The Affordable Care Act: What is it and how does it work?

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In 2010, Congress enacted the Patient Protection and Affordable Care Act ("PPACA"), commonly called the Affordable Care Act ("ACA") or "Obamacare." This controversial law is the most significant regulatory overhaul of the United States healthcare system since the passage of Medicare and Medicaid in 1965. Obamacare opponents in Congress have attempted to repeal it 44 times. After enactment of the ACA, some groups challenged the constitutionality of the ACA but the US Supreme Court upheld most of the law in 2012. Therefore, whether you like it or not, Obamacare is here to stay. This article does not take a position on the wisdom of Obamacare. Instead, now is the time to understand the law and how it affects you and your business.

The Health Insurance Problem

At the time it was passed, Congress recognized that approximately 80% of all Americans had some form of health insurance. This left 20% completely uninsured. 44% of Americans were covered directly or indirectly through an employer while 23% were covered by the government, mainly through Medicare and Medicaid. Another 10% purchased various types of private policies. The 20% group with no insurance was a combination of healthy, younger people who could afford to buy health insurance but chose not to and others of all ages who needed healthcare but could not afford to pay for the care nor for the insurance. Congress observed that 60% of all consumer bankruptcies were medical-expense driven. Those bankrupt debtors had either no health insurance or insurance with inadequate coverage.

The Obamacare Concept

The Obamacare Concept has several components that are intended to achieve the following objectives:

a. Increase the quality and affordability of health insurance;

b. Decrease the number of uninsured individuals by expanding both public and private insurance coverage;

c. Reduce the cost of healthcare for individuals and the government.

Several controversial mechanisms, including mandates, subsidies, and insurance exchanges, were intended to increase coverage and affordability. The ACA regulates insurance companies and requires them to cover all applicants within new minimum standards and offer the same rates regardless of pre-existing conditions or gender.

The key components of the strategy were as follows:

a. Make health insurance mandatory for everyone, sick and healthy alike. Force those who can afford it to buy the insurance. Subsidize those who can partially afford it. Expand Medicaid to those who cannot afford it.

b. Encourage small employers to furnish health insurance to their workers and require large employers to offer the insurance or pay a tax.

continued on page 3
The Affordable Care Act: What is it and how does it work?

continued from front page

c. Require insurance companies to provide health insurance to all customers, young and old, sick and healthy, disregarding pre-existing conditions and gender. Every policy must contain the “ten essential benefits” of healthcare.

d. Health insurance exchanges began operations in every state from October 1, 2013 to March 31, 2014. New health insurance exchanges are created for individuals and small businesses to buy coverage. Tax credits for most consumers purchasing insurance through the exchanges will be provided based on household income. Subsidies end when household income exceeds 400% of the poverty rate or currently $88,000 for a family of four.

e. Low income individuals and families who cannot afford private insurance will receive federal subsidies. Additionally, small businesses will be encouraged to offer insurance to their employees by receiving federal subsidies as well.

2010-2022 Rollout

Due to the profound changes required by the Obamacare Law, the changes are scheduled to take place over a 12-year period. The gradual rollout allows citizens, businesses, insurance companies, and the government to adjust to the changes required by the law. Congress recognized that it would take time for everyone to adjust to the new requirements. Part of the strategy in forcing healthy people to pay into the system makes funding available to pay for healthcare for people who need it.

As of January 1, 2014, the most significant reforms are as follows:

a. Insurance companies are prohibited from denying coverage to individuals due to pre-existing conditions and may not refuse to renew policies because claims are submitted. Insurers must offer the same premium price to all applicants of the same age and geographical location without regard to gender and most pre-existing conditions.

b. Every health insurance policy is required to meet a minimum standard of coverage. (The ten essential benefits).

c. Every individual not covered by an existing employer sponsored health plan, Medicaid, Medicare, or other public insurance program must secure an approved private insurance policy or pay a penalty. For 2014, the penalty is the greater of $95 or 1% of adjusted gross income. This increases to $395 and 2% of adjusted gross income for 2015 and $695 or 2.5% of adjusted gross income for 2016. The IRS will enforce and collect these penalties.

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f. Businesses which employ 50 or more people but do not offer health insurance to their full-time employees will pay a $2,000 tax penalty if the government has subsidized a full-time employee's healthcare through tax deductions or other means. This was originally scheduled to commence 2014 but has been delayed to 2015.

g. Insurance premiums may only vary by age and three other conditions. Higher rates will be allowed on the basis of place of residence, family size, and tobacco use only.

h. Insurance sold through the exchanges will be offered in four tiers covering bronze (60%), silver (70%), gold (80%), and (90%) platinum levels of reimbursement. Employer sponsored plans must meet the same qualified coverage standard as plans sold on the exchange.

These are some of the most popular provisions of Obamacare:

a. The ACA prohibits insurance companies from dropping your coverage if you get sick or if you make an honest mistake on your insurance application.

b. The ACA eliminates pre-existing conditions as a factor and prohibits gender discrimination.

c. The ACA allows young adults to stay on their parents' insurance plans until age 26.

d. The ACA creates state-based health insurance marketplaces where Americans can shop for federally regulated and subsidized health insurance.

