



The *Patient Protection and Affordable Care Act* and the related *Health Care and Education Reconciliation Act* (which are collectively referred to as the healthcare legislation) were signed into law in March. Lots of tax changes are included in the laws. Some have nothing to do with healthcare, some won't kick in for several years, some are effective right now, and some are even retroactively effective.

This chart briefly summarizes some of the most important tax changes, organized by the year when they become effective. (Of course, there will be some clarifications, technical corrections, and IRS guidance to follow.)

RETROACTIVE CHANGES TAKING EFFECT BEFORE 2010		
Tax Change	Description	Effective Date/ Tax Code or Law Section
<b>Exclusion for Certain Forgiven Student Loans</b>	A new, retroactive federal income tax exclusion for student loan amounts paid off or forgiven under certain state loan repayment/forgiveness programs intended to increase the presence of healthcare professionals in underserved areas.	Amounts received or forgiven in tax years after 2008.  IRC Section 108(f)(4)
<b>Therapeutic Discovery Projects</b>	A new, retroactive tax credit for qualified investments in therapeutic discovery projects, as defined in the law. Only available to taxpayers with 250 or fewer employees.	Eligible expenses paid or incurred in 2009 and 2010 (\$1 billion limit on total credits allowed).  IRC Section 48D
CHANGES TAKING EFFECT IN 2010		
<b>New Health Insurance Tax Credit for Small Employers (Including Not-for-Profit Organizations)</b>	<p>Qualifying small employers can claim a new credit that can cover up to 35 percent of the cost of providing health insurance to employees.</p> <p>Qualifying small employers that are tax-exempt non-profits can claim credits to cover up to 25 percent of employee health insurance costs. A qualifying small employer is one that: has no more than 24 full-time-equivalent (FTE) workers; pays an average FTE wage of less than \$50,000; and has a qualifying healthcare arrangement in place.</p> <p>A qualifying arrangement requires employers to: pay at least 50 percent of the cost of each enrolled employee's coverage and pay the same percentage for all employees (even those with more-expensive family coverage or self-plus-one coverage).</p> <p>However, for tax years beginning in 2010, a favorable transition rule allows the credit to be claimed when the employer doesn't pay the same percentage for each enrolled employee but instead pays an amount equal to at least 50 percent of the cost of single coverage (even if an employee has more-expensive coverage). The allowable credit is quickly reduced under a complicated phase-out rule when the employer has more than 10 FTE employees or average FTE wage is in excess of \$25,000.</p>	<p>Tax years beginning in 2010-2013. The credit can be claimed for eligible costs incurred in tax years beginning in 2010 before the healthcare law was enacted.</p> <p>IRC Sections 45R, and <i>IRS Notice 2010-44</i></p> <p>For more information from the IRS: <i>Small Business Healthcare Tax Credit: Frequently Asked Questions.</i></p>

