How the Affordable Care Act Will Impact Your Taxes

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Affordable Care Act Impacts Most Businesses & Individuals

- Large Employers with 50 or more full-time equivalent employees must offer affordable health insurance to their employees or pay a penalty (tax) starting in 2014.
- Individuals without health insurance will owe a penalty (tax) starting in 2014.
- Reinsurance Assessment Fee and Insured Health Plans Tax
- Health insurance exchanges will begin enrollment on 10/1/2013 for the 1/1/2014 effective date where carriers will sell individual and Small Group Health Insurance Plans (SHOP).
- Washington State Health Benefit Exchange: http://wahbexchange.org

Affordable Care Act Impacts Most Businesses & Individuals (Continued)

- An increase to the employee Medicare tax of 0.9% (employee total of 2.35% and overall total of 3.8%) on annual wages for married couples with an Adjusted Gross Income (AGI) over $250,000 and singles with an AGI over $200,000 starts in 2013.
- A new Medicare tax of 3.8% on Net Investment Income (NII) for married couples with AGI over $250,000 and singles with AGI over $200,000 starts in 2013.
- The threshold to deduct medical expenses increases from 7.5% to 10% of AGI starting in 2013.
- Flexible Spending Accounts (FSA) contributions for medical expenses are limited to $2,500 starting in 2013.

Major Impact to Businesses as a Result of the Affordable Care Act?

1-10 employees (FTEs)	11-24 employees (FTEs)	25 to 49 employees (FTEs)	50 or more employees (FTEs)
Business credit is available to subsidize 35% of the cost of the health insurance premium paid by the employer if employee wages average less than $25,000 annually. Employer must pay 50% or more of insurance to qualify for credit. Started in 2010.	A phased out business credit is available to subsidize a portion of the cost of the health insurance premium paid by the employer if employee wages average less than $50,000 annually. Employer must pay 50% or more of insurance to qualify for credit. Started in 2010.	Employer is not required to offer health insurance to employees, although employees are required to carry minimum essential health coverage.	Employer must offer affordable basic insurance or be subject to a "shared responsibility" penalty starting in 2014.
			If employee's required contribution for the employer provided insurance is too expensive for the employees to participate, employee may receive credit from the exchange starting in 2014.

The Large Employer Mandate

- Applies only to “Large Employers” or “Large Employer Members.”
- Large Employers are forced to make a “play or pay” business decision. Play by the rules of ACA, or pay nondeductible penalties (taxes).

Who is a Large Employer?

- Employer with an average of at least 50 full-time equivalent employees (FTEs) for the previous calendar year (calculated on a monthly basis).
  - Full-time employees include:
    - Full-time = average of 30 hours per week, and
    - Full-time equivalent employees (FTEs). All monthly non full-time hours divided by 120 = monthly FTE
- Controlled Group Rules apply. Establishing multiple companies with common ownership to avoid 50 FTEs will not avoid ACA.

IRS Controlled Group Rules

- Employees of all controlled group members are aggregated.
- If controlled group members collectively have more than 50 full-time employees, a single employer of a controlled group is an "applicable Large Employer member" and is subject to the Employer Mandate.
  - Parent-subsidiary rules
  - Brother-sister rules
  - Temporary & Leased Employee Rules

Seasonal Worker Exception

- Exception to "Large Employer" status:
  - Full-time employees plus FTEs exceed 50 for less than 120 days or 4 months **and** the excess over 50 are seasonal workers.
- Seasonal worker performs labor or services on a seasonal basis.
  - "Seasonal basis" – work that is ordinarily performed at certain seasons or periods of the year and which, by its nature, may not be continuous or carried on throughout the year.

Coverage for Dependents

- Actual text of law: "if an applicable Large Employer fails to offer to its full-time employees *(and their dependents)…*"
- Regulations provide that employers **must** offer coverage to dependents of full-time employees.
  - Dependents include children who have not attained age 26.
  - Does <u>not</u> include spouses.
- Employers who do not offer coverage to dependents, affordable or otherwise, will be subject to penalty as if employer failed to offer coverage to any full-time employees.

