



2010: Time to Convert Your Roth IRA?

Due to the recent tax law change, 2010 could be remembered by many investors as the Year of the Roth Conversion, a decision that can have significant impact on investors' abilities to build wealth during their lifetimes and preserve wealth for beneficiaries.

A chief advantage of a Roth IRA is that it has more flexible rules concerning distributions than a traditional IRA. Distributions from a Roth IRA are tax-free, which means that a taxpayer can take advantage of a Roth IRA's appreciation free from tax on gains. Other benefits of a Roth IRA include the following:

- In most instances, contributions can be withdrawn at any time without penalty. Earnings may be withdrawn without tax or penalty if the taxpayer is at least age 59½ and has held the Roth account for at least five years.
- There are no required minimum distributions (RMDs) when the taxpayer reaches age 70½.
- Taxpayers can continue to contribute to a Roth IRA after reaching age 70½.
- A tax-diversified retirement distribution strategy can also help with Social Security planning. Up to 85% of Social Security benefits can be taxable if a taxpayer's modified adjusted gross income (MAGI) reaches a certain level. When calculating MAGI for taxable Social Security benefits purposes, taxpayers must include all taxable and tax-exempt income and 50% of their Social Security benefits, but not Roth IRA distributions.

Taxpayers who may benefit more from the conversion in 2010 are those who:

- are wealthy;
- seek to reduce estate settlement costs;
- will not need to draw income from converted retirement accounts;
- are young, high-income earners; and
- believe their tax bracket will be the same or higher in retirement, or, more specifically, when they draw income from their qualified retirement accounts.

Time to Convert...(continued)

When the taxpayer converts all or a portion of a traditional IRA to a Roth IRA, the amount of the conversion is taxable in the year of the conversion. However, the incentive to make the conversion in 2010 is that everyone who converts this year may defer and spread income recognition from the conversion over tax years 2011 and 2012. A conversion in 2010, therefore, could reduce the marginal tax rate and total taxes due on what otherwise would be a larger single-year distribution. The 10% penalty tax otherwise imposed on early or excess distributions from an IRA does not apply. In addition, the income limitations that prevented many taxpayers from making the conversions prior to 2010 have been removed for the tax year 2010 only. It is also good planning to make conversions when income is lower and the tax on the income from the conversion will be taxed at a lower tax bracket. Many taxpayers' incomes are reduced in today's economy. Taxpayers are encouraged to discuss their circumstances with their current CPAs and financial planners. They should go through the decision-making process together based on the taxpayer's current financial condition and tolerance and capacity for risk, financial planning objectives, and time horizon.

2010 Mileage Rates Announced

The IRS has announced that, beginning on January 1, 2010, the standard mileage rates for the use of a car (including vans, pickups, or panel trucks) will be:

- 50 cents per mile for business miles (55 cents in 2009);
- 16.5 cents per mile for medical or moving purposes (24 cents in 2009); and
- 14 cents per mile in service of a charitable organization (unchanged from 2009).

More 2010 Tax Alerts continued on the next page.

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New Penalty for Failure to File Change in Ownership Statements

An acquiring person, including a trust or legal entity (partnership, LLC, or a corporation), must file California Form BOE-100-B with the Board of Equalization (BOE) within 45 days from the earlier of:

- the date of change in control or the change in ownership, or
- the date of written request by the BOE.

Beginning January 1, 2010, the penalty is 10% of the real property tax based on the reappraised amount if a change in ownership occurred without compliance with the above notification requirements. Previously, the BOE was statutorily required to abate the penalty if the taxpayer filed a correctly completed Form BOE-100-B within 60 days after the entity was notified of the penalty. However, beginning January 1, 2010, SB 816 eliminates the automatic extinguishment of the penalty if the entity files within those 60 days. The penalty can only be abated if the person or legal entity:

- Files a written application for abatement of penalty within 60 days of being notified of the penalty by the assessors; and
- Establishes that the failure to file within 45 days was due to reasonable cause and not due to willful neglect.

To request penalty abatement, the taxpayer must file Form BOE-100-B with the BOE and file an application for penalty abatement with the County Board of Supervisors.

California Franchise Tax Board (FTB) Says No E-pay Penalties in 2010

The FTB will not assess the mandatory e-pay penalty for individuals in 2010. The FTB will continue to focus efforts on education and outreach. The law requires taxpayers who make a payment of more than \$20,000, or who have a tax liability of more than \$80,000 in a year beginning on or after January 1, 2009, to make all future payments electronically. The FTB will continue to monitor compliance levels to determine the appropriate time to begin imposing the penalty provision of the statute.

