

# Proposed Plans for Health Care Reform

DECEMBER 31, 2009

BE IN A POSITION OF STRENGTH<sup>SM</sup>

By Christmas Eve 2009, both versions of health care reform bills were passed by Congress; the Patient Protection and Affordable Care Act of the Senate was passed on December 24, 2009, and the Affordable Health Care for America Act in the House of Representatives which passed on November 7, 2009. Although the proposed legislation in these two acts provides for much of the same in terms of providing Americans with affordable health care, the two bills have difference methods in providing the means to fund these reforms.

Some of the provisions in the Affordable Health Care for America Act include:

- After 2012, employers will be required to offer affordable health care to employees (in which the employer would be required to pay 72.5% of the premiums for individuals or 65% for family plans) or the employer will be subject to a payroll tax of 8% to cover the expenses of employees who seek coverage through the proposed health insurance exchange.
- Tax credits may be available to small businesses that choose to provide coverage with 10 or fewer employees and \$20,000 or less in average wages. The credits would phase-out if the employer has 25 or more employees or if the average wages are \$40,000 or more.
- Individuals who choose not to obtain coverage will be subject to an additional tax of the lesser of 2.5% of adjusted gross income above the filing threshold (for 2009 would be \$9,350 for singles and \$18,700 for couples) or the average premium on the proposed health insurance exchange.
- Changes are proposed to Flexible Spending Accounts which would limit annual contributions to \$2,500 and nontaxable reimbursement would not include distributions which are not deemed to be qualified medical expenses, which includes distributions for certain non-prescription drugs other than insulin.
- Penalties for non-qualified distributions from Health Savings Accounts would increase from 10% to 20%.
- For tax years beginning after 2010, married taxpayers whose modified Adjusted Gross Income exceeds \$1 million (\$500,000 for all other taxpayers) will be subject to an additional tax surcharge of 5.4%.
- Wholesale purchases of medical devices will be levied a 2.5% excise tax.
- The bill also proposes codifying the economic substance doctrine as a transaction that meaningfully changes the taxpayer's economic position and the taxpayer has a substantial purpose for entering into such a transaction, apart from the federal income tax effects.

**THE HEALTH CARE REFORM  
HAS BEEN PASSED, BUT  
HOW WILL IT BE FUNDED?**

Questions or comments?  
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The Senate's Patient Protection and Affordable Care Act proposes to raise funding by the following means:

- For tax years beginning after 2012, an increase of 0.9% Medicare tax on wages in excess of \$200,000 (\$250,000 for married filing joint returns).
- For tax years beginning after 2012, a 40% nondeductible excise tax would apply to health coverage in excess of \$8,500 for single individuals and \$23,000 for families, to be indexed with inflation. These thresholds would be increased for those over age 55 retirees and those in certain high-risk professions.
- Changes are proposed to Flexible Spending Accounts which would limit annual contributions to \$2,500 and nontaxable reimbursement would not include distributions which are not deemed to be qualified medical expenses, which includes distributions for certain non-prescription drugs other than insulin.
- Penalties for non-qualified distributions from Health Savings Accounts would increase from 10% to 20%.
- Excise taxes will be imposed on such services as indoor tanning.
- The floor beneath itemized medical expense deductions would be raised from 7.5% of Adjusted Gross Income to 10%, effective for tax years beginning after 2012. This AGI floor would remain unchanged for individuals age 65 or older through 2016.
- Annual fees will be levied based on market share of sales for pharmaceutical companies and manufacturers of medical devices.
- Changes to the adoption credit were proposed which would make the credit refundable, however, increasing the threshold for related expenses.

As these bills go to conference committee, there will be compromises by both the House and Senate on the final version of the health care legislation. We will monitor the news regarding this changing situation and invite you to contact your local WS+B advisor to discuss the impact that these possible changes in the law may have on your income taxes.

*If you have any questions, please contact the WS+B tax services team.*

Questions or comments?  
E-mail us at [taxbriefs@withum.com](mailto:taxbriefs@withum.com)



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