

SUMMARY OF TAX AND BUSINESS PROVISIONS OF HEALTH CARE LAW

April 1, 2010

President Obama signed into law the Patient Protection and Affordable Care Act (H.R. 3590) on March 23, 2010 and the Health Care and Education Affordability Reconciliation Act (H.R. 4872) on March 30, 2010. These laws have significant changes to the United States healthcare system. Embedded within these laws are various provisions that will affect personal income taxes and business owners. The summary below is a review of the more significant changes with regard to taxes and business.

I. TAX PROVISIONS

- A. Unearned income tax: Beginning in 2013, a new 3.8% "Medicare contribution" tax on unearned income is levied upon individuals earning more than \$200,000 per year (\$250,000 for joint filers). Unearned income is passive income that a taxpayer receives on investments and would include such things as income from interest, dividends, annuities, royalties and rents (other than from a trade or business), income from trading in financial instruments or commodities. Unearned income would not include distributions from retirement plans.
- B. W2 reporting: Starting in 2011, employers are required to report the value of health care benefits on an employees' W2 statement.
- C. Increased floor for deducting medical expenses: The AGI floor for deducting medical expenses is raised from 7.5% to 10% beginning in 2013 (An exception to this rule is that the floor will remain at 7.5% for those over 65 through 2016).
- D. Increased hospital insurance payroll tax: Beginning in 2013, a new .9% surtax will be added to the 1.45% Hospital Insurance (HI) payroll taxes paid by individuals earning more than \$200,000 (\$250,00 for joint filers).
- E. Tax on "Cadillac" health insurance plans: Beginning in 2018, a new 40% nondeductible excise tax is levied upon insurers that provide a health plan costing more than \$10,200 for an individual (\$27,500 for families).
- F. Adoption credits: Tax credits for adoptions are increased from \$10,000 to \$13,170, effective January 1, 2010.
- G. Uninsured penalties: There will be a penalty for individuals who fail to obtain coverage equal to the greater of a flat fee or a percentage of income. (The scheduled flat fees are: \$95 in 2014; \$325 in 2015 and \$695 in 2016).
- H. Premium assistance for low income: There will be a tax credit for health insurance premium assistance for individuals earning less than 400% of the federal poverty level.
- I. Medical reimbursement accounts:
 - 1. Beginning in 2013, there will be a limit of \$2,500 on tax-free contributions into a Flexible Spending Account (FSA).
 - 2. Beginning in 2011, there is an increase in penalties for nonqualified withdraws from an HSA or an Archer MSA from 10% to 20%.
 - 3. Beginning in 2011, there is a new prohibition on purchasing nonprescription (over-the-counter) medications from an HSA, FSA or Archer MSA.
- J. Medical loan forgiveness non taxable: Beginning in 2009, there is an exclusion from taxable income for forgiven student loan debt for medical professionals that have participated in a program to bring medical care to underserved areas.

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II. BUSINESS PROVISIONS

A. Tanning services taxed: A new 10% excise tax is imposed on indoor tanning services beginning July 1, 2010.

B. Small business credit for health insurance cost: A new credit for cost of insuring employees is allowable for small business with up to 25 employees and average annual wages of less than \$40,000. The credit is based on a sliding scale and will reimburse employers for up to 50% of the cost of providing insurance for their employees. For employers with less than 10 employees, and average wages under \$20,000, a 100% credit is available.

C. Small business credits for medical investments: A new credit is allowable for small businesses with not more than 250 employees equal to 50% of the cost of investments made in 2009 and 2010 for new therapies to prevent, diagnose and treat acute and chronic diseases.

D. Elimination of certain deductions for Medicare Part D: Employers will no longer be allowed a tax deduction for benefits bought for retirees with government subsidies for providing retiree prescription drug coverage under Medicare Part D.

E. Employer penalties for non-insured: For employers with at least 50 employees and at least one of the employees qualifies for a premium subsidy, a \$2,000 penalty is owed for each full time worker not covered by insurance. (The first 30 employees are exempt).

F. Tax on medical device sales: A new excise tax is imposed on otherwise taxable medical device sales equal to 2.3% of the price of the device.

G. Fees on health insurance providers: Beginning in 2014, there will be a new annual nondeductible fee on health insurance providers. The fee is to be allocated based upon market share of net premiums written (Total fee is \$8 billion for 2014; \$11.5 billion for 2015 and 2016; \$13.5 billion for 2017; and \$14.3 billion for 2018 and indexed for inflation for later years).

H. Fees on pharmaceutical manufacturers and importers: Beginning in 2011, there will be a new annual nondeductible fee on pharmaceutical manufacturers and importers of branded drugs. The fee is to be allocated across the industry based upon market share. (Total fee is \$2.5 billion for 2011, \$3 billion for 2012-2016; \$4 billion for 2017; \$4.1 billion for 2018 and \$2.8 billion for 2019 and beyond).

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