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What Every Business Should Know About California Use Tax

Now that California is requiring service businesses with annual gross receipts of \$100,000 or more to register for use tax, it is important for businesses to know what is and is not taxable. In general, use tax applies to property purchased from out-of-state vendors. There are some common exemptions from California use tax.

Occasional sales

If the purchase is from an occasional seller, the purchaser is not subject to sales or use tax. An occasional seller is a person who is not engaged in business and who makes fewer than three sales in a 12-month period.

Intangible property

A purchase of software that is electronically transferred (downloaded) is exempt from the use tax. However, the taxpayer should ensure that no original disk is transferred.

Storage and use exclusion

If property is purchased from out of state and stored in California for the purpose of transporting it outside the state for use thereafter solely outside the state, the purchase is exempt from the use tax.

We have created a sample schedule to help businesses keep track of purchases that might be subject to California use tax. The taxpayer needs to list items that were shipped from another state and were not subject to California sales or use tax. In addition, there is a column to enter sales tax paid to the other state, which can offset the California use tax. If the item was first used outside of California, it is not subject to California use tax.

Date purchased	Item purchased	Cost of item	Sales tax paid to other state, if any	First used in CA? (yes/no)

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Health Care Reform: Comparing the Provisions in the House and Senate Bills

The House and Senate have taken divergent paths in raising revenue to pay for their respective health care bills. We have compiled the table below to compare the two bills.

Provisions targeting high-income individuals		
Provision	House Bill	Senate Bill
High-income surtax	Impose 5.4% surtax on modified adjusted gross income over \$500,000 (\$1 million for joint filers); not indexed for inflation. Effective date: Tax years beginning after Dec. 31, 2010. 10-year revenue estimate: \$460.5 billion	No provision
Medicare surtax	No provision	Impose additional 0.9% hospital insurance tax on wages over \$200,000 (\$250,000 for joint filers). Effective date: Tax years beginning after Dec. 31, 2012. 10-year revenue estimate: \$86.8 billion
Health care-related provisions		
Provision	House Bill	Senate Bill
Excise tax on 'Cadillac' group health plans	No provision	40% nondeductible excise tax levied at insurer level on employer-provided health coverage in excess of \$8,500 for individuals (\$23,000 for families), indexed for inflation. Effective date: Tax years beginning after Dec. 31, 2012. 10-year revenue estimate: \$148.9 billion
Fee on health insurance providers	No provision	Impose annual fee on U.S. health insurance providers: \$2 billion for 2011; \$4 billion for 2012; \$7 billion for 2013; \$9 billion for years 2014 through 2016; and \$10 billion for years after 2016. Effective date: Calendar years beginning after Dec. 31, 2010. 10-year revenue estimate: \$59.64 billion

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Health Care Reform... (continued)

Fee on pharmaceutical manufacturers, importers	No provision	Impose annual fee of \$2.3 billion on manufacturers and importers of branded drugs. Effective date: Calendar years beginning after Dec. 31, 2009. 10-year revenue estimate: \$22.2 billion
Fee on medical devices	2.5 percent tax on first taxable sale of medical devices. Effective date: Sales of medical devices after Dec. 31, 2012. 10-year revenue estimate: \$20 billion	Impose annual fee of \$2 billion on manufacturers and importers of certain medical devices for 2011 through 2017 and \$3 billion for years after 2017. Effective date: Calendar years beginning after Dec. 31, 2010. 10-year revenue estimate: \$19.2 billion
Itemized deduction for medical expenses	No provision	Raise floor for itemized deduction for medical expenses to 10% of adjusted gross income (from 7.5%); retain 7.5% floor for individuals over age 65 (and their spouses). Effective date: Tax years beginning after Dec. 31, 2012; provision retaining 7.5% floor for individuals over age 65 expires Dec. 31, 2016. 10-year revenue estimate: \$15.2 billion
Health flexible spending arrangements	Limit annual salary-reduction contributions to health flexible spending arrangements in cafeteria plans to \$2,500, indexed for inflation. Effective date: Tax years beginning after Dec. 31, 2012. 10-year revenue estimate: \$13.3 billion	Same as House provision, indexed for inflation after 2011. Effective date: Tax years beginning after Dec. 31, 2010. 10-year revenue estimate: \$13.3 billion
Excise tax on indoor tanning services	No provision	Impose 10% excise tax on indoor tanning services. Effective date: Services provided on or after July 1, 2010. 10-year revenue estimate: \$2.7 billion

