

Issued: April 14, 2010

Email Alert: Health Care Reform and Other Employee Benefit Matters

The publicity about the massive health care reform acts have legitimately created employer concern, How will this affect us? This alert provides some initial information about employer impact of health care reform. It also addresses some of the economic incentives and previously adopted health plan initiatives which some employers may have over looked.

Health Care Reform

We want to help you with the health care reform issues you may face. This email alert provides some preliminary information. We welcome questions you may have about the legislation. Please email questions to healthreform@capincrouse.com. These will help us know what to include in future communications.

For employers, the best news about health reform may be the delayed implementation for most provisions. Many details about how health reform may affect your business or organization still need to be analyzed. Congress, however, allowed time to make that analysis and develop implementation plans in many areas:

HEALTH REFORM LAW ELEMENT	EFFECTIVE DATE
Tax credit for small employers (businesses and tax exempt) that provide medical insurance (see below)	January 1, 2010
Payroll tax incentive for hiring unemployed (see below)	March 19, 2010
Whistleblower protection for those reporting what they reasonably believe to be violations of employee benefit laws	March 23, 2010
Required health plan changes: dependent coverage to age 26, even if not in school; no lifetime or unreasonable annual limits; coverage of preventive health care; appeals procedure	Plan years beginning after September 23, 2010
Small employers can establish "simple cafeteria plan"	January 1, 2011
Increased penalties on nonqualified distributions from HSAs and Archer MSAs.	January 1, 2011
Reporting on Form W-2 the value of employee's health coverage	January 1, 2011
Information reporting added for a trade or business payor of \$600 or more in gross proceeds (both goods and services) to a payee	January 1, 2012
Information reporting added for payments of \$600 or more for property or services to a non-tax-exempt corporation	January 1, 2012
Health flexible spending arrangements (cafeteria plan) limited to \$2,500.	January 1, 2013
Higher Medicare tax on higher income tax payers	January 1, 2013
Medicare tax based on investment income (see below)	January 1, 2013
Floor on medical expenses deduction increased to 10% of adjusted gross income (AGI)	January 1, 2013
Eliminating tax deduction & income exclusion for employer's providing subsidized retiree drug coverage	January 1, 2013
Individual coverage requirement (see below)	January 1, 2014
Premium assistance for lower income tax payers	January 1, 2014
Health plan requirements for employers of 50 or more employees (requirement to have plan & penalties if employee receives premium assistance) (see below)	January 1, 2014
"Cadillac tax" on high-cost health plans	January 1, 2018

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The substantial changes in traditional handling of health coverage have led to numerous suggested changes or even revocation. Nevertheless, we believe the wise course will be to plan on compliance with the current legislation. The effective dates allow some leeway on actual implementation.

We are analyzing the potential impact of the health reform legislation on the individuals, businesses and exempt organizations we serve. The above table, to provide perspective on the urgency of various elements, is an initial result, as are the summaries below addressing urgent or high interest elements.

In addition, we plan to address special applications to families of business owners, religious organizations, foreign based employees and ministers. We will be incorporating directives and guidance from several regulatory agencies which will be part of the implementation process (Public Health Service and Department of Labor, for instance). As details become clearer, we will provide additional guidance in newsletters and be available for consultation.

Small Employer Tax Credit

Effective January 1, 2010, eligible small businesses and tax exempt employers that provide a medical benefit for employees may qualify for a tax credit.

The maximum credit is 35 percent of premiums paid in 2010 by eligible small business employers and 25 percent of premiums paid by eligible employers that are tax-exempt organizations. In 2014, this maximum credit increases to 50 percent of premiums paid by eligible small business employers and 35 percent of premiums paid by eligible employers that are tax-exempt organizations.

The credit is specifically targeted to help small businesses and tax-exempt organizations that primarily employ low and moderate income workers. It is generally available to employers that have fewer than 25 full-time equivalent (FTE) employees paying wages averaging less than \$50,000 per employee per year. Because the eligibility formula is based in part on the number of FTEs, not the number of employees, many employers will qualify even if they employ more than 25 individual workers.

Eligible small businesses can claim the credit as part of the general business credit starting with the 2010 income tax return they file in 2011. For a tax-exempt employer, the credit is a refundable credit, so that even if the employer has no taxable income, the employer may receive a refund (the IRS will provide further information for how tax exempt organizations claim the credit).

Additional information is available [here](#).

Medicare & Children's Health Insurance Program Notice

Though not part of health reform, one past year's legislation goes into effect this year. An employer that maintains a group health plan in a state that provides medical assistance under a state Medicaid plan, or child health assistance under a state child health plan in the form of premium assistance for the purchase of coverage under a group health plan, is required to make provide employees notice of this option annually.

The Department of Labor has researched which states offer such benefits and who to contact for additional information. An employer can meet the requirement by providing a copy of the DOL model notice, available [here](#).

