

# Health Care Reform Act

## Overview

Summary from Data-Link Accounting Services, Linda K Dahlen, EA

This is a **summary** of The Patient Protection & Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010, or PPACA. There is a lot I have not included but enough to get this gist of this sweeping Act. I show effective dates and have some comments *noted in italics* after certain provisions. It is not all inclusive because space does not allow it to be. If you have questions, call or email me, Linda K Dahlen, EA.

To bottom line this Bill, it is two pronged as to those who are most effected – one, is those who will subsidize it with higher taxes and fees, and two, is those who will get insurance or be penalized. And finally, employers are now going to have to report extensively which means higher overhead for staff to perform such reporting.

### 2010 Effective

#### Individual

- Exclusion of qualified health care benefits of Indian Tribe Members
- Excise of 10% on indoor tanning salon services. Tax is NOT deductible by the Salon.  
*Is the connection that tanning causes skin cancer which increases medical costs? this is expected to raise 2.7 billion dollars.*  
*the city highest in # of tanning beds per capita is Charleston, West Virginia.*
- Expansion of the Adoption Credit – but only through 2011
- Medical benefits for children under age 27 can now be deducted (was under 24).  
*-kid does not have to be a dependent- certain rules apply*

#### Business

- Small businesses (and non profits) got a post card in May this year about the Small Employer Health Care Credit, noting a possible tax credit of 35% or 25% this year for health care insurance premium paid in 2010 and goes thru 2014.
- Limit on health benefits premiums paid for employees with “excessive wages” (wages earned starting 2009, and paid 2012 or after)  
*In lay terms, the EHCC credit for high income employee “Cadillac” plans is limited or disallowed*
- Economic Substance Doctrine codified (explained) with big penalties to be levied.  
*This one is tough to distill in lay terms, but corporations sometimes make accounting adjustments that the government wants to eliminate in order to increase income (aka tax) or decrease the basis of their stock which in turn creates more taxable income or more capital gain on the sale of that stock, and since capital gain tax rates will be increasing and also have the new added 3.8% Medicare tax on those gains, you can see why this ESD as been codified.*

### 2011 Effective

#### Individual

- Distributions from health accounts for over the counter meds no longer allowed
- Additional tax on HSAs and MSAs distributions if NOT used for qualified medical expenses

#### Business

- Cafeteria Plans, cannot favor highly compensated employees. New, Simple Cafeteria Plans for small business

## 2012 Effective

-No enactment changes this year.  
*I wonder why?*

## 2013 Effective

### Individual

-**Additional Medicare Tax** of .9% on wages and self-employment income for high income taxpayers. High income is defined as \$250,000 single, \$500,000 married joint. The tax kicks in for modified adjusted gross incomes over \$200,000. **There is a significant marriage penalty built into this tax.** The employee only pays this tax, not the employer.

-**Medicare Contribution Tax** of 3.8% on Unearned Income of certain higher income taxpayers. Unearned Income is interest, dividends, royalties, passive, income, annuities, commodities trading, certain working capital, rents & capital gains on investments including sale of rental or other investment property.

*Planning Tips: (1) Sell investments on installment sale to stay out of the "higher income taxpayer" category. (2) Invest in tax frees like muni bonds or deferred annuities. (3) Defer more income into retirement plans.*

NOTE: **Estates and trusts** are subject to this 3.8% tax on undistributed income !

*Planning Tip: Distribute all income possible out of the estate or trust.*

-**Medical Deduction Haircut** – the old AGI exclusion for medical deductions was 7.5% of AGI on Schedule A but will go up to 10% of AGI beginning in 2013

### Business

-Flexible Spending Accounts (FSAs) in Cafeteria Plans cannot exceed \$2500.

-Elimination of 100% deduction for federal subsidies for retiree prescriptions drug plans by corporations who then are reimbursed 28% back from the government

*duh – this only makes sense and I can't believe corporations have gotten away with this until now and I can't believe this isn't in effect until 2013 !*

## 2014 Effective

### States

-Must have their Exchange in place. 12 states have rejected this and may be sued by the Federal government as a result.