<p><b>Healthcare-Related Tax Breaks Granted to Adult Children</b></p>	<p>Effective for plan years beginning after September 22, 2010, health plans that cover dependent children <i>must</i> continue to cover adult children until they turn 26. (Plans may allow to voluntarily provide such coverage before that.)</p> <p>In conjunction, employer-provided health coverage for an employee's adult child is now treated as a tax-free fringe benefit as long as the child hasn't reached age 27 by the end of the year. It doesn't matter if the adult child is the employee's dependent or not.</p> <p>The IRS has stated that tax-free treatment also applies to reimbursements from an employer-provided cafeteria plan, healthcare flexible spending account (FSA) plan, or health reimbursement arrangement (HRA) to cover an under-age 27 adult child's qualified medical expenses.</p> <p>If you're self-employed and pay your own health coverage, the cost of covering an adult child is eligible for the above-the-line deduction for self-employed health premiums, as long as the adult child hasn't reached age 27 by year end (regardless of whether the child is a dependent).</p> <p>There is a discrepancy between the age-26 coverage requirement and the age-27 tax breaks.</p>	<p>March 30, 2010</p> <p>IRC Sections 105(b) and 162(l)</p> <p><i>IRS Notice 2010-38</i></p>
<p><b>Liberalized Adoption Tax Breaks</b></p>	<p>Increases the annual cap on tax-free employer adoption assistance payments by \$1,000 and extends it through 2011. For 2010, this change increases the cap to \$13,170 (up from \$12,170).</p> <p>Similarly, the healthcare legislation increases the maximum annual adoption credit by \$1,000 and extends the new deal through 2011. For 2010, this increases the maximum credit to \$13,170 (up from \$12,170).</p> <p>Also, for 2010 and 2011, the adoption credit becomes refundable so it can be collected in full even if you don't owe federal income tax.</p>	<p>Tax years beginning in 2010 and 2011.</p> <p>IRC Sections 36C and 137</p>
<p><b>New Rules for Not-for-Profit Hospitals</b></p>	<p>Establishes new rules for hospitals to qualify for tax-exempt nonprofit status.</p>	<p>Tax years after March 23, 2010.</p> <p>IRC Sections 501(r) and 6033(b)</p>
<p><b>No More Tax Credit for "Black Liquor"</b></p>	<p>Disallows the cellulosic biofuel producer credit for so-called black liquor fuels.</p>	<p>Fuels sold or used after 2009.</p> <p>IRC Section 40(b)(6)(E)</p>
<p><b>New Loss Ratio Rule for Health Organizations</b></p>	<p>Requires a medical loss ratio of at least 85 percent for health organizations to qualify for certain insurance company tax breaks.</p>	<p>Tax years after 2009.</p> <p>IRC Section 833</p>
<p><b>New Tanning Excise Tax</b></p>	<p>Imposes a 10 percent excise tax on indoor tanning services.</p>	<p>Services after June 30, 2010.</p> <p>IRC Section 5000B</p>

**CHANGES TAKING EFFECT  
IN 2011**

<b>Employer Must Report Healthcare Costs on Forms W-2</b>	Requires employers to report to employees on their annual W-2 forms the value of employer-provided health insurance coverage (not including salary-reduction amounts contributed to healthcare flexible spending accounts).	Tax years after 2010.  IRC Section 6051(a)(14)
<b>No More Tax-Free Reimbursements for Non-Prescription Drugs</b>	If you participate in an employer-sponsored healthcare FSA or HRA or have your own health savings account (HSA) or medical savings account (MSA), current rules allow you to take tax-free withdrawals to pay for non-prescription drugs like pain and allergy relief medications. Starting next year, this tax-favored treatment will only be available for prescription drugs, insulin, and doctor-prescribed over-the-counter medications.	For expenses incurred in tax years beginning after 2010.  IRC Sections 106(f), 220(d), and 223(d)
<b>Stiffer Penalty on Nonqualified HSA and MSA Withdrawals</b>	If you take money out of your HSA or MSA for any reason other than to cover qualified medical expenses, the current rules say you will usually owe federal income tax plus a 10 percent penalty tax, or a 15 percent penalty tax for an MSA. The new law increases the penalty tax rate to 20 percent for nonqualified withdrawals.	Withdrawals in tax years beginning after 2010.  IRC Secs. 220(f) and 223(f)
<b>New Simple Cafeteria Plans for Small Employers</b>	Establishes a new and simpler Section 125 cafeteria benefit plan for employers with 100 or fewer employees. These plans will be deemed to automatically satisfy all applicable cafeteria benefit plan nondiscrimination rules if they satisfy certain minimum standards for eligibility, participation, and contributions.	Tax years beginning after 2010.  IRC Section 125(j)
<b>New Tax on Drug Companies</b>	Imposes a new nondeductible fee on manufacturers and importers of branded prescription drugs. Each targeted company must pay an allocable portion of the total annual fee, which is \$2.5 billion for 2011. The fee is apportioned among targeted companies based on each company's share of sales in the preceding year.	Calendar year 2011.  Section 9008 of the <i>Patient Protection Act</i>
<b>CHANGES TAKING EFFECT IN 2012</b>		
<b>New Form 1099 Reporting Requirement for Business Payments to Corporations</b>	In general, a business that pays \$600 or more in a calendar year to a corporation must supply the corporation with a Form 1099 and file a copy with the IRS. Before this, most payments by businesses to corporations were exempt from 1099 reporting requirements. The new requirement won't apply to corporations that are tax-exempt organizations.	For payments made after 2011.  IRC Section 6041(a) and (h)
<b>New 1099 Reporting Requirement for Business Payments for Property</b>	A business that pays \$600 or more in a calendar year to a single payee (including an individual) for property generally must supply a Form 1099 and file a copy with the IRS. Before this change, payments by businesses for property (as opposed to payments for services) were generally exempt from 1099 reporting requirements.	For payments made after 2011.  IRC Section 6041(a)
<b>New Tax on Health Insurance Policies</b>	Health insurers and sponsors of applicable self-insured health plans will have to pay an annual fee of \$2 per covered life (\$1 per life for affected policy or plan years that end by September 30, 2013).	Policy years ending after September 30, 2012.  IRC Sections 4375, 4376, and 4377

