

HEALTH REFORM IMPACT

What you need to know NOW

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

Revenue Raisers

April 13, 2010

The Patient Protection and Affordable Care Act, enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, enacted on March 30, 2010 (collectively the "Health Reform Legislation"), increased and expanded federal taxes in several important aspects. In this IMPACT alert, we will summarize the revenue raisers and additional reporting requirements included in the Health Reform Legislation that apply broadly to most industries and taxpayers. In later IMPACT alerts, we will discuss revenue raisers specific to particular industries and taxpayers.

Changes Effective in 2011

Reporting Health Coverage Costs on IRS Form W-2. Beginning with IRS Form W-2s issued in 2011, employers will be required to include the value of each employee's health insurance coverage sponsored by the employer. If an employee enrolls in employer-sponsored health insurance coverage under multiple plans, the IRS Form W-2 must disclose the aggregate value of all such health coverage. This new reporting requirement does not apply, however, to coverage for amounts contributed by an employer to (i) any health flexible spending arrangement, (ii) any Archer medical savings account of an employee or the employee's spouse, or (iii) any health savings account of an employee or the employee's spouse.

Changes Effective in 2013

Elimination of Certain Incentives for Subsidized Employer Contributions to Medicare Part D Prescription Drug Plans. Under prior law, if an employer offered prescription drug plans for Medicare Part D eligible retirees that were government subsidized, the employer would receive a deduction for the value of the subsidy even though the subsidies were not included in the employer's gross income. Although the subsidies received by the employer will continue to be excluded from its gross income, the amount of the employer contribution equal to the subsidy will no longer be deductible by the employer. Such change, although not effective until 2013, may affect deferred tax assets included in current financial statements.

Increase to Employee's Share of the Medicare Portion of Payroll Taxes for Certain Individuals. Employees will be subject to the Medicare portion of the payroll tax at a rate of 2.35 percent (up 0.9 percent from the current rate of 1.45 percent) on wages in excess of the "threshold amount." The employer's share of the Medicare portion of the payroll tax will not increase. The "threshold amount" for the employee's increased Medicare portion of the payroll taxes is \$200,000 for single

individuals, \$250,000 for married individuals filing joint returns or \$125,000 for married individuals filing separate returns. An employer will be required to withhold any additional tax resulting from this tax increase.

New Unearned Income Medicare Contribution Tax on Certain Taxpayers. This new tax, applicable to individuals, trusts and estates earning more than a certain "threshold amount," will apply at a rate of 3.8 percent. In the case of an individual taxpayer, the amount subject to the 3.8 percent tax is the lesser of (i) the taxpayer's net investment income and (ii) the amount that the taxpayer's modified adjusted gross income exceeds the "threshold amount." The "threshold amount" for an individual taxpayer is the taxpayer's modified adjusted gross income in excess of \$200,000 if the taxpayer is single, \$250,000 if married filing jointly or \$125,000 if married filing separately. This new tax is subject to the estimated tax provision and is not deductible in computing income tax liability.

Net investment income is equal to investment income reduced by the deductions properly allocable to that income. Investment income generally is equal to the sum of (i) gross income from interest, dividends, annuities, royalties, and rents, (ii) net gain attributable to the disposition of property (other than property held in a trade or business), and (iii) gross income derived from a trade or business that is a passive activity to the taxpayer or derived from a business of trading in financial instruments or commodities. Distributions from employer-sponsored retirement plans that are qualified plans will not be subject to this new tax; however, the treatment of distributions from employer-sponsored retirement plans that are non-qualified plans is unclear under the Health Reform Legislation.

If you have questions regarding the information in this alert, please contact any of the attorneys in our Tax Practice listed below.

Also, please [click here](#) to visit our special web page for Health Reform IMPACT.

R. Todd Ervin	(615) 742-7787	tervin@bassberry.com
Michael J. Holley	(615) 742-7809	mholley@bassberry.com
Philip M. Lewis	(901) 543-5967	plewis@bassberry.com
Bryan W. Metcalf	(615) 742-6212	bmetcalf@bassberry.com

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