



New Health Care Law Amended – Already!

On March 25, 2010, the Patient Protection and Affordable Care Act of 2010 was amended via passage of the Reconciliation Act, just two days after the President signed mandatory health coverage into law.

The following provisions were added to the Health Care Law by the Reconciliation Act:

- A new 3.8% tax imposed on investment income and passive income of individual filers with income over \$200,000 per year (\$250,000 for joint filers), beginning 2013. The tax would apply to interest income, dividends, rents, royalties, gains from sales of property used in passive activities, and other passive activity income. The tax would not apply to:
 - S corporation/partnership income from a trade or business in which the shareholder/partner materially participates
 - Capital gains from sale of business property
 - Tax-exempt interest
 - Retirement plan distributions
- The IRS now treats a transaction as having economic substance for tax purposes only if:
 - The taxpayer's economic position changed in a meaningful way, aside from the tax benefits involved
 - And the taxpayer had a substantial non-tax purpose for engaging in the transaction

This provision (known as the Codification of Economic Substance Doctrine) is effective as of the date of enactment of the Reconciliation Bill. It provides a

no-fault penalty of either 20% or 40% depending on whether or not there was adequate disclosure of the violation of the doctrine on the tax return.

Here is a useful timeline of some of the effective dates from the Health Care Law as amended by the Reconciliation Act:

Effective **now**:

- Small Business (25 employees or less) Tax Credit for up to 35% of employee health plans
- Coverage of children under age 27 on parents' employer-provided insurance
- No discrimination against children with pre-existing conditions
- Codification of Economic Substance Doctrine

Effective in **2011**:

- Health Savings Accounts (HSAs), Health Plan Flexible Spending Accounts (FSAs) and Health Reimbursement Arrangements (HRAs) can no longer cover over the counter medications unless prescribed by a medical professional
- Mandatory W-2 reporting on value of Health Benefits provided by employers to employees

Effective in **2013**:

- Medicare 0.9% increase for Wages/Salaries over \$200,000 for singles and \$250,000 for couples
- 3.8% tax on net investment income of high income taxpayers
- Medical Expense Floor increased from 7.5% to 10% of adjusted gross income
- \$2,500 cap on FSAs

Effective in **2014**:

- Penalties on uninsured individuals
- Penalties on large employers (50 or more full time employees) who do not offer minimum essential health coverage
- Refundable premium assistance tax credits to eligible individuals

Effective in **2018**: 40% excise tax on high end medical plans

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