Fall Newsletter 2013: Focus on the Affordable Care Act

Dear Client:

In March 2010, President Obama signed the Patient Protection and Affordable Care Act (the "Affordable Care Act") into law. While some provisions of the ACA have already gone into effect, a number of new provisions are scheduled to take effect January 1, 2014. Although we do not intend this newsletter to be the answer-all to the ACA, we thought this would be a good time to look at some of the provisions that might affect you.

The Affordable Care Act – an Overview

Under the Affordable Care Act, all individuals will be required to have health insurance. There will be incentives for those who enroll and penalties for those who do not. While the majority of US citizens and legal residents will be subject to the penalties, certain groups will be exempt such as undocumented immigrants, incarcerated individuals, American Indians and members of certain faiths. Large employers (those with 50 or more full-time employees) will be required to offer coverage to employees and will be penalized for noncompliance. Small employers who provide coverage for their employees may qualify for tax credits in 2014 and 2015 and will pay no penalties for failure to participate.

As a result of this legislation, Health Insurance "Marketplaces" (formerly known as exchanges) will be established to assist low and moderate-income individuals, families and small businesses in purchasing health insurance plans that are eligible to receive federal subsidies.

Under the ACA, several aspects of health insurance plans will be regulated. All health insurance plans must have no lifetime or annual limits, no potential rescission of coverage, no pre-existing conditions exclusions, no excessive waiting periods for eligibility to become covered by the plan and no cost sharing for preventive care. The insurance market must limit deductibles for certain plans and new insurance plans must cover your children until they reach age 26 while older plans must only cover children who cannot get insurance from their place of employment until they are 26.

The plan provider must provide a summary of benefits and coverage to participants. Plan enrollees must be allowed to select any available participating primary care provider. Premiums can be based only on limited factors, and there must be an effective process for appeals from claims determinations.

Each of these requirements is designed to improve the experience of the insured individuals and to ensure greater coverage than was previously provided by health insurance companies.

As you can see, the impact of this legislation is far-reaching. We are providing this information so that you are informed. Our goal is to make you aware of these provisions in order that we may discuss them in more detail and determine exactly how they may apply to your particular situation. If you have any questions about the Affordable Care Act or any other tax matter, please give us a call.

Tax Credits to Offset Insurance Premiums

A Kaiser Family Foundation study predicts that nearly half of all Americans who buy their own health insurance through the Affordable Care Act's Marketplaces will be eligible for tax credits or subsidies. Researchers estimate tax credits averaging $2,672 for individuals will cover approximately 32% of the insurance cost, and tax credits averaging $5,548 will cover 66% of the cost for families.

The federal tax credits will be available for people who have incomes from 100% up to 400% of the poverty level (between $11,500 and $46,000 for a single person, and about $24,000 to $94,000 per year for a family of four in 2014). The tax credit will be refundable so taxpayers who have little or no income tax liability can still benefit, or the credit can be paid in advance to the taxpayer's insurance company to help cover the cost of premiums.

The amount of the tax credit used in the study is based on a benchmark premium, which is the cost of the second-lowest-cost silver plan in the area where a person lives. The tax credit equals that benchmark premium minus what the individual is expected to pay based on their family income (which is calculated on a sliding scale from 2% to 9.5% of income). Researchers cautioned that it is difficult to determine exactly what Americans will be paying for coverage through the Marketplace because subsidy amounts will be based on factors including age, income, place of residence and type of policy chosen.

The new analysis comes as states begin to release information about the cost of insurance premiums purchased through the state exchanges or Marketplaces, starting in 2014.

IRS Releases Health Care Disclosure Rules

The IRS has issued the final regulations explaining how it will release tax return information to the Department of Health and Human Services, and in turn, the Marketplace and state agencies, to determine a taxpayer's eligibility for various health insurance programs and credits. The IRS noted Section 6103(l)(21) of the tax code allows the disclosure of income, filing status, number of dependents and taxpayer identity to determine eligibility in Medicaid, CHIP or BHP programs. Income verification will also be required to determine eligibility and affordability in the insurance exchanges, or Marketplaces, as they are now known.

The same tax code section also authorizes the disclosure of other information that would indicate if an individual is eligible for the premium tax credit or any cost-sharing reductions. In addition to income, filing status and identity, Social Security benefits were also added to the list of information that can be disclosed to enable insurance exchanges to determine a taxpayer's modified adjusted gross income. Providing the amount of Social Security benefits will also help the exchanges determine if a taxpayer is eligible for the premium tax credit or any cost-sharing reductions.

Nothing in the ACA allows the IRS to access an individual's health information, including information about the individual's health status or health services received.

2013: Watch Out for These Two New Taxes!