Penalty Applies only to Full-Timers

- No penalties are triggered by part-time employees.
  - Part-time is only relevant to <u>calculating</u> Large Employer status.
- Full-time means an average of 30 hours per week.
- Determination of existing employee hours and number of full-time employees will be based on employee hours in 2013.

Determining Full-Time Employees And Equivalents

- During 2013, Employers must determine number of Full-Time Employees and Equivalents using:
  - A “Standard Measurement Period”
    - 3 to 12 months
    - Look back at an employee’s hours during period
  - A “Stability Period”
    - At least 6 months (parity with measurement period)
    - Treat employee as full-time or not-full-time based on the employee’s hours during the look-back period.
- Administrative period
  - No longer than 90 days in between the periods.

Avoiding Employer Mandate Penalties

- Offer full-time employees coverage that is both:
  - **AFFORDABLE** (9.5% of Income Test), and provides **MINIMUM VALUE** (60% Test)
- Must offer coverage for dependents,
- If You Don't:
  - Employees may obtain tax credits to purchase Individual coverage.
  - Employees' tax credits trigger penalties for Large Employers. Employer may appeal!
  - Employees earning under 400% of federal poverty level are eligible for tax credits (subsidies applied to reduce cost of insurance).

Avoiding Employer Mandate Penalties (Continued)

- Employers will not be penalized for failure to offer health care coverage to 5% of their full-time employees <u>or</u> 5 employees, whichever is greater.
  - **Example:** Employer with 60 employees will not be penalized for failure to offer 5 full-time employees health care coverage (60 x 5% = 3).
  - **Example:** Employer with 200 employees will not be penalized for failure to offer 10 full-time employees health care coverage (200 x 5% = 10).

Minimum Value

- The plan **must cover** 60% of the total allowed costs of benefits (+/- 2%)
- Minimum value is the ratio of a plan's cost-sharing to total anticipated claims for the standard population.
  - Cost-sharing amounts include in-network:
    - Deductibles
    - Co-insurance
    - Copayments
    - Similar charges
  - Cost-sharing amounts exclude:
    - Premiums
    - Balance billing amounts for non-network providers
    - Spending for non-covered services

Affordability – 9.5% of Income Test

- Affordability is measured by the amount of an employee's premium contribution for a "single" health insurance plan, even if they have spouses and/or dependents.
- Several IRS-created affordability safe harbors:
  - W-2 Safe Harbor
  - Rate of Pay Safe Harbor
  - Federal Poverty Level Safe Harbor

W-2 Wage Safe Harbor

- Large Employer will not be subject to a penalty if the premium for the lowest cost self-only coverage does not exceed 9.5% of the employee's *W-2 wages*.
- To utilize, employee's contribution must remain consistent throughout the year.
- Adjusted for partial-year employment.

Multi-employer Plan Safe Harbor

- A Large Employer that contributes to multi-employer plan will not be subject to penalty if, for any full-time employee:
  - Employer is required to make contribution to multi-employer plan based on Collective Bargaining Agreement (CBA)
  - Coverage under the multi-employer plan is offered to the full-time employee and the employee's dependents
  - **And** the coverage offered to the full-time employee is affordable and provides minimum value.

The Business Penalty Amount

- Large Employer offers no coverage and at least one employee receives a premium tax credit:
  - **$2,000 x number of full-time employees minus 30.**
- “Large Employer Penalty” will cost $40,000 per year minimum.
  - **$2,000 x 50 full-time employees minus 30.**
- Large Employer Offers Coverage That is <u>NOT</u> Affordable or <u>NOT</u> Minimum Value Coverage:
  - **$3,000 x number of full-time employees that receive a premium tax credit.**

Employer Summary

- Employers must determine whether or not they are a Large Employer subject to the Employer Mandate.
  - If you are a Large Employer, offer your full-time employees coverage that is affordable and has minimum value to avoid penalties.
- Employers will need to educate all employees about employer offered health insurance compliance with affordability and minimum value so employees can choose between the employer plan and plans offered on the health insurance exchange.

