

# HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010 (H.R. 4872)

## EFFECTIVE DATES OF TAX PROVISIONS

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### 2010

- 1) **Small Business Tax Credit (Phase I)** - Eligible small businesses can take advantage of up to a 35% tax credit on contributions to employee health care.
- 2) **Indoor Tanning Tax** - A new 10% tax on tanning services is imposed on customers (*begins in July*).
- 3) **Codification of Economic Substance** - Common law doctrine is codified (*applies to transactions entered into after March date of enactment*).
- 4) **New Underpayment Penalties (Economic Substance)** - Transactions lacking economic substance are subject to the Section 6662 underpayment penalties w/ no reasonable cause exception available (*applies to transactions entered into after March date of enactment*).
- 5) **"New Therapies" Tax Credit** - Tax credit of up to 50% of investment available to qualifying businesses investing in "qualified therapeutic discovery projects" (*available for 2009 as well*).
- 6) **New "Adult Dependents"** - Reimbursements for medical expenses for children under age 27 from employer-sponsored insurance are excluded from income.
- 7) **Revision of Biofuel Credit** - Excludes certain fuels such as "black liquor" from qualifying for the tax credit.
- 8) **Adoption Credit** - Credit increased and made refundable.

### 2011

- 1) **Add'l W-2 Reporting** - Employers are required to disclose the value of each employee's employer-sponsored health care coverage on his/ her annual Form W-2.
- 2) **Annual Fee (Branded Drug Industry)** - This industry annual fee starts out at \$2.5 billion for 2011.
- 3) **Revised Definition of "Medical Expenses"** - Eliminates non-doctor-prescribed over-the-counter drugs from the definition and, therefore, from certain tax benefits associated with flexible spending accounts ("FSAs"), health savings accounts ("HSAs") and other cafeteria plans.
- 4) **Increased Penalty on HSA Distributions** - Penalty for distributions for other than "qualified medical expenses" for those under 65 increases from 10% of disbursed amount to 20%.

### 2012

- 1) **New Disclosure of Payments to Corporations** - Persons who make payments of \$600 or more to corporations are required to file a Form 1099 disclosing such payment.

### 2013

- 1) **Increased Medicare Payroll Tax** - Employee-portion of the Medicare payroll tax increases to 2.35% on wages/ self-employment income over a threshold amount.
- 2) **New Medicare Tax on Net Investment Income** - A new 3.8% Medicare tax is assessed on the lesser of (i) net investment income or modified adjusted gross income ("MAGI") over a threshold amount for individuals. (A similar tax is imposed on certain estates and trusts.)
- 3) **Excise Tax on Sales of Medical Devices** - A new 2.3% excise tax is imposed on sales of taxable medical devices by manufacturers, producers and importers.
- 4) **Increased Limit on Itemized Deductions** - Threshold for deducting unreimbursed medical expenses on Sch. A is generally increased from 7.5% of adjusted gross income ("AGI") to 10% of AGI.
- 5) **FSA Limitation** - Salary reductions under an FSA are limited to \$2,500/ year.

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**2013 cont'd**

**6) Elimination of Deduction for Federal Subsidies** - Sponsors of qualified prescription drug plans that receive tax-free subsidy payments can no longer deduct the costs associated with those subsidies for federal income tax purposes.

**7) Executive Compensation Limitation (Health Insurance Providers)** - Providers with at least 25% of gross premium income derived from health insurance plans meeting the requirements of H.R. 4872 will not be allowed a tax deduction for remuneration paid to applicable individuals exceeding \$500,000/ year.

**2014**

**1) Individual Mandate** - Individuals are required to maintain minimal health care coverage for themselves and their dependents or are subject to an annual excise tax.

**2) Individual Tax Credits** - Premium assistance tax credits become available for certain low-income individuals to subsidize their purchase of health insurance.

**3) Employer Mandate** - Employers generally averaging 50 full-time employees will be subject to certain nondeductible excise taxes if they do not provide affordable health insurance to their employees.

**4) Small Business Tax Credit (Phase II)** - Eligible small businesses can take advantage of up to a 50% tax credit on contributions to employee health care (limited to two consecutive taxable years).

**5) Annual Fee (Health Insurance Industry)** - This industry annual fee starts out at \$8 billion for 2011.

**2018**

**1) Excise Tax on Cadillac Plans** - Insurers are assessed a 40% excise tax on the cost of each employee's employer-sponsored health care that exceeds a threshold amount.