This notice is required by the 1st day of plan years after February 4, 2010.

We Can Help!

The staff at CapinCrouse works with hundreds of churches and not-for-profit organizations. This experience base allows us to quickly identify areas for improvement in many organizations. If your organization desires to improve its efficiency, please contact your CapinCrouse representative or one of our offices to discuss how we may help you.

About CapinCrouse LLP

With more than 500 not-for-profit organizations and 1,500 tax clients, CapinCrouse is the country's leading accounting and advisory firm primarily serving the Christian not-for-profit community.

Since 1972, CapinCrouse has been serving not-for-profit entities including megachurches, institutions of higher education and secondary schools, and international missions agencies by providing a full range of audit, review, tax, and advisory services.

CapinCrouse is dedicated to helping our clients operate with financial integrity so that they can dedicate themselves to fulfilling their mission.

6.2% Payroll Tax Incentive for Hiring Unemployed

Effective March 19, 2010, most employers were entitled to a credit of 6.2% against the payroll tax (FICA) they paid for previously unemployed individuals hired after February 3, 2010, and before January 1, 2011. This payroll tax holiday applies to employers in the business and not-for-profit sectors. It doesn't apply to public-sector employers other than public institutions of higher education. The credit for the first quarter (March 19-March 31) will be claimed in the second quarter.

"Qualified individual" (a person for whom an employer can claim a credit) means an individual who:

1. Begins employment with an employer after Feb. 3, 2010, and before Jan. 1, 2011. Although an employee who begins work after Feb. 3, 2010 can be eligible for the payroll tax holiday, the employer's tax will be forgiven only for the wages paid after Mar. 18, 2010.
2. Certifies by signed affidavit (IRS is developing affidavit form), under penalties of perjury, that he hasn't been employed for more than 40 hours during the 60-day period ending on the date the individual begins employment;
3. Isn't employed to replace another employee of the employer unless that other employee separated from employment voluntarily or for cause; and
4. Isn't a family member of the employer.

Additional information is available [here](#).

Medicare Tax Changes

Effective January 1, 2013, most taxpayers will continue to pay the 1.45% Medicare hospital insurance tax (with the employer matching this amount), but single people earning more than \$200,000 and married couples earning more than \$250,000 will be taxed at an additional 0.9% (2.35% in total) on the excess over those base amounts. Employers will collect the extra 0.9% on wages exceeding \$200,000 just as they would withhold Medicare taxes and remit them to the IRS. Self-employed persons will pay 3.8% on earnings over the threshold.

Also effective January 1, 2013, a new 3.8% tax will be imposed on net investment income of single taxpayers with AGI above \$200,000 and joint filers over \$250,000. Net investment income is interest, dividends, royalties, rents, gross income from a trade or business involving passive activities, and net gain from disposition of property (other than property held in a trade or business). Net investment income is reduced by properly allocable deductions to such income.

The new tax won't apply to income in tax-deferred retirement accounts such as 401(k) or 403(b) plans. Also, the new tax will apply only to income in excess of the \$200,000/\$250,000 thresholds. So if a couple earns \$200,000 in wages and \$100,000 in capital gains, \$50,000 will be subject to the new tax.

Individual Coverage Requirement

Effective January 1, 2014, U.S. citizens and legal residents must have qualifying health coverage or be subject to a tax penalty. Under the new law, those without qualifying health coverage will pay a tax penalty of the greater of: (a) \$695 per year, up to a maximum of three times that amount (\$2,085) per family, or (b) 2.5% of household income over the threshold amount of income required for income tax return filing. The full penalty will be phased in over several years: \$95 in 2014, \$325 in 2015, and \$695 in 2016 for the flat fee or 1.0% of taxable income in 2014, 2.0% of taxable income in 2015, and 2.5% of taxable income in 2016.

There are several exemptions to this requirement: financial hardship, religious objections, American Indians, those without coverage for less than three months,

aliens not lawfully present in the U.S., incarcerated individuals, those for whom the lowest cost plan option exceeds 8% of household income, those with incomes below the tax filing threshold (in 2010 the threshold for taxpayers under age 65 is \$9,350 for singles and \$18,700 for couples), and those residing outside of the U.S. The statutory definitions of these exemptions are one of our critical investigations and will be the subject of a later communication.

Large Employer Health Plan Requirements

Effective January 1, 2014, employers who averaged at least 50 full time employees (full time being over 30 hours a week) during the preceding calendar year may be subject to penalties if they do not offer affordable minimum essential coverage. The penalty only applies if either (a) the employer does not offer affordable minimum essential coverage, or (b) if it does offer insurance, a full time employee is certified to the employer as having enrolled in health insurance coverage purchased through a state exchange that results in a premium tax credit or cost-sharing reduction allowed or paid to the employee.

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