Two new taxes were included in the Affordable Care Act enacted in 2010, but didn't go into effect until 2013: the 3.8% tax on net investment income and the 0.9% Medicare surtax on earned income. Both new taxes are designated as Medicare taxes, but none of the funds generated by these provisions are earmarked for Medicare or health care purposes. While the type of income subject to these new taxes is different, there is some overlap in the definition of taxpayers subject to these new taxes.

The 3.8% Tax on Net Investment Income

Don't let 2013 zip by without checking with us to see if some tax planning may reduce the impact of this tax. The 3.8% surtax will be imposed on the lesser of your net investment income for the tax year, or the amount by which your modified adjusted gross income (MAGI) exceeds the "threshold amount" for the year. The threshold for married filing jointly is $250,000, $125,000 if you are married filing separately, and $200,000 for everyone else.

Although the IRS issued more than 100 pages of regulations to define "net investment income," the term basically includes interest, dividends, annuities, rents, royalties and capital gains. Interest on tax-exempt bonds and distributions from qualified retirement plans are not included, nor is any gain excludable from income on the sale of your primary residence.

Planning related to this tax focuses on reducing net investment income. Rebalancing portfolios, maximizing deductions and/or non-income producing real estate may be options. If gain on the sale of property will be subject to the tax, it might be worthwhile to consider an installment sale or a like-kind, tax-deferred exchange of investment real estate instead of a sale.

Bottom line: Give us a call now so we can examine possible tax strategies before the year is over. Although your investment choices and long-term objectives should come first, tax implications are also a consideration.

The 0.9% Medicare Surtax on Earned Income

Unlike the 3.8% tax on net investment income, this tax applies to wages and self-employment income. The income thresholds are the same as the tax on net investment income above: $250,000 for couples filing jointly, $125,000 for those married filing separately and $200,000 for other filers. The surtax applies only to the employee's portion of the Medicare tax. There is no increase to the employer-paid portion, but employers are required to withhold the surtax once an employee's wages exceed $200,000 in a calendar year.

Caution: If filing jointly, each spouse could earn less than the $200,000 threshold and have no extra withholding on their wages during the year, however, if their combined wages exceed the $250,000 threshold on their tax return, they will pay the surtax owed at tax time. On the other hand, if one spouse's wages are over $200,000 and the employer withholds the additional tax, but the other spouse earns less than $50,000, then any extra surtax withheld would be credited on their tax return.

Summary of the Affordable Care Act Provisions Effective January 1, 2014

- Most Americans who can afford coverage will be required to purchase health insurance or pay a tax penalty that starts at $95 ($285 per family) or up to 1% of income, whichever is greater.
- Up to 17 million Americans under age 65 could be eligible for Medicaid. States that choose to expand their program will receive federal financial aid for the increased payment rates.
- Depending on which state you live in, you will have access to an Exchange administered by your state. Health insurance exchanges will be known as "Marketplaces" where consumers can compare and purchase health insurance. Four different options, called "Metal Plans" (Bronze, Silver, Gold, and Platinum), will be offered through these Marketplaces. Subsidies and tax credits will be available based on age, income, and geographic location.
- Starting in 2014, the law makes it illegal for any health insurance plan to use pre-existing conditions to exclude, limit or set unrealistic premium rates on coverage for adults. The requirement to cover children under age 19 for pre-existing conditions began in 2010.

- The provision that required employers with 50 or more workers to provide health care coverage or face fines has been postponed until 2015.

IRS' Affordable Care Act Tax Tips

Confused about the Affordable Care Act? Have questions and need more information? The IRS has launched a new Affordable Care Act Tax Provisions website at IRS.gov/aca to educate individuals and businesses on how the health care law may affect them. The new home page has three sections that explain the tax benefits and responsibilities for individuals, families, employers, and other organizations, with links and information for each group. The site provides information about tax provisions that are in effect now and those that will go into effect in 2014 and beyond.

Topics include tax credits for individuals, new benefits and responsibilities for employers, and tax provisions for insurers, tax-exempt organizations and certain other business types.

Visitors to the new site will find information about the law and its provisions, legal guidance, the latest news, frequently asked questions and links to additional resources.

Several other federal agencies have a role in implementing the health care law, including the Department of Health and Human Services, which has primary responsibility. To help locate additional online resources from the Department of Health and Human Services, the Department of Labor and the Small Business Administration, the IRS has issued a new Web-based flyer - Healthcare Law Online Resources (Publication 5093).

Visit IRS.gov/aca for more information regarding the tax provisions of the Affordable Care Act and stay in touch with your enrolled agent!

Remember: Enrolled Agents (EAs) are America's Tax Experts!