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Health Care Reform... (continued)

Definition of 'medical expenses' for employer-provided health coverage	Conform definition of medical expenses for purposes of health flexible spending arrangements, health reimbursement arrangements, health savings accounts, and Archer Medical Savings Accounts to the definition for the itemized deduction. Effective date: Expenses incurred after Dec. 31, 2010. 10-year revenue estimate: \$5.0 billion	Same as House provision.
Comparative Effectiveness Research Trust Fund	Impose fee on insured and self-insured health plans to help finance Comparative Effectiveness Research Trust Fund. Effective date: Effective for policies and plans for portion of policies for plan years beginning on or after Oct. 1, 2012. 10-year revenue estimate: \$2.0 billion	Impose fee on insured and self-insured health plans to finance patient-centered outcomes research trust fund. Effective date: Effective for policies and plans for portion of policies or plan years beginning on or after Oct. 1, 2012. 10-year revenue estimate: \$2.6 billion
Medicare Part D subsidy	Eliminate deduction for expenses allocable to Medicare Part D subsidy. Effective date: Tax years beginning after Dec. 31, 2012. 10-year revenue estimate: \$2.2 billion	Same as House provision, but effective for tax years beginning after Dec. 31, 2010. 10-year revenue estimate: \$5.4 billion
Health savings account distributions	Increase penalty for nonqualified distributions from health savings accounts to 20% Effective date: Distributions made during tax years beginning after Dec. 31, 2010 10-year revenue estimate: \$1.3 billion	Same as House provision
Executive compensation caps for health insurance providers	No provision	Limit deduction on remuneration to officers, employees, directors, and service providers of covered health insurance providers to \$500,000. Effective date: Effective for remuneration paid in taxable years beginning after 2012 with respect to services performed after 2009. 10-year revenue estimate: \$600 million
Special deduction for Blue Cross Blue Shield organizations	No provision	Limit special deduction for Blue Cross Blue Shield organizations under Section 833 in the case of organization with a low medical loss ratio. Effective date: Tax years beginning after Dec. 31, 2009. 10-year revenue estimate: \$400 million

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Health Care Reform... (continued)

Employer reporting of value of health insurance benefits	No provision	Require employer W-2 reporting of value of health benefits provided to employees. Effective date: Taxable years beginning after Dec. 31, 2010. 10-year revenue estimate: Negligible
Nonprofit hospitals	No provision	Impose additional compliance and reporting requirements on section 501(c)(3) hospitals Effective date: Taxable years beginning after date of enactment 10-year revenue estimate: Negligible
Veterans health care	No provision	Study and report on effect of the bill on veterans' health care. Effective date: Date of enactment. 10-year revenue estimate: Negligible
Business provisions (Non-health care)		
Provision	House Bill	Senate Bill
Tax treatment of 'black liquor'	Make 'black liquor' ineligible for the cellulosic biofuel producer credit under section 40(b)(6). Effective date: Fuel sold or used after date of enactment. 10-year revenue estimate: \$23.9 billion	No provision
Information reporting	Mandatory Form 1099 reporting for payments made to a corporation totaling \$600 or more in a calendar year. Effective date: Payments made after Dec. 31, 2011. 10-year revenue estimate: \$17.1 billion	Same as House provision
Limitation on treaty benefits for certain deductible payments	Limit treaty benefits on payments that are (1) deductible for U.S. federal income tax purposes, (2) made by a U.S. corporation that is controlled by a foreign parent, and (3) made to a recipient that is also controlled by the same foreign parent. Effective date: Payments made after date of enactment. 10-year revenue estimate: \$7.5 billion	No provision
Worldwide interest allocation election	Repeal Effective date: Tax years beginning after Dec. 31, 2010. 10-year revenue estimate: \$6 billion	No provision

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Health Care Reform... (continued)

