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## Client Information Bulletin

June 2010

### Overview of the New Health Care Law

#### *Broad reforms change the landscape*

The massive new health care legislation includes sweeping changes for businesses and individuals, although certain "grandfather" rules may apply. Here is a summary of several key provisions.

**Employer responsibilities:** Beginning in 2014, if an employer with 50 or more employees does not provide minimal essential coverage to an eligible employee, it may be assessed a penalty of \$2,000 per full-time employee (excluding the first 30 employees). However, a qualified small business may use a special tax credit to offset employer-provided coverage.

A "small business" is generally one with no more than 25 employees and average annual wages of less than \$50,000 per employee. For 2010 through 2013, the maximum tax credit is 35% of the employer's contribution toward the employee's health insurance premium. Beginning in 2014 and thereafter, the maximum increases to 50% for two years for eligible small businesses purchasing coverage through a state exchange. Finally, the full 100% credit will be available to employers with 10 or fewer employees and average annual wages of less than \$25,000.

Employers offering coverage must provide certain low-income employees with a "free choice voucher" to enroll in an exchange. Employers providing free choice vouchers are

not subject to penalties for employees who receive premium credits in a state-run exchange.

An employer with more than 200 employees must automatically enroll employees in its health plan. However, employees may opt out of this coverage.

Effective 90 days after enactment and extending through 2013, employers may join a temporary government reinsurance program to partially reimburse them for the cost of health insurance coverage for retirees age 55 years or older who are not eligible for Medicare.

**Individual responsibilities:** Beginning in 2014, individuals are generally required to obtain health insurance coverage. Otherwise, you must pay a tax penalty equal to the greater of \$695 per person per year up to a maximum of three times that amount per family or 2.5% of household income. The penalty will be phased in over a three-year period ending in 2016. After 2016, the figures will be indexed for inflation. Exemptions are available for certain low-income taxpayers.

**Health insurance exchanges:** Beginning in 2014, state-based American Health Benefit Exchanges and the Small Business Health Options Program (SHOP) will offer coverage to individuals and small businesses with up to 100 employees. After 2016, states may permit busi-

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## New Payroll Taxes on Tap

Currently, the 1.45% Medicare tax portion of Social Security tax applies to "earned income," such as wages, but not "unearned income." Effective in 2013, the new health care law creates two new taxes:

- ◆ An additional 0.9% Medicare tax is imposed on earned income of joint filers above \$250,000 (\$200,000 for single filers).
- ◆ A 3.8% Medicare tax is imposed on "net investment income" of joint filers with a modified adjusted gross income (MAGI) above \$250,000 (\$200,000 for single filers).

For this purpose, net investment income includes interest, dividends, royalties, rents, gains from dispositions of property and passive activity income, but not distributions from qualified retirement plans and IRAs.



nesses with more than 100 employees to purchase coverage in the SHOP exchange.

🔪 **Premium assistance credits:** Beginning in 2014, refundable premium assistance credits will be available to certain low-income individuals and families. A credit is generally available to taxpayers with a household income between 100% and 400% of the federal poverty level.

🔪 **Tax on health insurance plans:** Effective in 2018, an excise tax is imposed on insurers of employer-sponsored health plans with aggregate values exceeding \$10,200 for individual coverage and \$27,500 for family coverage. Although this tax is imposed on insurers, higher costs under "Cadillac plans" may be passed on to consumers.

🔪 **Benefit designs:** Effective in 2014, an essential health benefits package is established that provides a comprehensive set of services, covers at least 60% of the actuarial value of the covered benefits, limits annual cost-sharing and is not more extensive than the typical employer plan. All qualified health benefits plans, including those offered through the exchanges and private plans (except grandfathered plans), are required to offer at least an essential health benefits package.

🔪 **Preexisting conditions:** Effective within 90 days of enactment and extending through 2013, a temporary national high-risk pool is established to provide health coverage to individuals with preexisting medical conditions. Individuals who have a preexisting medical condition and who have been uninsured for at least six months will be eligible to enroll in the high-risk pool and receive subsidized premiums.

