The Bankler Report

July 2, 2012

INTRODUCTION

The IRS, on June 21, issued FAQs to explain employers' withholding obligations for the additional Medicare tax imposed by the 2010 Patient Protection and Affordable Care Act ("Obama Care"). This law imposes over $800 Billion of new taxes. Since the Supreme Court upheld this legislation on Thursday, we are highlighting some of the tax changes effective January 1, 2013!

Beginning 1/1/13 High Income wages earners are subject to additional 0.9% Medicare Tax.

Married filing joint couples whose total wages exceed $250,000 ($200,000 for singles; $125,000 for Married filing separately) incur an additional 0.9% Medicare Tax. The IRS stated that all wages currently subject to the current Medicare Tax will also be subject to the additional tax, after meeting the appropriate threshold. Basically:

a. An employer must begin withholding the additional Medicare tax once an employee's wages are over the threshold ($200,000), even if the employee may not ultimately be liable for this tax. Any excess additional Medicare tax withheld will be credited against the total tax liability shown on the employee's personal income tax return.

b. An employer is not required to notify an employee when it begins withholding the additional Medicare tax.

c. Although an employee can't request additional withholding specifically for the additional Medicare tax, an employee who anticipates being liable for it may request that his employer withhold an additional amount of income tax withholding on Form W-4, which will be applied against all taxes (including any additional Medicare tax liability) shown on the employee's income tax return.

d. An employer begins withholding the additional Medicare tax in the pay period in which it pays wages to the employee exceeding the $200,000 threshold and not earlier, even if the employee's annual wages are expected to exceed the threshold.

e. If the employee wages include noncash fringe benefits, the employer calculates wages for purposes of withholding the additional Medicare tax in the same way that it calculates wages for withholding the existing Medicare tax. The value of noncash fringe benefits must be included in wages and the employer must withhold the applicable additional Medicare tax and deposit the tax under the rules for employment tax withholding and deposits that apply to noncash fringe benefits.

Unearned Income subject to "Medicare" Tax.

Effective January 1, 2013, for the first time unearned income will be subject to a 3.8% Medicare tax. This tax will be imposed on Married Filing Joint couples with income in excess of $250,000 (Singles $200,000 and Married Filing Separate $125,000). Unearned income includes capital gains, dividends, interest, rents, etc.

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Bush tax cuts expire December 31, 2012.

In addition to the new taxes imposed by Obama Care, the Bush tax cuts also expire. Effective January 1, 2013 (unless Congress takes action) the top federal rate on long-term capital gains and dividends, now 15 percent, would increase to 20% and 39.6%, respectively. For high earners who exceed the threshold, the health-care tax would bring the levy on dividends to as much as 43.4%.

Tax planning ideas.

1. Consider selling investments to lock in gains at lower rates (or even eliminate these taxes, if you have capital losses carried over from prior years). If you have investment property that has a gain, but really don't want to dispose of it, consider "selling" to "related parties".

2. While taxes increase for couples with income over $250,000, consider taking advantage of a possible "donut hole" between "reasonable salary" and the threshold in order to maximize the savings.

We will be developing other tax saving strategies. Please feel free to contact us to discuss your individual tax situation.

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