

MP&S TAX ALERT
APRIL 2010

HIGHLIGHTS OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

The tax provisions of the Patient Protection and Affordable Care Act will have an impact on most taxpayers, as well as on how employers deal with health care insurance for their employees. We have provided below a brief summary of the main tax provisions affecting individuals and businesses. It is possible that some of the provisions for later years could be modified by future legislation.

We realize that there are many questions surrounding the Patient Protection and Affordable Care Act. Marks Paneth & Shron is ready to offer guidance about how the provisions will affect you or your specific business.

CHANGES TAKING PLACE IN 2010 AND 2011

Tax credits for small businesses. Starting this year, small businesses are entitled to tax credits for purchasing group health coverage. For tax years 2010 to 2013, the maximum credit is 35%, provided the employer contributes at least 50% of the total premium or 50% of a benchmark premium. Starting in 2014, a maximum credit of 50% is available for two years for employers that purchase coverage through a state exchange and contribute at least 50% of the total premium. Smaller credits are available for tax-exempt businesses.

Coverage for adult children. Starting immediately on or after March 23, 2010, parents can cover adult children up to age 27 under their tax-qualified employer-provided health plans.

Small employers can provide simple cafeteria plans. In tax years beginning after December 31, 2010, certain small employers' cafeteria plans may qualify as "simple" cafeteria plans under which the applicable nondiscrimination requirements of a classic cafeteria plan are treated as satisfied.

Limits on flexible savings arrangements. Health flexible savings arrangement (FSA) dollars will be limited to prescription medications with some exceptions after 2010, along with placing a \$2,500 annual cap on expenses covered under health FSAs, starting in 2013.

FUTURE CHANGES

Penalties for the uninsured. Beginning in 2014, most individuals who aren't eligible for Medicaid, Medicare or other government-provided coverage will have to purchase minimum essential health coverage. Those who fail to do so will be hit with a penalty (with exceptions for the poor and certain others).

Premium assistance for those with lower incomes. Beginning in 2014, people with income between 133% and 400% of the federal poverty level (FPL) are eligible for tax credits or cost-sharing subsidies on a sliding scale to help pay insurance premiums.

Higher taxes on the affluent. To help offset the act's cost, certain taxpayers will face higher taxes. Beginning in 2013, taxpayers with more than \$200,000 in earned income (\$250,000 for joint filers) will pay an additional 0.9% Medicare tax on the excess. In addition, those with an adjusted gross income (AGI) over \$200,000 (\$250,000 for joint filers) will pay a new, 3.8% Medicare tax on unearned income, such as interest, dividends, rents, royalties and certain capital gains. The tax doesn't apply to retirement plan distributions.

Also starting in 2013, the act raises the threshold for deducting unreimbursed medical expenses from 7.5% to 10% of AGI and limits contributions to flexible spending accounts for medical

expenses.

Penalties for employers who fail to provide coverage. The Patient Protection Act doesn't require employers to provide insurance coverage, but starting in 2014 it imposes tax penalties on certain employers that don't provide it. Employers with 50 or more full-time-equivalent workers (FTEs) that don't offer coverage and have at least one full-time employee who receives a premium tax credit are subject to an annual fee of \$2,000 per FTE (not including the first 30 FTEs).

Excise tax on "Cadillac" plans for businesses. Starting in 2018, high-cost group plans will be subject to a 40% nonrefundable excise tax. The tax applies to annual premiums in excess of \$10,200 for individual coverage and \$27,500 for family coverage (excluding stand-alone dental and vision plans). The thresholds are higher (\$11,850 and \$30,950, respectively) for retirees and employees in certain high-risk professions. These amounts will be indexed for inflation.

MP&S PEOPLE NEWS: MIKE MCNEE NEW HEAD OF WESTCHESTER OFFICE

Michael L. McNee, Partner-in-Charge, Nonprofit and Government Services, has also been named the Partner-in-Charge of the firm's Westchester office, which is located at 660 White Plains Road in Tarrytown. *The Westchester County Business Journal* ranks Marks Paneth & Shron as the 7th largest firm in Westchester.

MP&S PUBLICATIONS

As a leading professional services firm, Marks Paneth & Shron offers thought leadership on a wide range of topics. Recent publications can be found in the Library section of the firm's website.

ABOUT THE MP&S TAX PRACTICE

Marks Paneth & Shron is a recognized provider of tax services to partnerships, corporations, trusts and estates, tax-exempt organizations as well as high-net-worth individuals, their families and their charitable interests. With more than 100 tax professionals — approximately 15 of whom are partners and principals — our firm serves both domestic and international clients. Our tax practitioners are committed to delivering high-quality, personalized service. Our tax team is further distinguished by the depth and breadth of our specialist resources.

FOR MORE INFORMATION

For more information about the Patient Protection and Affordable Care Act, please contact your MP&S tax advisor or Steven Eliach, JD, LLM, the Principal-in-Charge of the MP&S Tax Practice, by phone at 212.503.6388 or by email at seliach@markspaneth.com.

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