**CHANGES TAKING EFFECT  
IN 2013**

<p><b>Additional 0.9 percent Medicare Tax on Salaries and Self-Employment Income Earned by Higher Income Taxpayers</b></p>	<p>Right now, the Medicare tax on salary and/or self-employment (SE) income is 2.9 percent (1.45 percent is withheld from employee paychecks, and the other half is paid by the employer. Self-employed people pay the whole 2.9 percent).</p> <p>Starting in 2013, an extra .9 percent Medicare tax will be charged on:</p> <ul style="list-style-type: none"> <li>• Salary and/or SE income above \$200,000 for an unmarried individual;</li> <li>• Combined salary and/or SE income above \$250,000 for a married joint-filing couple; and</li> <li>• Salary and/or SE income above \$125,000 for those who use married filing separate status.</li> </ul> <p>These thresholds will not be adjusted for inflation. For self-employed people, the additional .9 percent Medicare tax hit will come in the form of a higher SE tax bill. However, the additional .9 percent will <i>not</i> qualify for the above-the-line deduction for 50 percent of SE tax. (The additional .9 percent Medicare tax must be taken into account for estimated tax purposes.)</p>	<p>Tax years beginning after 2012.</p> <p>IRC Sections 164(f), 1401(b), 3101(b), 3102, and 6654</p>
<p><b>Additional 3.8 percent Medicare Tax on Net Investment Income Collected by High Income Folks and Trusts</b></p>	<p>Right now, the maximum federal tax rate on long-term capital gains and dividends is 15 percent. In 2011, the top rate is scheduled to go up as the "Bush tax cuts" expire. Starting in 2013, all or part of the net investment income, including long-term capital gains and dividends, collected by high-income folks can get hit with a 3.8 percent "Medicare contribution tax." Therefore, the top federal rate on long-term gains and dividends for 2013 and beyond will be 23.8 percent.</p> <p>The additional 3.8 percent Medicare tax won't apply unless modified adjusted gross income (MAGI) exceeds: \$200,000 for an unmarried individual; \$250,000 for married joint-filers; or \$125,000 for married filing separately. These thresholds won't be adjusted for inflation.</p> <p>The additional 3.8 percent Medicare tax will apply to the <i>lesser</i> of: net investment income or the amount of MAGI in excess of the applicable threshold.</p> <p>Net investment income includes interest, dividends, royalties, annuities, rents, gross income from passive business activities, gross income from trading in financial instruments or commodities, and net gain from property held for investment (but not for business purposes) reduced by deductions allocable to such income.</p>	<p>Tax years beginning after 2012.</p> <p>IRC Sections 1411 and 6654</p>
<p><b>New \$2,500 Cap on Healthcare FSA Contributions</b></p>	<p>Right now, there's no tax-law limit on salary-reduction contributions to an employer healthcare FSA (although many plans impose their own annual limits). Starting in 2013, the maximum annual FSA contribution by an employee will be capped at \$2,500. After that, the cap will be indexed for inflation.</p>	<p>Tax years beginning after 2012.</p> <p>IRC Section 125(i)</p>
<p><b>Higher Threshold for Itemized Medical Expense Deductions</b></p>	<p>You can now claim an itemized deduction for medical expenses paid for you, your spouse, and dependents, to the extent the expenses exceed 7.5 percent of AGI. Starting in 2013, the hurdle is raised to 10 percent of AGI. But if you or your spouse is age 65 or older at year end, the new 10 percent-of-AGI threshold will not take effect until 2017. The medical deduction threshold for AMT purposes remains at 10 percent of AGI.</p>	<p>Tax years after 2012 (2016 if taxpayer or spouse is 65 or older at year end).</p> <p>IRC Section 213(a) and (f)</p>

