

Highlights of the Health Care Act

BY GINA ANDERSEN, HAYASHI & WAYLAND

On June 28, the U.S. Supreme Court issued a complex series of opinions regarding the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (together the ACA), concluding that most provisions are constitutional. This legislation was signed into law in March 2010; however, almost immediately, the legality of the Act was challenged and many felt the law would be drastically changed or even repealed before many of the provisions became effective.

Here we are in 2012, and with the Supreme Court affirmation, we are faced with determining how the provisions within the Act will affect each of us. These provisions are scheduled to come into effect over the next 3-4

Years ago I would give, as examples of complementing the disabled person's public benefits, the purchase of a flat screen television, a stereo system, or a trip to Disneyland; now, I list such "luxuries" as vision, hearing, and dental care—all examples of services that used to be covered by public benefits but were eliminated by state budget cuts in 2009.

years. In 2013, several key provisions will become effective and will affect many individuals, employees, businesses and business owners. While the Act is voluminous at almost 1,000 pages, below are provisions that will affect most taxpayers.



Additional Hospital Insurance (HI) Tax for High Wage Workers

Currently for Medicare (HI), all employees have 1.45 percent taken from their paycheck and the employer must pay 1.45 percent of each employee's wages as well. Self-employed persons must pay the total 2.9 percent on their income.

For tax years beginning after 2012, the employee portion of the HI tax rate will be increased by 0.9 percent for employees who earn wages over \$200,000 (\$250,000 for married couples filing jointly). The employer portion of this tax remains the same. However, employers will be responsible for withholding the increased employee tax from any employee whose wages exceed \$200,000. This increase also applies to self-employed individuals.

Example: Employer ABC employs Wally Worker. Wally receives \$150,000 in wages from

his employer. Wally also receives \$150,000 in wages at a second job for a different employer. Wally is single. Since he does not receive over \$200,000 in wages from one employer, they are not required to withhold this tax, but Wally is required to pay 0.9 percent on the earnings over \$200,000 or \$900 ($\$300,000 - \$200,000 = \$100,000 * 0.9$ percent).

Medicare Contribution Tax on Unearned Income

This tax applies to unearned income, such as interest, dividends, royalties and potentially rents. It also applies to passive income, such as income earned from a trade or business in which the taxpayer doesn't actively participate. Taxpayer income will need to be analyzed item by item to determine if it applies for this tax as there are many exceptions and rules.

The tax is 3.8 percent on unearned income

greater than \$200,000 for a single person or \$250,000 for a married filing joint filer. The taxpayer will calculate their modified adjusted gross income (AGI), as defined in the law, and they will pay the tax on the lesser of their unearned income or their modified gross income above \$250,000.

Example: Joe and Jane, a married couple who file a joint return, collectively earn \$270,000 in wages and have \$80,000 of unearned income. Their modified AGI is \$350,000. For 2013, the couple will incur a 3.8 percent tax on the lesser of their: (1) \$80,000 of unearned income, or (2) \$100,000 of modified AGI in excess of the \$250,000 threshold for married filing joint taxpayers. Thus, Joe and Jane will incur a \$3,040 (3.8 percent * \$80,000) unearned income Medicare Contribution Tax in 2013.

Increased Medical Expense Deduction

Most taxpayers are familiar with the rule for medical expense deduction that allows taxpayers to deduct the amount of medical expenses above 7.5 percent of their AGI. For example, a taxpayer has \$10,000 of out-of-pocket medical expenses and AGI of \$100,000. They can only deduct \$2,500 (threshold is \$100,000 * 7.5 percent or \$7,500 and medical expenses are \$10,000, so \$10,000 less \$7,500).

In 2013, the threshold will increase to ten percent, which will result in even fewer taxpayers being able to deduct medical expenses. Seniors are exempt until after 2016.

New Limit on Health Flexible Spending Account Contributions

A Flexible Spending Account (FSA) is a savings account set up for medical or dependent care expenses. The money is contributed before taxes, so there is a tax benefit to establishing these accounts. Prior to 2013, there was no limit to the amount that could be contributed for medical expenses and dependent care was limited to \$5,000. Beginning in 2013, the maximum for a medical FSA will be \$2,500. Dependent care remains the same.

Penalty for Not Having Health Insurance Coverage - Effective in 2014

Beginning in 2014, U.S. Citizens and legal residents will have to maintain minimum essential health care coverage on themselves and their dependents or pay a penalty. The penalty is calculated using the taxpayer's household income and cannot exceed \$285 for 2014, \$975 for 2015 or \$2,085 for 2016. After



Photo courtesy of Kirk Kennedy.



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2016, this amount will be increased for inflation. A variety of exemptions are included to prevent the penalty from imposing undue burdens on low-income individuals and certain specified classes.

Penalty for Employers not offering Affordable or Adequate Health Insurance Coverage - Effective in 2014

This is the most widely talked about provision. Beginning in 2014, if an employer with 50 or more full-time employees does not offer coverage for all full-time employees, offers unaffordable minimum coverage, or offers certain limited coverage, they will have to pay a penalty if any full-time employee uses a tax credit or cost-sharing subsidy to purchase health insurance through a state-run insurance exchange.

The penalty for any month that the employer does not offer its full-time employees coverage will equal the number of full-time employees, over a 30-employee threshold, multiplied by \$167. This is calculated regardless of the number of employees who are receiving a premium tax credit or cost-sharing reduction. Once any employee takes advantage of the credit or cost sharing reduction, the employer must pay the penalty. In addition, if any employee takes the credit or cost-sharing reduction, the employer is subject to a penalty even if they offer health insurance to their employees. This penalty is the lesser of \$250 per month per full-time employee who received a credit or the amount calculated above if the employer did not offer coverage.

These are the major provisions of the Act that will apply to most taxpayers. There are many other provisions that may apply in your specific case. With these laws coming into effect in 2013 and the end of the Bush Tax Cuts coming at December 31, 2012, now is the time to review your tax situation and possibly take advantage of opportunities these events will allow. **CC**

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