

the Competitive Edge

Spring 2010

Health Care Reform 101

New Responsibilities and Taxes for Employers and Individuals

Health care reform is now law and many employers are asking how does it affect my business and my employees? The first thing to keep in mind is that reform is gradual. The health care reforms and tax provisions in the new health care reform package play out over time, with some taking effect this year or next year but others not until 2014 and beyond. However, the health care package imposes significant new responsibilities and taxes on employers and individuals so it is not too early to start preparing.



employees that does not offer health insurance and has at least one full-time employee receiving a premium assistance tax credit or cost-sharing will pay a per employee penalty. An employer with more than 50 full-time employees that offers coverage that the government deems unaffordable or fails to meet minimum standards and has at least one full-time employee receiving a premium assistance tax credit or cost-sharing also will pay a per employee penalty. Small employers with less than 50 employees will not be penalized in any case. The penalty rules apply starting in 2014.

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Two New Laws

Health care reform is actually made up of two new laws. The first is the Patient Protection and Affordable Care Act of 2010, signed by President Obama on March 23. The second is the Health Care and Education Reconciliation Act of 2010, signed by the President on March 26. The Patient Protection Act, which reflects the Senate's original health care reform bill, provides the overall framework for reform. The Reconciliation Act was drafted in the House to make changes to the Patient Protection Act, especially in the areas of cost-sharing and in some of the revenue raisers.

Employer Responsibility

The final health care package, unlike earlier versions, does not include an employer mandate. However, any employer with more than 50 full-time

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Small employers that provide health insurance coverage are eligible for a new tax credit. A sliding scale tax credit is available immediately in 2010 for qualified small employers. The IRS is expected to make guidance for the new credit a priority. If your small business offers or is thinking of offering health insurance to your workers, the credit could generate significant cost-savings.

Individual Responsibility

Unlike employers, individuals have a mandate under the health care reform package. Beginning in 2014, most individuals will be responsible for maintaining health insurance coverage for themselves and their dependents. If they do not have minimum essential coverage, they will be liable for a penalty.

The health care package excludes many individuals from the mandatory coverage requirement. Any individual or family who currently has coverage can retain that coverage under a “grandfather” provision. Individuals with incomes below the federal filing threshold, religious objectors, individuals covered by Medicaid and Medicare, and others are also exempt.

The health care package provides a premium assistance tax credit and cost-sharing to help make coverage more affordable. The premium assistance tax credit is calculated on a sliding scale based on the individual’s income in relation to the federal poverty level. Cost-sharing reduces the cost of coverage for qualified individuals. The premium assistance tax credit and cost-sharing generally will be available after 2013.

High-Dollar Plans

One of the principal revenue raisers to fund health care reform is a new excise tax on high-dollar health insurance plans. The health care reform package imposes an excise tax

of 40 percent on insurance companies or plan administrators for any health insurance plan with an annual premium in excess of \$10,200 for individuals and \$27,500 for families. The excise tax applies to the amount in excess of the \$10,200/\$27,500 levels. The thresholds are higher for individuals in high-risk occupations and individuals over age 55. The excise tax will not kick in until 2018.

Medicare Additional Tax and Surtax

Changes to the hospital insurance (HI)(Medicare) tax also fund health care reform. These changes impact higher-income individuals and families.

The health care reform package increases the Medicare tax by 0.9 percent for individuals who receive wages in excess of \$200,000 (the threshold increases to \$250,000 for married couples who file a joint federal income tax return). Additionally, the new law imposes a 3.8 percent surtax (called the Unearned Income Medicare Contribution) on investment income for individuals with adjusted gross incomes above \$200,000 (\$250,000 for married couples filing jointly). Investment income includes income from interest and dividends.

The additional Medicare tax on wages and the additional Medicare contribution on investment income take effect in 2013, so taxpayers have some time to prepare. Please contact our office for more details about how these tax changes may impact you.

Flexible Spending Arrangements

Flexible spending arrangements (FSAs) are a very popular way to save and pay for health care expenses. One of the most attractive features is the ability to use FSA dollars for over-the-counter medications. The health care reform package ends that feature after 2010.

In 2011 and subsequent years, FSA dollars can only be used to pay for prescription medications (with some limited exceptions). In 2013, the health care reform package limits the amount

of contributions to health FSAs to \$2,500 per year. The \$2,500 amount will be indexed for inflation after 2013.

