LARGE & GILBERT, P.C.

Obama Signed the Health Care Act

How Does this Affect Me? My Business? My Taxes?

On Tuesday, March 23, 2010, the Patient Protection and Affordable Care Act was signed into law by President Obama. This law actually consists of two distinct parts: (1) the Senate Healthcare Reform Bill (which now is law); and (2) the Reconciliation Bill (which has not yet been passed by the Senate as of this writing).

The following aspects of the Senate Healthcare Reform bill directly affect businesses and business owners:

- The employee portion of Medicare payroll taxes is increased to 2.35% (from 1.45%), beginning 2013, for high income earners -- over $200,000 per year ($250,000 for joint filers)
    - A parallel change is made to Medicare taxes on self-employment income of sole proprietors
- A new 40% excise tax is imposed on high-end healthcare plans (“Cadillac Plans”) beginning 2018
- Penalties to be imposed on businesses with 50 or more employees without employee health insurance plans, beginning 2014
- Penalties on individuals who do not carry health insurance, beginning 2014
- Limitations on what can be paid tax-free out of a Health Savings Account (HSA), beginning 2011
- Payments for over-the-counter medicines would now be taxable unless prescribed by a doctor

- A new tax credit for Small Employers (fewer than 25 employees with wages of less than $40,000 per year) up to 35% of Employer Contributions to employee health insurance, for 2011 thru 2013
    - The maximum credit applies to employers with 10 or fewer employees with average annual wages of $20,000 or less
    - Starting in 2014, there would be a 50% credit for insurance purchased by employers via a state exchange

The following provisions are contained in the Reconciliation Bill, *which has yet to be approved by the Senate* (by majority vote instead of 60% plurality):

- If the Reconciliation Bill is passed, there would be 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 <u>not</u> apply to:
    - S corporation/partnership income from a trade or business
    - Capital gains from sale of business property
    - Tax-exempt interest
    - Retirement plan distributions
- The IRS would treat 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 would be effective as of the date of enactment of the Reconciliation Bill.

See the attached bulletin for more detailed information about this historic (some say horrific) new law.

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