Economic substance	<p>Codify economic substance doctrine; impose 40 percent strict liability penalty on tax understatements attributable to undisclosed noneconomic substance transactions, and an additional 20 percent penalty under section 6676 for erroneous claims for refunds or credits; substantially modify application of accuracy-related penalty to corporations with gross receipts in excess of \$100 million; and persons required to file periodic or other reports under section 13 of the Securities Exchange Act of 1934.</p> <p>Effective date: Transactions entered into after date of enactment.</p> <p>10-year revenue estimate: \$5.7 billion</p>	No provision
Individual & employer mandates		
Provision	House Bill	Senate Bill
Individual mandate	<p>Individuals who do not maintain a required level of coverage at any time during the taxable year would be subject to a 2.5% tax on their adjusted gross income, capped at the cost of the national average premium health insurance plan.</p> <p>Effective date: Tax years beginning after Dec. 31, 2012.</p> <p>Congressional Budget Office (CBO) 10-year revenue estimate: \$33 billion</p>	<p>Excise tax of the greater of \$750 or 2% of income per adult in the household would be imposed on individuals who fail to obtain adequate coverage.</p> <p>Tax would phase in beginning at \$95 or 0.5% of income in 2014, reaching \$750 or 2% of income in 2016 (indexed for inflation thereafter).</p> <p>Effective date: Tax years beginning after Dec. 31, 2013.</p> <p>CBO 10-year revenue estimate: \$15 billion</p>
Employer mandate	<p>Employers who do not meet health coverage participation requirements for employees would be required to pay an excise tax of \$100 per employee for each day of noncompliance. Employers electing not to provide health benefits would be subject to an excise tax of 8% of their payrolls (lower rates apply for small employers).</p> <p>Effective date: Tax years beginning after Dec. 31, 2012.</p> <p>CBO 10-year revenue estimate: \$135 billion</p>	<p>No mandate, but employers with at least 50 full-time employees generally would be subject to non-deductible fees if they:</p> <ol style="list-style-type: none"> 1) do not offer coverage to employees (\$750 per full-time employee), 2) impose a waiting period of more than 30 days for employees to enroll in a company, or 3) offer coverage but have at least one full-time employee receiving premium assistance tax credit (lesser of \$3,000 for each employee receiving a tax credit or \$750 for each full-time employee). <p>Effective date: Tax years beginning after Dec. 31, 2013.</p> <p>CBO 10-year revenue estimate: \$28 billion</p>

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Health Care Reform... (continued)

Miscellaneous provisions		
Provision	House Bill	Senate Bill
Indian health benefits	Provide income exclusion for specified Indian health benefits. Effective date: For health benefits and coverage provided after date of enactment. 10-year revenue estimate: Loss of less than \$50 million	Same as House bill
Cafeteria plan nondiscrimination safe harbor	No provision	Simplify cafeteria plan nondiscrimination safe harbor for certain small employers. Effective date: Tax years beginning after Dec. 31, 2010. 10-year revenue estimate: Negligible
Qualifying therapeutic discovery credit	No provision	50% credit for qualified investment in a qualifying therapeutic discovery credit of an eligible taxpayer. Effective date: For amounts paid or incurred after Dec. 31, 2008, in taxable years beginning after Dec. 31, 2008. 10-year revenue estimate: Loss of \$900 million
State loan repayment tax relief for health professionals	No provision	Provide exclusion from gross income for assistance provided to participants in state student loan repayment programs for certain health professionals. Effective date: For taxable years beginning after Dec. 31, 2008. 10-year revenue estimate: Loss of \$100 million
Modifications to adoption credit	No provision	Make adoption credit refundable, increase credit amount, and extend through 2011. Effective date: For taxable years beginning after Dec. 31, 2009. 10-year revenue estimate: Loss of \$1.2 billion

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Health Care Reform... (continued)

Miscellaneous provisions		
Provision	House Bill	Senate Bill
Disclosures to facilitate identification of individuals likely to be ineligible for low-income subsidies under the Medicare prescription drug program	<p>Authorize IRS to disclose to Social Security Administration certain taxpayer information to facilitate identification of individuals likely to be ineligible for low-income subsidies under the Medicare prescription drug program.</p> <p>Effective date: Disclosures made after the date that is 12 months after the date of enactment.</p> <p>10-year revenue estimate: Negligible</p>	No provision
Spousal/dependent health benefits for eligible designated beneficiaries	<p>Extend certain health benefits applicable to spouses and dependents to eligible designated beneficiaries.</p> <p>Effective date: For taxable years beginning after Dec. 31, 2009.</p> <p>10-year revenue estimate: Loss of \$4.0 billion</p>	No provision

On January 6, House Speaker Pelosi said that negotiators are close to reaching a compromise agreement on a bill, although she refused to predict when the legislation might reach the House and Senate floors.

The House is scheduled to reconvene on January 12, while the Senate does not plan to return to Washington until January 19. Some lawmakers have expressed a desire to send a completed bill to the President's desk before the end of January.

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