an additional employee Medicare tax withholding of 0.9% resulting in a total tax rate of 3.8% on the excess. Note that the increase in Medicare tax applies only to the employee portion of the tax. Net investment income includes interest, dividends, royalties, rents, passive activity income from a trade or business and gain from disposition of property such as stocks or bonds.

Surtax on Investment Income

The new law also imposes a 3.8% Medicare surtax on net investment income for individual taxpayers with income in excess of \$200,000 for individuals and \$250,000 for couples. The 3.8% surtax applies to the lesser of net investment income for the year or the amount by which modified adjusted gross income exceeds an annual threshold amount. The application of the Medicare tax to investment income and imposition of the Medicare surtax take effect in 2013 and will become a vital consideration in tax planning analysis.

•Good Practices: All organizations should consider adopting a social networking policy concerning use of facebook, linkedin, twitter, and other such forums.

Other Key Tax Provisions

Medical Expense Itemized Deduction

The law increases the itemized medical expense deduction threshold from 7.5 percent to 10 percent of AGI effective for tax years beginning after December 31, 2012. Individuals age 65 and over will receive a temporary exemption from the increase for any tax year beginning after December 31, 2012 and ending before January 1, 2017 if the individual or the individual's spouse turns 65 in that tax year.

Cost Containment Measures

The law includes many cost-containment measures, which include a focus on the utilization of prevention and wellness programs. The law eliminates patient co-pays for preventive services in Medicare, Medicaid and private plans. It also authorizes HHS to award grants to eligible entities to promote individual and community health and to prevent chronic illness.

A Related Note...

2010 Payroll Tax Savings for Employers: The Hiring Incentives to Restore Employment Act of 2010 (the "HIRE Act"), another act passed this year, relieves employers of the obligation to pay the employer's portion of Social Security employment taxes on wages paid to employees hired after February 3, 2010, and before January 1, 2011, if the applicable requirements are met. The relief is available for 2010 wages paid after March 18, 2010.