🔪 **Private insurance:** Effective in 2010, health insurance plans are required to report the proportion of premium dollars spent on clinical services, quality and other costs. Beginning in 2011, insurers must provide rebates to consumers for the amount of the premium spent on clinical services and quality that is less than 85% for

plans in the large-group market and 80% for plans in the individual and small-group markets.

Effective six months after enactment, all individual and group policies must provide dependent coverage for children through age 26, individual and group health plans are prohibited from placing lifetime limits on the dollar value of coverage and insurers cannot rescind coverage (except for fraud).

Beginning in 2014, individual and group health plans are prohibited from placing annual limits on the dollar value of coverage. Prior to 2014, plans may only impose annual limits on coverage as determined by the government. Effective in 2014, waiting periods for coverage are limited to 90 days, and states have the option of merging the individual and small-group markets.

Six months after enactment, grandfathered plans are required to extend dependent coverage to age 26, prohibit rescissions of coverage, and eliminate waiting periods for coverage of greater than 90 days, lifetime limits on coverage and preexisting condition exclusions for children. Beginning in 2014, grandfathered group plans must eliminate all preexisting condition exclusions and annual limits on coverage.

🔪 **Health care accounts:** Among other changes for various health care accounts, the annual contribution limit for flexible spending accounts is capped at \$2,500 in 2013 (with future inflation adjustments).

🔪 **Medical deductions:** Beginning in 2013, the threshold for medical deductions increases from 7.5% of AGI to 10%. **Exception:** An individual (and spouse) who is age 65 or older is temporarily exempt from this increase for 2013 through 2016.

🔪 **Prescription drugs:** Changes in Medicare Part D will effectively close the "doughnut hole" for prescription drug coverage.

*There are many other important provisions in the new health care legislation. Seek assistance from your professional advisers.*

## New Tax Incentives in the HIRE Act

### Benefit from tax breaks for hiring workers

The president signed the new Hiring Incentives to Restore Employment (HIRE) Act into law on March 18, 2010. This law features new tax breaks for hiring and retaining unemployed workers, an extension of the higher Section 179 deduction allowed for 2009 and an enhancement of the Build America Bonds program. Here are the particulars:

**Unemployed workers:** The new law "forgives" the 6.2% Social Security tax that employers must pay on the wages of qualified employees. This effective exemption covers wages paid to the workers for any period in 2010 from March 19, 2010, through December 31, 2010. The 6.2% tax applies to the first \$106,800 of wages paid to an employee in 2010.

For this purpose, a "qualified employee" is one who begins work for your company after February 3, 2010, and before January 1, 2011. The employee cannot have worked more than 40 hours during the previous 60 days. The 60-day period ends on the worker's start date. Special transitional rules may apply to application of this tax break.

Note that the exemption may be claimed for part-time as well as full-time workers. But no exemption is available for a worker who is related to the employer or owns more than 50% of the business.

The new law also allows an employer to claim a tax credit for continuing to employ qualified workers for at least 52 consecutive weeks. The credit for each qualified employee is equal to the lesser of \$1,000 or 6.2% of the employee's wages paid during this time. A retained worker must be paid during the last 26 weeks of the 52-week period an amount equal to at least 80% of the wages paid during the first 26 weeks.

**Section 179 deduction:** Under Section 179, a business owner could currently deduct up to \$250,000 of qualified business assets placed in service in 2009. The maximum deduction was reduced if assets placed in service exceeded \$800,000. These figures were scheduled to decline for assets placed in service after 2009. For 2010,

the maximum deduction drops to \$125,000 with a phaseout threshold of \$500,000 (both adjusted for inflation).

The new law preserves the higher deduction and phaseout threshold for 2010.

Also, off-the-shelf software continues to be eligible for the Section 179 deduction for one more year. But note that the HIRE Act does not extend "bonus depreciation" to business assets placed in service this year.

**Tax credit bonds:** The American Recovery and Reinvestment Act of 2009 (ARRA)

authorized state and local governments to issue "Build America Bonds." To enhance the program, the new law allows issuers of qualified tax credit bonds to receive direct payment from the federal government equal to the tax credit. The tax credit bonds include new clean renewable-energy bonds, qualified energy conservation bonds, qualified zone academy bonds and qualified school construction bonds.