### Individual

-Penalty on Individuals for failing to carry health insurance - called a "shared responsibility payment" aka penalty. Exclusions for the penalty are (a) Income below filing threshold, (b) Native Americans, (c) Certain short lapses of coverage, (d) Can't afford to pay if coverage exceeds 8% of household income. The penalty amount is figured by various formulas.

-Health Insurance Premium refundable credit – a credit available if a person cannot afford to buy health insurance, again determined by formula, but generally tied to the Federally recognize "poverty level". This credit dovetailed with allowable Vouchers for free health insurance.

## **2014 Effective continued Business**

-Employers Shared Responsibility for full time employee health care coverage – if an employer offers health care insurance that is either unaffordable to the employee or has less than 60% of medical expenses covered, an employee can go to The Exchange for insurance. The employer in turn must pay a non-deductible “shared responsibility penalty” of about \$2000 annual per employee over 30 employees, paid monthly. Large employers pay annual \$3000 penalty per employee over 30 employees payable monthly. Large employers offering health care may still pay the penalty if any employee receives Premium Credits from State Exchange.

-Free Choice Vouchers – Employees not in employer’s health plan because they cannot afford it, employer must provide Free Choice voucher to *qualified employees*. The voucher must match the amount that the employer would have contributed to the employees insurance were they to be in the plan. Many regulations are involved with these Voucher provisions, too many to list here.

-Exchange-participating qualified health plans offered through cafeteria plans: The following tax free benefits may be offered: accident and health plan benefits, contributions to HSAs, disability benefits, adoption assistance, dependent care assistance, group term life insurance (less than \$50,000), certain life insurance for spouse or dependent

-Large corporation estimated tax payments are increased

## **2018 Effective**

-40% excise tax on high cost aka “Cadillac” employer sponsored health coverage. High cost now is defined as \$10,200 for individual or \$27,500 family.

## **MISCELLANEOUS TAX LAW AND NON TAX PROVISIONS**

-Establishment of “Health Care Exchanges” by States - known as The Exchange – basically is to set up group buying power for the uninsured or uninsurable, must offer four levels of essential benefits coverage,

-Fees on manufacturers and importers of Rx drugs and health care providers and excise tax on medical devices

-Fees on premiums of health insurance providers

-Credit for therapeutic discovery projects

-Confidentiality of information on taxpayers tax return no longer so confidential – government can disclose taxpayer info to carry out health care eligibility requirements

-1099 Misc forms must now be given to corporations (except non profits) for payments of \$600 or more (effective 2012)

-Employer paid health care will now be reported on Form W2 (effective 2011)

## Health Care Reform Bill Terminology Quick Sheet

**Exchange** – non profit agency set up by States to give group buying power to the uninsured. The Treasury, aka IRS, will advance and or pay for credits or other reductions paid by the Exchange.

**Navigator Program** – brings together employers and employees, consumers, and self employed, likely to be qualified to enroll in qualified health plans, and to make grants to certain entities for certain information dispensing entities.

**Essential Health Benefits Package** – A detailed narrative describing what a health care policy must include to be an eligible plan.

**Grandfathered Plans** - Individual may keep the existing individual or group plans that were effective 3-23-10 and those plans are exempt from most of the group market health care reforms that take effect in 2014.

**SHOP** – Small Business Health Options Program

**TARP** – Troubled Asset Relief Program

**FPL** – Federal Poverty Level – the income level at which certain credit, vouchers and subsidies kick in for health care benefits

**FTE** – Full time equivalent – how to count employees for the purpose of levying penalties

**EHCC** – Employer Health Care Credit

**PCORTF – Patient Centered Outcomes Research Trust Fund**

Funded for comparative effectiveness research. Fees imposed on insurers of health plans and employer sponsors of self insured plans help fund this.

**Economic Substance Doctrine** – Has been more clearly codified (defined).

**HHS or Department of Health and Human Services** – Clearing house for health care recipient's information. IRS can send information to HHS. HHS can send tax and financial information to others, like an Exchange or their contractors.

**IRS - Internal Revenue Service** – Clearing house for financial portions and enforcement of all tax and penalty provisions of the PPACA. IRS can give tax and personal information to HHS or to the Social Security Administration.