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## **New health care law includes tax provisions**

The new health care legislation includes sweeping changes for both individuals and businesses. The two laws, the *Patient Protection and Affordable Care Act of 2010* and the *Health Care and Education Reconciliation Act of 2010*, encourage universal health insurance coverage through options such as employer plans, state-operated exchanges, and private plans. Here are highlights of tax-related provisions included in these laws.

### **Insurance coverage**

- **Small businesses.** Starting this year, a small business with fewer than 25 employees and average annual wages of less than \$50,000 may use a tax credit to partially offset the cost of employer-provided health insurance. The full credit is available to a business with ten or fewer employees and average annual wages of \$25,000 or less per employee.
- **Individual coverage.** Starting in 2014, an individual who doesn't obtain at least "minimum essential coverage" may be assessed a nondeductible tax penalty. The monthly penalty is calculated using a percentage of the taxpayer's income or a flat dollar amount.
- **Employer coverage.** Beginning in 2014, an employer with at least 50 full-time employees may be assessed a nondeductible tax penalty if it doesn't offer minimum essential coverage.

### **Tax increases on high-incomers**

- **Medicare tax.** Currently, the 1.45% Medicare tax applies to earned income like wages. Starting in 2013, two additional Medicare taxes may be imposed on high-income taxpayers:
  - A 0.9% Medicare surtax for joint filers on earned income above \$250,000 (\$200,000 for single filers).
  - A 3.8% Medicare tax on "net investment income" for joint filers with a modified adjusted gross income above \$250,000 (\$200,000 for single filers). Net investment income includes "unearned income" such as interest, dividends, royalties, rents, gains from dispositions of property not used in an active trade or business, and passive activity income (but not distributions from qualified retirement plans and IRAs).

### **Other tax changes**

- **Adoption credit.** The adoption credit is increased to \$13,170 for 2010 (from \$12,170) and extended through 2011. The credit is also made refundable.
- **Information reporting.** Effective for 2011, employers must report the value of health insurance coverage on each employee's Form W-2. Effective for 2012, a business must file information

returns for annual payments totaling \$600 or more to every corporate recipient (other than tax-exempt entities).

- **Medical deductions.** Currently, you can deduct unreimbursed medical expenses in excess of 7.5% of adjusted gross income (AGI). Starting in 2013, the floor will be raised to 10%. Exception: Prior to 2017, individuals who are 65 or older are exempt from this increase.
- **Flexible spending accounts (FSAs).** Beginning in 2013, the maximum amount that may be contributed to a health care FSA will be limited to \$2,500 (adjusted for inflation thereafter).

The health care reform legislation will affect every taxpayer and every business. Contact us for more information on how the new rules will affect your taxes.

## **IRS is conducting employment audits**

The IRS has launched a three-year auditing project that will examine about 6,000 U.S. companies for compliance with employment tax obligations. The project is the first of its kind in 25 years, and its primary objective is to collect data to identify areas of noncompliance across all industry sizes and sectors, including nonprofits and governmental entities. This data will be used by the IRS to update its audit selection formulas in an area where noncompliance is considered a serious drain on the U.S. Treasury.

Among the issues the audits will look at:

- Classification of workers as employees or independent contractors, including executives rehired as consultants, dual status employees, and employee leasing arrangements.
- Fringe benefits, including expense reimbursement arrangements and noncash benefits.
- Executive compensation and fringe benefits, executive retirement contracts, golden parachutes, and stock options.

Employers can take some steps to prepare for these payroll tax audits. For example, conduct a mock audit to check how your company handles the three focus areas – classification of workers as employees or independent contractors, fringe benefits, and executive compensation. Your company may not be selected for the research audit program, but you also need to be ready to face an audit following the three-year project.

For more information or assistance, give our office a call.

## ***HIRE Act* certification form now available**

The *HIRE Act*, passed in March, provided tax incentives for companies to hire unemployed workers. One of these incentives is an exemption from social security payroll taxes for every qualified worker hired after February 3, 2010, and before January 1, 2011.

A new IRS form is now available for employers to document this payroll tax exemption for hiring unemployed workers. Form W-11 (Hiring Incentives to Restore Employment Act Employee Affidavit) is to be filled out by the new hire, certifying under penalties of perjury that he or she was either unemployed or worked fewer than a total of 40 hours during the 60 days prior to taking the current job. The W-11 forms are not filed with the IRS; the employer must retain them along with other payroll records.