

Tax Aspects of 2010 Health Care Legislation

By Mary E. McGuire

In March 2010, President Barack Obama signed both the Hiring Incentives to Restore Employment (HIRE) Act and the Patient Protection and Affordable Care Act (PPACA). These two acts have produced a myriad of changes applicable to the health care and insurance industries, but they also make many modifications to the tax world. These tax changes are scheduled to phase in through 2018.

2010 Changes

A child who is under the age of 27 will now be treated as a taxpayer's dependent for many health coverage-related purposes. Thus, if a taxpayer's child would satisfy the taxpayer's dependency requirement except for the child's age, the child can still be covered under the taxpayer's medical insurance policy until age 27. Twenty-seven is the minimum age mandated by federal law. Other states, such as New York, which requires insurance companies to allow coverage until age 29, may be more generous.

The adoption credit available for the expenses of adopting a child under age 18 or a person with special needs has been increased by \$1,000 to \$13,170, and this amount will be adjusted for inflation in later years. Similarly, if adoption assistance is received from an employer, the amount excludable from the employee's taxable income has also increased to \$13,170.

Business property can continue to be expensed up to \$250,000 of qualifying property placed in service. This amount is reduced, but not below zero, by the amount by which the cost of qualifying property exceeds \$800,000. This is an extension of earlier law which contained this special provision only for years 2008 and 2009.

A federal excise tax of 10% (much like a sales tax) is imposed on patrons of indoor tanning salons. This

provision applies to services performed on or after July 1, 2010. This tax is due from the person receiving the service, and must be collected and forwarded by the provider.

For 2010 through 2013, small employers (defined as those having 25 or fewer employees with an average annual compensation of not greater than \$50,000) can claim a tax credit of up to 35% of their contributions for the payment of

health insurance premiums for their employees if they make non-elective contributions that pay at least one-half the cost of health insurance premiums. In 2013, the percentage increases to 50%. This credit is scheduled to expire on December 31, 2015.

“Small employers... can claim a **tax credit of up to 35%** of their contributions for the payment of health insurance premiums.”

2011 Changes

The original bill provided that starting with reporting for the 2011 year, the information employers are required to report on Form W-2 will expand to include information relating to group health insurance, and an employer must disclose the cost of providing group health insurance to the employee. This requirement has now been extended to the 2012 year for W-2 forms issued in 2013.

2012 Changes

If, in the course of a trade or business, a taxpayer makes payments in any tax year of \$600 or more to a single payee, the taxpayer is generally required to report that payment to the IRS (normally by using a Form 1099). Payments to corporations have been





who's who

Mary Eileen McGuire is an enrolled agent licensed to represent taxpayers

before the Internal Revenue Service. Ms. McGuire's practice concentrates in all areas of taxation and representation with specific focus on individuals, estates and trusts.

(212) 278-1801

mmcguire@andersonkill.com

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exempt from this reporting requirement, but this exemption is eliminated for payments made after December 31, 2011. This has created a great deal of consternation on the part of small businesses, who now wonder if they must send a Form 1099 to each utility provider because the annual payments to each provider exceed \$600.

2013 Changes

Currently, a taxpayer can deduct the cost of medical care if the total costs exceed 7.5% of adjusted gross income. For 2013 and later years this threshold will increase to 10%. Beginning in 2013, if the taxpayer is at least 65 years of age before the end of the year, then the increased threshold will not apply and that taxpayer can continue to deduct medical expenses in excess of 7.5% of adjusted gross income. In 2017 all taxpayers, even those over 65 years of age, will be subject to the 10% threshold.

Currently, both the employer and employee must pay 1.45% Medicare tax on an employee's wages. Starting in 2013 high-income employees will be required to pay more in Medicare taxes. Under the new rule, the employee's tax rate remains at 1.45% for the first \$200,000 of wages but increases to 2.35% for wages in excess of \$200,000. If the employee is married, the increased Medicare tax applies to the combined wages of the employee and spouse, and the threshold at which the higher rate applies increases to \$250,000. The employer's 1.45% portion of the Medicare tax remains the same.

Until now, the Medicare tax has only been imposed on wages and net earnings from self-employment. This will no longer be the case after 2012. A 3.8% unearned income Medicare contribution tax applicable to unearned income of high-income taxpayers will be imposed on the lesser of net investment income or any excess of modified adjusted gross income over \$200,000 (\$250,000 in the case of joint filers and \$125,000 in the case of married taxpayers filing separately).

Estates and trusts will also be required to pay the 3.8% unearned income Medicare contribution tax on the lesser of their undistributed net investment income or any excess of their adjusted gross income.

By 2018 there will be a tax increase on particularly generous health plans, known as "Cadillac" health plans.

As this article is being written in early December 2010, negotiations are underway between the White House and members of Congress to deal with the consequences of the expiring so-called Bush Tax Cuts of 2001. Although the president has said that it is his intention to preserve all the changes made by the March 2010 legislation, the final tax laws that result may force the president to relent from that goal. Readers should be sure to consult their tax advisors. ▲

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