Reinsurance Assessment Fees and Insured Health Plan Tax

- Reinsurance Assessment Fee:
  - 2014 $5.25 per person per month ($63 annual fee)
  - 2015 $3.57 per person per month ($43 annual fee)
- Insured Health Plan Tax:
  - 2014 – 1.9% of premiums
  - 2015 – 2.7% of premiums

Individual Mandate

- Beginning January of 2014, Americans must have a minimum level of health insurance coverage or pay an annual tax.
- No tax if covered by:
  - An Employer Health Insurance Plan
  - Individual Health Insurance Plan
  - Medicare, Medicaid or Children's Health Insurance Program (CHIP)
  - Military or Veteran's Health Program

Individual Mandate (Continued)

- Exemptions from tax:
  - Approved qualified religious sects
  - Illegal aliens
  - Incarcerated
  - If cost of coverage exceeds 8% of individual's household income

Individual Mandate Penalties

- If an individual fails to obtain minimum essential coverage beginning in 2014, then a penalty will be imposed equal to the greater of (i) $95 per adult and $47.50 per child (family maximum of $285) or (ii) 1% of the excess of the taxpayer's household income over the taxpayer's filing threshold in 2014.
- These penalties increase up to the greater of (i) $325 per adult or (ii) 2% of the excess of the taxpayer's household income over the taxpayer's filing threshold in 2015, and then (i) $695 or (ii) 2.5% of the excess of the taxpayer's household income over the filing threshold in 2016.

WA State Medicaid Expansion

- ACA expands Medicaid eligibility to 138% of Federal Poverty Level (FPL)

Household Size	2013 138% FPL
1	$15,856
2	$21,404
3	$26,951
4	$32,499
5	$38,047

  - Supreme Court decision permits states to opt-out of expansion
  - Washington State did not opt-out of the expansion, so about 200,000 to 300,000 of low-income adults will become eligible for expanded Medicaid and free health insurance.

Low and Middle Income Subsidies

- Subsidies will be available to individuals with household income under 400% of Federal Poverty Level (FPL) and individuals not eligible for affordable employer health insurance.

	100% FPL	200% FPL	400% FPL
1	$11,490	$22,980	$45,960
2	$15,510	$31,020	$62,040
3	$19,530	$39,060	$78,120
4	$23,550	$47,100	$94,200
5	$27,010	$55,140	$110,280

Tax Credit/Premium Subsidy

- Tax Credit/Premium Subsidy is only available if the employee or employee's spouse is not offered "affordable" employer sponsored coverage
  - An employee's family member is not eligible for subsidy if the family member is eligible for an employer plan and if the contribution for <u>single (employee only)</u> coverage is no more than 9.5% of household income
  - This interpretation will significantly reduce the number of low and middle income family members who will be eligible for subsidized coverage.

Tax Credit/Premium Subsidy (Continued)

- “Affordable” Coverage Example
  - Requires contribution for single coverage = $200 per month
  - Employer requires employees to contribute an additional $600 per month to enroll family members in employer plan
    - Total Family Contribution = $800
  - Employee household income = $30,000 per year
    - Contribution for single ($200/mo.) = 8% of employee’s household income
    - Contribution required for family $800/mo.) = 32% of household income
  - Family members <u>not eligible</u> for subsidies because contribution for single coverage is less than 9.5% of household income

Affordable Care Act – 0.9% Medicare Tax

- 0.9% Additional Hospital Insurance (HI) Tax Withholding
  - In effect starting 2013.
  - Different and separate from 3.8% Medicare surtax.
  - Only applies to:
    - The amount of wages received in connection with employment in excess of $200,000 for single, $250,000 for Married Filing Jointly (MFJ), and $125,000 for married filing separate taxpayers.
    - Additional HI Tax also attaches to self-employed individuals.