The new HIRE Act did not address other tax "extenders" or alternative minimum tax relief. More legislation may be forthcoming.

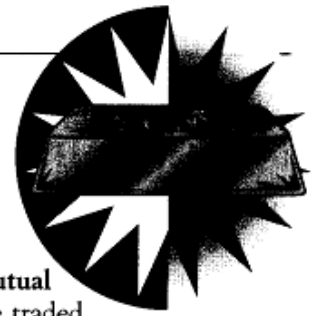


### Finding a Tax Bundle of Joy

Is someone in your family adopting a child? He or she may recoup expenses through the adoption tax credit (revised by the health care law). For 2010, the maximum credit is now generally available for the first \$13,170 of the qualified expenses of adopting an eligible child (i.e., one younger than 18 years of age, or physically or mentally incapable of self care). Other rules apply to special-needs children.

But be aware that the adoption credit is phased out for high-income taxpayers. For 2010, the phaseout occurs for taxpayers with an AGI between \$182,520 and \$222,520. The credit, which was scheduled to expire after 2010, has been extended through 2011.





## Nuggets About Investing in Gold

### Consider key tax and nontax factors

**A**re you interested in buying gold as an inflation hedge? Be wary of the potential pitfalls. Typically, the price of gold is subject to extreme price fluctuations and may be adversely affected by changing economic conditions. If you decide to invest, here are four common methods:

**1. Gold bars or bullion:** Gold bars can generally be purchased in quantities as small as one gram, although some investors favor one ounce gold bars. Other costs are connected with this investment, such as broker commissions, insurance and storage fees. When you sell the bars, you may have to pay an assay charge for each bar.

**2. Gold coins:** Several countries throughout the world issue gold coins. The cost is generally equal to the spot market for gold plus a small commission and minting fees. **Note:** Certain gold coins may be held by IRA accounts. This is an exception to the general rule prohibiting IRA investments in collectibles such as precious metals.



#### Give Us A Call!

Do you have any questions or comments about **Client Information Bulletin** or your individual situation? Please do not hesitate to contact our office.

We would be glad to serve you in any way we can.

#### **3. Gold mining stocks and mutual funds:**

Gold mining stocks are traded on the stock market, so they are subject to the same risks as other stock investments. Mutual funds that invest in gold generally are not as volatile as individual stocks. You can purchase shares the same as with any other mutual fund. These mutual funds also offer diversification and professional management.

**4. Gold exchange traded funds:** An exchange traded fund (ETF) is an investment trust sold on one of the major stock exchanges. As with a mutual fund investment, it reflects the price of gold bullion, without any of the hassle and markup of owning the metal directly. Furthermore, you can sell your shares quickly. But this convenience has a price: You will incur brokerage fees for buying and selling an ETF.

For tax purposes, an investment in gold is generally treated as an investment in a collectible. Thus, if the gold is held longer than one year, any gains from sales are taxed at a maximum 28% tax rate (as opposed to the usual 15% rate on other capital assets, such as most securities). Otherwise, such a sale results in tax at ordinary income rates. Also, note that special complex rules apply to purchases of gold futures.

**Final words:** Consider all the relevant tax and nontax factors of this investment. Rely on your professional advisers for expert guidance.

## Facts and Figures

### Timely points of particular interest

➔**Pay the IRS First**—In a new case, the chief executive officer (CEO) of a restaurant franchise found out that the company's accountants did not make the required employer tax deposits on time. But the CEO let six months go by before he fired the accounting professionals. In the meantime, company funds were used to pay off other debt. **Result:** The CEO was held personally liable for the unpaid employment taxes.

➔**Creative Meetings**—Business meetings are often boring. Here are some ideas that have been used to liven things up: (1) Crayons and construction paper were used to draw up new ideas. (2) Naysayers were sprayed with water pistols. (3) Workers submitted anonymous thoughts on Post-it notes. Then the suggestions were put on a wall to be read. **The point is:** Be creative about stimulating ideas and making meetings more productive.

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