<p><b>No More Deductions for Retiree Drug Plan Subsidies</b></p>	<p>Employers that sponsor qualified retiree prescription drug plans are entitled to collect tax-free federal subsidies for a portion of the cost. Employers are currently allowed to deduct the full cost of retiree drug plans without any reduction for the tax-free federal subsidies. In effect, deductions are allowed for amounts that are actually paid by the government. The healthcare law reduces deductions by the amount of tax-free federal subsidies.</p>	<p>Tax years beginning after 2012.  IRC Section 139A</p>
<p><b>New Excise Tax on Medical Device Manufacturers</b></p>	<p>Manufacturers have to pay a 2.3 percent excise tax on taxable sales of medical devices for humans. However, devices retailed to the general public will be exempt. The tax will not apply to eyeglasses, contact lenses, hearing aids, etc.</p>	<p>Sales after 2012.  IRC Section 4191</p>
<p><b>New Deductible Compensation Limit for Health Insurers</b></p>	<p>Affected health insurance providers face a \$500,000 per-person deduction limit on compensation paid to "applicable individuals," which can include officers, employees, directors, and certain other service providers such as consultants.</p>	<p>Tax years beginning after 2012.  IRC Section 162(m)(6)(A)</p>
<p><b>CHANGES TAKING EFFECT IN 2014</b></p>		
<p><b>New Penalties on Individuals without "Adequate" Coverage</b></p>	<p>In general, U.S. citizens and legal residents will be required to pay penalties if they don't obtain "adequate" health insurance coverage. The <i>tentative</i> penalty will equal the <i>greater</i> of: the applicable percentage of household income above the threshold that requires filing a federal income tax return; or the applicable dollar amount times the number of uninsured individuals in the household. The applicable income percentage is 1 percent for 2014, 2 percent for 2015, and 2.5 percent for 2016 and beyond. The applicable dollar amount is \$95 for 2014, \$325 for 2015, and \$695 for 2016. After that, the \$695 amount will be adjusted for inflation. For under-age-18 household members, the applicable dollar amounts will be 50 percent of the aforementioned amounts. The <i>final</i> penalty amount for each household will be limited to 300 percent of the applicable dollar amount. For example, the maximum 2016 penalty will be \$2,085 (3 times \$695). However, if the national average cost of "bronze coverage" (a new term of art) for the household is less, the maximum penalty will be limited to the cost of bronze coverage. If an affected individual is uninsured for only part of the year, the penalty will be calculated monthly using pro-rated annual figures.</p>	<p>Tax years beginning in 2014.  IRC Section 5000A</p>
<p><b>New Penalties on Employers</b></p>	<p>Employers with at least 50 full-time employees that do not provide them with affordable health coverage that meets certain minimum standards will be charged a penalty if even one full-time employee purchases his own government-subsidized coverage through a state-run exchange. Government-subsidized coverage means coverage for which a federal cost-sharing subsidy (explained below) is available. The penalty will be \$167 per month (\$2,000 per year) for each employee who is not provided with "adequate" coverage for that month (even if a particular employee purchases subsidized coverage from a state-run exchange). However, no penalty is charged for the first 30 employees. An employer can still owe penalties even when employees are offered the opportunity to enroll in a plan that provides minimum essential coverage, but one or more employees choose to instead buy subsidized coverage through a state-run exchange. In this case, the penalty is \$250 per month for each applicable employee,</p>	<p>Coverage months beginning in 2014.  IRC Section 4980H</p>