The ACA eliminates pre-existing conditions and gender discrimination meaning no one can be charged more or be dropped from their health insurance coverage for health or gender related reasons. American employers with over 50 full-time equivalent employees must choose between providing insurance that meets Obamacare standards or paying a penalty. The penalty is intended to offset the cost of employees who are not covered through their employer to purchase insurance through the public health insurance exchanges instead of using emergency services. Employers with fewer than 25 full-time equivalent employees may qualify for tax credits, tax breaks, and other assistance for insuring employees through the health insurance market place. If you make less than $200,000 individually or $250,000 as a family or small business, you will be exempt from almost all Obamacare tax levies aside from the mandate to obtain insurance. On the other hand, if you make more than $200,000 individually or $250,000 as a family or small business, you will see an increase in insurance costs and taxes. Obamacare requires that every
American have health insurance either through a private provider or through a state or federally assisted program. If you do not buy insurance then you must pay a tax equal to 1% of your income in 2014, 2% of your income in 2015, and 2.5% of your income in 2016. Obamacare will expand Medicaid to over 15 million uninsured, low-income Americans.

**Insurance Company Regulation**

All group health plans will have to be certified as “Qualified Health Plans” and a minimum table of required benefits will be established. This is to prevent employers from offering low-benefit “sham plans.” Starting in 2014, the only factors that can affect premiums for new insurance plans are your income, age, tobacco use, family size, geography, and the type of plan you buy. This applies to all plans sold through your state’s health insurance market place. All new plans must include the ten essential health benefits.

**What are the Ten Essential Health Benefits?**

Beginning January 1, 2014, every health insurance plan must conform to the minimum standards of Obamacare. The list of ten essential health benefits are as follows:

1. Ambulatory patient services (out patient care).
2. Emergency services (trips to the emergency room).
3. Hospitalization (treatment in the hospital for in-patient care);
4. Maternity and newborn childcare;
5. Mental health services and addiction treatment;
6. Prescription drugs;
7. Rehabilitative services and devices;
8. Laboratory services;
9. Preventative services, wellness services, and chronic disease treatment;
10. Pediatric services for children.

**Conclusion**

Controversial as it may be, Obamacare is here to stay. For those of you without individual health insurance plans, you must have bought a policy before March 31st or pay a penalty on your 2014 tax return. For those of you owning and/or operating businesses with over 50 full-time employees, penalties will accrue in 2015 unless you offer health insurance plans to your employees as well. Likewise, for small businesses, 2014 brings incentives for you to offer your employees health insurance as part of the compensation package. For many insureds receiving premium increases, your coverage goes up as well. Finally, premiums for the young and the healthy will increase and premiums for older Americans and those who need insurance the most will go down.

**Changes To Be Aware Of This Filing Season**

income exceeding $200,000, (or $250,000 for a couple), but has no NII, then no tax would be imposed. For example, take the simplified scenario where an individual taxpayer has modified AGI consisting of $275,000 which consists of NII of $50,000. That taxpayer would face the 3.8% tax only on the $200,000 of wages, and which would result in an additional tax of $1,900.

It is important to note that the NII tax is in addition to any other taxes. So, the taxpayer subject to the NII tax will necessarily be subject to at least a 15% tax on capital gains, plus the 3.8% tax (and state income taxes).

**End of the Employee Social Security Tax Holiday**

In 2013, the social security tax holiday given to employees expired. Employees in 2013 were subject to an additional 2% tax on wages, which had been suspended in prior years. In 2013 employees paid 6.2% for social security taxes, compared to 4.2% the previous year.

**Medicare Surcharge**

Another of the new taxes is the Medicare surcharge tax. The Medicare surcharge applies to individuals with wages over $200,000 or couples over $250,000. The tax is .9% on the amount that the taxpayer's wages exceed the threshold amounts, and is in addition to the standard Medicare tax of 2.9%. For example, an individual taxpayer with wages of $250,000 would pay 2.9% on the first $200,000 of wages, and 3.8% on the remaining $50,000 of wages. It is important to note that with regard to the Medicare surcharge, an individual that has other self-employment income, or that is employed at more than one business, may not be subject to automatic withholding and will have to pay this tax at the end of the year.

**Increase in Capital Gains**

Capital gains rates for top earners increased in 2013. For top bracket earners, i.e. individuals with over $400,000 or couples with $450,000 in adjusted gross income, the capital gains rate increased from 15% to 20%. Note that this tax is in addition to the net investment income tax. Therefore, a top bracket earner that in 2012 would have paid a 15% tax on capital gains will pay 23.8% in 2013.

**Income Tax Increase to Top Bracket Earners**

Lastly, the top marginal tax rate increased from 35% to 39.6%, creating a new bracket. Individuals with adjusted gross income over $400,000 or couples with over $450,000 fit into this bracket. The increase virtually wiped out the 35% tax bracket for individuals, which now applies only to income between $398,351 and $400,000 for individuals.
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