



President Obama Signs New Health Care Reform into Law

President Obama signed H.R. 3590, the Patient Protection and Affordable Care Act, on March 23, 2010. The bill was passed by the Senate on December 24, 2009 and by the House on March 21, 2010. Here are the highlights of key provisions in the Act.

- **Businesses with more than 50 employees.** Large employers will either have to provide affordable health care coverage to workers or pay a penalty of \$750 to \$2,000 per full-time employee beginning in 2014.
- **Tax credits for small employers offering health benefits.** The bill provides a tax credit to small employers up to 35% of their contributions to health insurance coverage to their employees. Small employers are businesses who have fewer than 25 employees and average annual wages of less than \$50,000.
- **Dependent coverage in employer health plans.** Effective on March 23, 2010, the bill extends the general exclusion for reimbursements for medical care expenses under an employer-provided accident or health plan to any child of an employee who has not attained age 27 as of the end of each tax year beginning in 2010. This change applies to the exclusion for employer-provided coverage under an accident or health plan for injuries or sickness for such a child. In addition, self-employed individuals are also allowed to take a deduction for any child of the taxpayer who has not attained age 27 as of the end of the tax year.
- **Excise tax on high-cost employer-sponsored health coverage.** For tax years beginning after December 31, 2017, the bill would place a 40% nondeductible excise tax on insurance companies and plan administrators for any health coverage plan to the extent that the annual premium exceeds \$10,200 for single coverage and \$27,500 for family coverage. An additional threshold amount of \$1,650 for single coverage and \$3,450 for family coverage would apply for retired individuals age 55 and older and for plans that cover employees engaged in high-risk professions.
- **New employer reporting responsibilities.** For tax years beginning after December 31, 2010, employers will have to disclose the value of the benefit provided by them for each employee's health insurance coverage on the employee's annual Form W-2.
- **Additional Hospital Insurance Tax (HI) (AKA Medicare Tax) for high wage workers.** For tax years beginning after December 31, 2012, the bill increases the Medicare tax rate by 0.9 percentage points on an individual taxpayer earning over \$200,000 (\$250,000 for married couples filing jointly); these figures are not indexed. Therefore, the tax rate will increase to 2.35% from 1.45%.

- **Surtax on unearned income.** For tax years beginning after December 31, 2012, the bill places a 3.8% surtax on net investment income of a taxpayer earning over \$200,000 (\$250,000 for a joint return). This surtax is called the Unearned Income Medicare Contribution. The net investment income includes interest, dividends, royalties, rents, and gross income from a trade or business involving passive activities and net gain from disposition of property (other than property held in a trade or business). Net investment income would be reduced by deductions properly allocable to such income.
- **New limit on health FSA contributions.** The bill limits the amount of contributions to flexible spending accounts (FSAs) to \$2,500 per year, effective for tax years beginning after December 31, 2012. The dollar amount would be inflation indexed after 2013.
- **Increased tax on nonqualifying HSA or Archer MSA distributions.** The additional tax for HSA withdrawals before age 65 that are used for purposes other than qualified medical expenses would be increased from 10% to 20%, and the additional tax for Archer MSA withdrawals that are used for purposes other than qualified medical expenses would be increased from 15% to 20%, both effective for distributions made after December 31, 2010.
- **Modified threshold for claiming medical expense deductions.** For tax years beginning after December 31, 2012, the bill increases the adjusted gross income (AGI) threshold for claiming the itemized deduction for medical expenses from 7.5% to 10%. However, the 7.5% of AGI threshold would continue to apply through 2016 to individuals age 65 and older (and their spouses).
- **Industry-specific revenue raisers.** The bill imposes revenue-raising changes on health-related industries, as follows:
 - ⇒ A new deduction limit on executive compensation would apply to insurance providers. If at least 25% of the insurance provider's gross premium income is derived from health insurance plans that meet the minimum essential coverage requirements in the bill, an annual \$500,000 per tax year compensation deduction limit would apply for all officers, employees, directors, and other workers or service providers performing services for, or on behalf of, a covered health insurance provider. The limit would apply for compensation paid in tax years beginning after 2012 with respect to services performed after 2009.
 - ⇒ Beginning in 2011, pharmaceutical manufacturers and importers would be subject to an annual flat fee that is allocated across the industry according to market share. The schedule for the flat fee would be: 2011, \$2.5 billion; 2012 to 2016, \$3 billion; 2017, \$4 billion; 2018, \$4.1 billion; 2019 and later, \$2.8 billion. The fee would not apply to companies with sales of branded pharmaceuticals of \$5 million or less.
 - ⇒ Manufacturers or importers of medical devices would have to pay a 2.3% tax of the sales price on the sale of any taxable medical device by the manufacturer, producer, or importer of the device. A taxable medical device would be any device, defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act, intended for humans. The excise tax would not apply to eyeglasses, contact lenses, hearing aids, and any other medical device determined by the IRS to be of a type that is generally purchased by the general public at retail for individual use.

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⇒ Health insurance providers would face an annual flat fee on the health insurance sector effective for calendar years beginning after December 31, 2013.

- **Corporate information reporting.** Businesses that pay any amount greater than \$600 during the year to corporate providers of property and services would have to file an information report with each provider and with the IRS, effective for payments made after December 31, 2011.
- **Simple cafeteria plans for small businesses.** For tax years beginning after December 31, 2010, the bill establishes a new employee benefit cafeteria plan to be known as a Simple Cafeteria Plan. This plan would be subject to eased participation restrictions so that small businesses could provide tax-free benefits to their employees; it would include self-employed individuals as qualified employees.
- **Liberalized adoption credit and adoption assistance rules.** For tax years beginning after December 31, 2009, the bill increases the adoption tax credit by \$1,000, makes the credit refundable, and extends the credit through 2011. The adoption assistance exclusion also would be increased by \$1,000.
- **New credit for new therapies.** Effective for expenses paid or incurred after December 31, 2008, a two-year temporary credit would be created, subject to an overall cap of \$1 billion, to encourage investments in new therapies to prevent, diagnose, and treat acute and chronic diseases.
- **New exclusion for certain health professionals.** The bill would exclude from gross income payments made under any state loan repayment or loan forgiveness program that is intended to provide for the increased availability of health care services in underserved or health professional short age areas. This would be effective for amounts received by an individual in tax years beginning after December 31, 2008. In addition, there is a separate provision that allows income exclusion for specified Indian health benefits.

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