More Provisions

The health care reform package also:

- Increases the AGI threshold for claiming the itemized deduction for medical expenses for regular tax purposes to 10 percent after 2012 with a delayed effective date for seniors;
- Extends dependent coverage up to age 26;
- Expands Medicaid eligibility;
- Requires states to establish insurance exchanges to help individuals and small employers obtain coverage;
- Increases the additional tax on distributions from health savings accounts not used for qualified medical expenses;
- Eliminates the employer deduction for Medicare Part D;
- Imposes annual fees on pharmaceutical manufacturers and health insurance providers;
- Imposes an excise tax on medical device manufacturers;
- Requires more corporate information reporting;
- Imposes new requirements on non-profit hospitals;
- Accelerates some corporate estimated income taxes in 2014;
- Imposes an excise tax on indoor tanning services;
- Codifies the economic substance doctrine; and
- Modifies the biofuel credit.

Business Tax Changes in the 2010 HIRE Act

The President recently signed into law the “Hiring Incentives to Restore Employment Act of 2010” (the 2010 HIRE Act), the centerpiece of which is a payroll tax holiday and up-to-\$1,000 tax credit for businesses that hire unemployed workers. The following is an overview of these new hiring incentives.

Extension of enhanced small business expensing (Section 179). The new law gives a one-year lease on life to enhanced expensing rules, which allow qualifying businesses the option to currently deduct the cost of business machinery and equipment, instead of recovering it via depreciation over a number of years. For tax years beginning in 2010, the maximum amount that a business may expense is \$250,000, and the expensing election begins to phase out when a business buys more than \$800,000 of expensing-eligible assets. These dollar limits are the same as those that were in effect for 2008 and 2009.

Payroll tax holiday and up-to-\$1,000 credit for employers who hire unemployed workers. To help stimulate the hiring of workers by the private sector, the new law exempts any private-sector employer that hires a worker who had been unemployed for at least 60 days from having to pay the employer’s 6.2% share of the Social Security payroll tax on that employee for the remainder of 2010. A company could save a maximum of \$6,621 if it hired an unemployed worker and paid that worker at least \$106,800 – the maximum amount of wages subject to Social Security taxes – by the end of the year. As an additional incentive, for any qualifying worker hired under this initiative that the employer keeps on payroll for a continuous 52 weeks, the employer is eligible for an additional non-



refundable tax credit of up to \$1,000 after the 52-week threshold is reached, to be taken on their 2011 tax return. In order to be eligible, the employee’s pay in the second 26-week period must be at least 80% of the pay in the first 26-week period.

Workers hired after the date of introduction of the legislation (February 3, 2010) are eligible for the payroll tax forgiveness and the retention bonus, but only wages paid after the date of the new law’s enactment receive the exemption for payroll taxes.

Following are some additional features of the new hiring incentive:

- The tax benefit of the new incentive is immediate. It puts

money into a business’ cash flow immediately, since the tax is simply not collected in the first place.

- The tax benefit generally applies only to private-sector employment, including non-profit organizations – public sector jobs are generally not eligible for either benefit. However, employment by a public higher education institution would qualify.

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Dealing With the New Foreign Account Compliance Rules Under the HIRE Act

The recently enacted Hiring Incentives to Restore Employment (HIRE) Act of 2010 includes a comprehensive set of foreign account compliance measures that will impact taxpayers with accounts in foreign banks and other financial institutions. Generally, for payments made beginning in 2013, taxpayers with various types of financial accounts or other interests overseas will be subject to increased reporting and disclosure requirements on those accounts, or face the imposition of 30 percent withholding.

Foreign Accounts

The HIRE Act imposes on U.S. taxpayers a 30 percent withholding tax on certain assets held in a foreign financial institution, unless that foreign financial institution agrees to comply with new heightened reporting and disclosure rules. Generally, for certain payments made after December 31, 2012, a withholding agent must deduct and withhold 30 percent of any “withholdable payment” made to certain foreign financial institutions that do not agree to comply with the new rules. Generally, a “withholdable payment” is any payment of interest (including interest on deposits with foreign branches of a U.S. commercial bank), dividends, rents, fixed or determinable annual or periodical gains, gross proceeds from the sale of property that produces interest, and/or dividend income.

Although the new withholding rules are generally effective for payments made after December 31, 2012, they will not apply to any obligation outstanding as of two years after the enactment of the HIRE Act, which was March 18, 2010. Additionally, publicly traded corporations and exempt organizations



are excluded from the heightened reporting and disclosure rules.

Financial Institutions

To avoid the 30 percent withholding requirement, the foreign institution must agree to a number of disclosure and reporting requirements on U.S. financial assets and accounts held by the foreign financial institution. Under the HIRE Act, an “account” includes any depository or custodial account maintained by the foreign financial institution, including any equity or debt interest in the institution other than equity/debt interests traded on established securities markets.

Foreign financial institutions must agree to report the identity and taxpayer identification number (TIN) of any U.S. individual with an account held at the institution (or its affiliates), and to provide annually (1) the account balance, (2) gross receipts, and (3) gross withdrawals or payments from the account. Additionally, withholding agents will be required to report the name, address, and TIN of any U.S. individual that is a substantial owner of a foreign corporation, foreign partnership, or foreign trust.

