

The Bankler Report

March 23, 2010

INTRODUCTION

President Obama signed the “Health Care and Education Reconciliation Act of 2010” today.

Some of the key provisions include:

UNIVERSAL HEALTH COVERAGE MANDATE:

Employer Responsibilities (50 or more fulltime employees)

Starting 1/1/2014, employers not offering coverage for all full-time employees, offering minimum essential coverage that is unaffordable, or offering minimum coverage with the benefits costing less than 60% of the total cost, would have to pay a penalty if any full-time employee purchased health insurance through a state exchange in which a cost sharing (or tax credit) is allowed. The penalty is \$2,000 per year per employee (in excess of 30 employees), payable on a monthly basis.

Small Employer offering health coverage

Starting 1/1/2011, a tax credit is available for the purchase of health insurance for its employees. To qualify, the employer could not have more than 25 full-time equivalent employees (FTE) and whose wages average \$50,000 or less. A full credit would be available if the employer had 10 or fewer FTE with an average wage less than \$25,000.

Dependent coverage in employer health plans

Effective **TODAY**, the law would extend the general exclusion (from income) for medical reimbursements under an employer provided plan for any child under the age of 27 as of December 31st of any year.

TAX INCREASES AND CHANGES INCLUDED IN THIS LAW:

Excise tax on high-cost employer sponsored health coverage

Starting 1/1/2018, there would be a 40% non-deductible excise tax on insurance companies and plan administrators for any health coverage to the extent that the annual premium exceeds \$10,200 for single and \$27,500 for family coverage. This tax would apply to self-insured plans as well as group plans.

Additional Hospital Insurance Tax (HI) for high wage workers

Starting 1/1/2013, the HI tax rate would be increased by 0.9% on an individual earning over \$200,000 (\$250,000 joint). **Note: this tax is NOT INDEXED for inflation!**

Surtax on unearned income

Starting 1/1/2013, there would be a 3.8% surtax “Unearned Income Medicare Contribution” on net investment income of taxpayers earning over \$200,000 (\$250,000 joint). Net investment income includes interest, dividends, royalties, rents, as well as net gain from disposition of property (capital gains).

New limit on FSA contributions

Starting 1/1/2013, there would be a contribution limit of \$2,500 to health flexible spending accounts. This limit would be indexed for inflation.

Restricted definition of medical expenses

Starting 1/1/2011, for employer provided health coverage (including health reimbursement accounts, FSAs, health savings accounts (both HSAs and MSAs) the definition of medical expenses would conform to the same definition for itemized deduction purposes (generally there would be no deduction for over the counter medicine, except insulin and Doctor prescribed medicines. Therefore; there would be no tax free reimbursements from these accounts.

Increased tax on nonqualifying HSA or MSA distributions

Starting 1/1/2011, distributions for nonqualifying distributions for taxpayers under 65 would increase to 20%.

Increased threshold for claiming medical expense deductions

Starting 1/1/2013, the adjusted gross income threshold for claiming the itemized deduction for medical expenses would be increased from 7.5% to 10%. However, the 7.5% threshold would continue to apply through 2016 for individuals age 65 and older.

New employer reporting responsibilities

Starting 1/1/2011, employers would have to disclose the value of the employee's health insurance benefit on the annual W-2 (initial new reporting on W-2s issued in 2012).

New Corporate information reporting

Starting 1/1/2012, businesses that pay over \$600 during the year to a corporate provider of goods and services (generally, current law only requires reporting of payments to **non-corporate entities for services**) would have to file an information report (1099). Initial report due in 2013.

Simple cafeteria plans for small businesses

Starting 1/1/2011, a new employee benefit cafeteria plan can be established. This plan would be subject to eased participation restrictions so that small businesses could provide tax-free benefits to their employees. Self-employed individuals would qualify as employees.