	<p>but the total penalty cannot exceed the penalty that would be charged for outright failure to offer "adequate" coverage.</p> <p>Employers cannot deduct these penalties as a business expense.</p>	
<p><b>New "Cost-Sharing Subsidies" for Eligible Individuals</b></p>	<p>Government paid "cost-sharing subsidies" will be provided to help individuals ineligible for Medicaid, employer-provided coverage, or other "adequate" coverage. This has been explained as a low-income benefit, but you can be eligible with income up to 400 percent of the federal poverty level. (For 2009, this was \$43,320 for one person or \$88,200 for a family of four.)</p> <p>The cost-sharing subsidy is sometimes called a "premium assistance tax credit," because the enabling language is found in the tax code. In most cases, however, the subsidy will be paid directly to the insurer. If that doesn't happen, the subsidy amount can be claimed as a refundable tax credit on the eligible individual's federal tax return.</p>	<p>Tax years beginning in 2014.</p> <p>IRC Section 36B</p>
<p><b>More Generous Health Insurance Tax Credit for Small Employers</b></p>	<p>As explained in the 2010 changes, qualifying small employers can claim a new tax credit to help cover the cost of providing employee health coverage. For 2010-2013, the maximum credit percentage is 35 or 25 percent for tax-exempt employers. Starting in 2014, the maximum credit percentage increases to 50 or 35 percent for tax-exempt employers. However, employers must purchase qualifying health coverage from state-run insurance exchanges to be eligible for the higher credit percentages. Also, the FTE wage caps for credit qualification and calculation purchases are indexed for inflation, starting in 2014.</p>	<p>Tax years beginning in 2014.</p> <p>IRC Section 45R and Section 1421 of the healthcare legislation.</p>
<p><b>Some Employers Must Give Employees "Free Choice Vouchers"</b></p>	<p>An affected employer must give a "free choice voucher" to any eligible employee who chooses to buy his or her own coverage instead of participating in the company plan. The voucher amount equals what the employer would have contributed on behalf of the employee if he or she participated. As long as the employee spends at least the amount of the voucher on qualified health coverage, the voucher is tax-free to the employee. However, an employee who takes advantage of the voucher is ineligible to receive any cost-sharing subsidy for buying coverage from a state-run exchange.</p>	<p>Calendar year 2014.</p> <p>Section 10108 of the healthcare legislation.</p>
<p><b>New Excise Tax on Health Insurance Providers</b></p>	<p>A new fee is imposed on health insurance providers. Each targeted company must pay an allocable portion of the total annual fee, which is \$8 billion for 2014. The fee is apportioned among targeted companies based on each company's share of applicable net premiums.</p>	<p>Calendar year 2014.</p> <p>Section 9010 of the <i>Patient Protection Act</i>.</p>
<p><b>CHANGE TAKING EFFECT IN 2018</b></p>		
<p><b>New Excise Tax on "Cadillac Health Plans"</b></p>	<p>Health insurance companies that service the group market and administrators of employer-sponsored health plans will get socked with a 40 percent excise tax on premiums that exceed the applicable threshold of \$10,200 for self-only coverage or \$27,500 for family coverage. For retired individuals and plans that cover employees in high-risk professions, the thresholds will be \$11,850 and \$30,950, respectively. These thresholds may be increased to reflect higher-than-expected inflation in health premiums.</p>	<p>Tax years beginning in 2018.</p> <p>IRC Section 49801</p>