Affordable Care Act – 0.9% Medicare Tax

- Hospital Insurance (HI) Tax Responsibilities:
  - Employer's Responsibility
    - Employers are not subject to the additional 0.9% HI Tax. However, they must withhold the additional 0.9% from the employee's wages if they exceed the appropriate threshold based on W-4 information.
  - Employees' Responsibility
    - If employees do not individually exceed the income threshold, but do collectively Married Filing Jointly (MFJ), then they must notify their employer and update their form W-4.
    - Employees may want to explore the option and potential benefit of filing Married Filing Separately (MFS).

Affordable Care Act – 3.8% Medicare Tax

- 3.8% Medicare Contribution Tax
  - In effect starting 2013
  - For individuals, applies to lesser of:
    - Net Investment Income (NII), or
    - Amount of Modified Adjusted Gross Income (MAGI) over $250,000 for Married Filing Jointly (MFJ) or $200,000 for Single/Head of Household.
  - For trusts and estates, applies to lesser of:
    - Net Investment Income (NII), or
    - Amount of Modified Adjusted Gross Income (MAGI) over $11,650.

Affordable Care Act – 3.8% Medicare Tax

- 3.8% Medicare Contribution Tax
  - Net Investment Income Defined:
    - Net income from interest, dividends, annuities, rents, and royalties.
    - Net income from trade or business that is a **passive** activity.
    - Net Gain from the disposition of property not held in an **active** trade or business (your house). No preference on short-term or long-term.
    - Income and gain on sale of an investment and passive activities in a partnership or S-Corporation.
    - Capital gains are reduced by capital losses, including carryovers
    - Passive income is reduced by passive losses, including carryovers
    - Net operating losses may reduce net investment income

Affordable Care Act – 3.8% Medicare Tax

- What kinds of gains are included in investment income?
    - Gains from the sale of stocks, bonds and mutual funds
    - Capital gain distributions from mutual funds
    - Gain from the sale of investment real estate (including gain from the sale of a second home that is not a primary residence)
    - Gains from the sale of interests in partnerships and S corporations (to the extent you were a passive owner)
  - The sale of your personal residence is included to the extent the gain exceeds the IRC Section 121 exclusion ($250,000 for singles and $500,000 for a married couple)

Affordable Care Act – 3.8% Medicare Tax

- 3.8% Medicare Contribution Tax
  - Income items not included in Net Investment Income:
    - Tax-Exempt Income
    - **Active** Trade or Business Income
    - Any items above which are derived from an **active** trade or business
    - Gains from disposition of active Partnerships and S-Corporations
    - Distributions from IRAs or other qualified plans
    - Any income subject to self-employment, FICA or Medicare tax

Affordable Care Act – 3.8% Medicare Tax

- Estimated 2013 Federal Tax Rates for Married Filing Joint including 3.8% Medicare Contribution Tax:

If Taxable Income is:	Tax Rate	Tax Rate + 3.8% Tax
Not over $17,850	10%	10% (no 3.8% tax)
$17,851 - $72,500	15%	15% (no 3.8% tax)
$72,501 - $146,400	25%	25% (no 3.8% tax)
$146,401 - $223,050	28%	28% (no 3.8% tax)
$233,051 - $398,350	33%	36.8% (over $250,000)
$398,351 - $450,000	35%	38.8%
Over $450,000	39.6%	43.4%

Affordable Care Act – 3.8% Medicare Tax

- Example - 3.8% Medicare Contribution Tax
  - Example 1 – Single person has earned income of $180,000 and $5,000 of NII.
    - Is not affected – MAGI is under $200,000.
  - Example 2 – Single Person has earned income of $195,000 and $10,000 of NII.
    - Only $5,000 of income is subject to additional 3.8% since total MAGI is $205,000.
  - Example 3 – Single Person has earned income of $210,000 and $10,000 of NII.
    - Only NII of $10,000 is subject to 3.8%, NII is less than $20,000 amount of MAGI over threshold.

QUESTIONS

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