Account Holders

Under the HIRE Act, certain individuals holding any interest in a specified foreign financial asset must attach to his or her tax return certain information about the asset. Specified foreign financial assets include any account maintained by a foreign financial institution, among other things. Account holders must provide account numbers, the name of the financial institution maintaining the account, and the maximum value of the asset during the year. Regarding stocks and securities, account holders must provide the name and address of the issuer and the maximum value of the asset during the year. The disclosure rules apply to individuals with offshore accounts and other foreign financial assets with values of \$50,000 or more during the tax year.

The new law provides an exception from the reporting requirements for certain accounts held by individuals. The aggregate value of all accounts held by the taxpayer and maintained by the same foreign financial institution must not exceed \$50,000 in order to be excluded from the new reporting and withholding rules.

(Business Tax Changes in the 2010 HIRE Act – Continued from page 3)

- There is no minimum weekly number of hours that the new employee must work for the employer to be eligible, and there is no maximum on the dollar amount of payroll taxes per employer that may be forgiven.
- For workers that would otherwise be eligible for the “Work Opportunity Tax Credit,” the employer must select one benefit or the other for 2010 – no double dipping.
- An employer can’t claim the new tax breaks for hiring family members.
- A worker who replaces another employee who performed the same job for the employer is not eligible for the benefit, unless the prior employee left the job voluntarily or for cause.
- For the hiring to qualify, the new hire must sign an affidavit, under penalties of perjury, stating that he or she has not been employed for more than 40 hours during the 60-day period ending on the date the employment begins.
- The incentive is not biased towards either low-wage or high-wage workers. Under the measure, a business saves 6.2% on both a \$40,000 worker and a \$90,000 worker.
- The payroll tax holiday does not apply with respect to wages paid during the first calendar quarter of 2010, but the amount by which the Social Security payroll tax would have been reduced under the payroll tax holiday provision during the first



calendar quarter is applied against the tax imposed on the employer for the second calendar quarter of 2010.

- The Act creates a similar new set of rules permitting a payroll tax holiday for railroad retirement tax purposes.
- The credit for retaining qualifying new hires is the lesser of \$1,000 or 6.2% of the wages paid by the taxpayer to the retained worker during the 52-consecutive-week period. Thus, the credit for a retained worker will be \$1,000 if, disregarding rounding, the retained worker’s wages during the 52-consecutive-week period exceed \$16,129.03. However, the credit is not available for pay not treated as wages under the Code (e.g., remuneration paid to domestic workers).

Direct payment option for certain tax credit bonds. State and local governments have the ability to issue special purpose tax credit bonds for school construction, energy conservation, and renewable energy.

The federal government subsidizes these tax credit bonds by providing investors in these bonds with a federal tax credit in place of interest that would otherwise be payable on the bond. In lieu of providing investors with federal tax credits, the new law allows issuers of qualified school construction bonds, qualified zone academy bonds, clean renewable energy bonds, and qualified energy conservation bonds to elect to receive a direct payment from the federal government equal to the amount of the federal tax credit that would otherwise be provided for these bonds.

Revenue offsets. To pay for the tax incentives, the Act includes revenue offsets consisting of: (1) a comprehensive set of measures to reduce offshore noncompliance by giving IRS new administrative tools to detect, deter, and discourage offshore tax abuses; and (2) a three-year delay (through 2020) of implementation of worldwide allocation of interest – a liberalized rule for allocating interest expense between U.S. sources and foreign sources for purposes of determining a taxpayer’s foreign tax credit limitation.

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Doeren Mayhew Announces New Free Service

Doeren Mayhew has launched a new Website where visitors can sign up to receive a free children's money-saving themed activity book. The free activity book has a kid-friendly approach about the importance of saving money at an early age.

Clients, friends of the firm, and basically anyone that asks for one, can receive up to 5 free books per mailing address while supplies last. Website visitors requesting the activity books from Doeren Mayhew are assured that they are not going to be solicited in any way; the program is simply for goodwill.

Doeren Mayhew's newest free service is a spin-off of the Firm's very successful Free Child ID Kit Program, which was launched in March 2009.

Over the past year, parents have expressed much appreciation and support for our Free Child ID Kit Program. This appreciation compelled us to create a new free service to reinforce our commitment to the community.

As parents, we want our children to enjoy a financially sound future. Learning the right skills and making good financial decisions early in life can help make that happen. Our hope is that this program will serve as a medium for parents to help get their kids on the road to saving money at an early age.



To receive your free activity book(s), please visit Doeren Mayhew's Kids Saving Money Website today at www.KidsSavingMoney.com.