

Healthcare Reform

Tax Implications of the Upheld Healthcare Law

SUPREME COURT UPHOLDS PATIENT PROTECTION AND AFFORDABLE CARE ACT:

On June 28, 2012, the U.S. Supreme Court issued a landmark ruling on the constitutionality of the Patient Protection and Affordable Care Act (ACA). Specifically, the Court ruled that the individual mandate is constitutional under Congress's taxing power. Employers must assume that key provisions will go into effect in 2013 and 2014 or risk being unprepared to fully comply in time. Summarized below are some of the applicable components of the Act. Please be sure to contact one of the Urish Popeck tax specialists for further information.

What Healthcare Reform Means for Individuals

- **Individual Mandate:** The individual mandate requires applicable individuals to carry minimum essential health coverage for themselves and their dependants. Failure to comply will result in penalties.
- **Premium Assistance Tax Credit:** Eligible low-income individuals who obtain health coverage under a qualified plan through an insurance exchange may qualify for a premium assistance tax credit.
- **Medical Deduction Threshold:** The threshold to claim itemized deductions for unreimbursed medical expenses increased from 7.5 percent to 10 percent for most individuals.
- **Additional Penalty on HSA/MSA Distributions:** Distributions from a health savings account or medical savings account not used for qualified medical expenses are included in gross income and are now subject to a tax ranging from 10 to 20 percent.
- **Additional Medicare Tax:** An additional 0.9 percent tax is imposed on wages and self-employment income for high income earners.
- **Medicare Tax on Investment Income:** The Act also imposes a 3.8 percent tax on certain investment income for high income earners.

- **Adoption Credit:** The adoption credit is now refundable and the amount of credit is increased to \$13,360.
- **Indoor Tanning Excise Tax:** Amounts paid for tanning services are subject to a 10 percent excise tax.
- **Dependant Coverage until age 26:** Group health plans and issuers that provide dependant coverage must continue to make that coverage available for an adult child until turning the age of 26. This also applies to medical care reimbursements that are excludible from gross income until a child turns 27.
- **Medicaid:** A state that does not expand its Medicaid eligibility to qualified individuals will lose the increased funding from the Act, but will not lose preexisting Medicaid funding. In states that do not expand Medicaid, more employees will be eligible for a federal premium subsidy.

What Healthcare Reform Means for Businesses

- **Employer Mandate:** The employer mandate requires businesses to offer to their full-time employees “minimum essential coverage” under an employer-sponsored health plan. Various rules depending upon size of business are applicable. Failure to comply will result in penalties.
- **Small Employer Health Insurance Tax:** Applicable small businesses may qualify for the small employer health insurance tax credit. This maximum credit covers 35 to 50 percent of premiums.
- **Health FSAs Offered in Cafeteria Plans:** Contributions to health FSAs are limited to \$2500.
- **Over-the Counter Medicines:** Over-the-counter medicines are no longer medical expenses for health flexible spending arrangements (health FSAs), health reimbursement arrangements (HRAs), health savings accounts (HSAs), and Archer Medical Savings Accounts (Archer MSAs).
- **Simple Cafeteria Plans:** Qualified small businesses now have a safe harbor from nondiscriminatory requirements. Those businesses can retain potentially discriminatory benefits for key employees.
- **Retiree Prescription Drug Subsidy:** The prescription drug subsidy (28 percent to retired employees) is now allowable as a business deduction for retiree prescription drug costs, but must be reduced by the amount of the excludible subsidy-payments received.

- **Limitation on Employee Remuneration:** The allowable deduction is limited to \$500,000 for individual remuneration and deferred deduction remuneration for services that are otherwise deductible by a covered health insurance provider.
- **Excise Tax on High-Cost Health Coverage:** Employer sponsored health coverage that exceeds the threshold is scheduled to be subject to a 40-percent excise tax starting in 2018.
- **Branded Prescription Drug Fee:** Any entity manufacturing or distributing prescription drugs now must pay an annual fee.
- **Medical Device Excise Tax:** The sale of any applicable medical device is now taxed at 2.8%. A retail exemption may apply.
- **Form W-2:** Employers must disclose the aggregate cost of applicable employer-sponsored health plans.
- **Health Care Coverage Reporting:** Every health insurer that provides “minimum essential coverage” must file an annual return reporting for each individual for whom minimum essential coverage is provided.
- **Disclosures:** The IRS is now authorized to disclose return information to the U.S. Department of Health and Human Services and other agencies.
- **Automatic Enrollment:** An employer with more than 200 full-time employees must automatically enroll new full-time employees in an employer’s health benefit plan. Employees may opt out of the coverage.
- **Business Information Reporting:** Businesses, charities, and government entities must file an information return (Form 1099) when they would make annual purchases of totaling \$600 or more to a single vendor. This repealed the reporting exemption for payments made to corporations.