Roback, Kumlander & Pehl, CPAs, LLP

Certified Public Accountants, LLP

Upcoming Changes in Healthcare

October 21, 2010

THE SARATOGA COUNTY CHAMBER

www.saratoga.org

Timothy W. Pehl, CPA, CFP
2715 Route 9, Suite 101
Malta, NY 12020
www.rkpcpa.com

Daniel R. Kumlander, CPA
2715 Route 9, Suite 101
Malta, NY 12020
www.rkpcpa.com

Patient Protection & Affordable Care Act (PPACA) as Amended by The Health Care & Education

Summary of Changes Affecting Individuals, Trust and Estate

1. Benefits:

a. Doctors/Education

i. Debt forgiveness and or Scholarships for MD's providing primary care services in underserved communities.

1. Up to 50,000 every two year's
2. Not taxable!!
3. This provision was expanded to include State repayment programs as well!
4. Effective after 12.31.08

b. Adoption Credit Expansion

i. Increased $1,000 to $13,170 per eligible child.
ii. Credit is refundable versus limited by tax
iii. Sunsets out for tax years after 12.31.12

c. Medical coverage for Children under 27 (son, daughter, step-child or eligible foster child)

   i. Coverage will be available for all eligible children under age 26.

   ii. Self- Employed (SE) taxpayers:

      1. SE Individuals can take the deduction for Health Ins. whether the child is or is not a dependent. BUT the deduction is not available if the child is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer's dependent or child at the end of the tax year (PPACA and the Health Care & Ed. Reconciliation Act of 2010). Any month the child is eligible under a plan but does not participate the parent cannot take the health insurance deduction for that period of time.

      2. For 2010 only, the 2010 Small Bus. Act is allowing the Health ins. to be deducted as a business expense against SE Tax. This is for Schedule C, Partner ships and S Corp owners (2% or more).

      3. The deduction does not apply to a child's spouse.

   iii. Employed Taxpayers:

      1. Not included in income if for a child who has not attained age 27 – even if eligible for employer coverage

      2. Health benefits received for a child's Spouse is includible in income of the parent.

2. Taxes:

a. Excise Tax on indoor Tanning Salon Services

   i. 10% sales tax on using tanning Beds
   ii. Effective after 3.23.10
   iii. Not deductible
   iv. Assessed to the user, collected and remitted by the merchant

b. Increased tax on misused HSA and MSA distributions (effective after 12.31.10)

   i. 10% to 20% of the disbursed funds
   ii. Over the counter medicines cannot be reimbursed

c. Additional Medicare Tax (effective after 12.31.12)

   i. Tax will be assessed on wages in excess of $250,000 MFJ, $125,000 MS and $200,000 all others
   ii, Medicare tax = 1.45% This will increase .9% for earned in come over the limits for a total 2.35%
   iii. Employer must withhold on the Additional withholdings for wages in excess of $200,000, high income earners will want to plan for this tax. I would assume that if tax is owed you could be subject to penalties in certain situations especially for those where one spouse may earn in excess of $200.000 and the other spouse earns in excess of $50,000. Or where each spouse earns less than $200,000 but combined exceed the $250,000 mark.

   iv. For SE taxpayers the additional tax is deductible

   v. Reverse the typical tax planning ideas, may want to accelerate income defer expenses; in other words Pay the Tax prior to 2013

d. Medicare tax on Unearned income (after tax year 12.31.12)

i. Tax is 3.8% on net investment income on taxpayers Modified Adjusted Gross Income (MAGI) in excess of $250,000 MFJ, $125,000 MS and $200,000 for all others

ii. Investment income – interest, dividends, royalties, annuities (not tax deferred or non-qualified), rents, trading or business of trading in Financial instruments or commodities. Also includes non- business capital gains. Gain on sale of business property is excluded.

iii. Excluded – family partnerships, S corp, earned income, pension distributions, Municipal bond interest, life insurance, veteran benefits

iv. Tax is calculated on the lesser of the unearned income or the amount in excess of the limitation (250k MJ, 125k MS, all others 200k)

v. MAGI is AGI as adjusted for foreign earned income as reduced by any deductions, exclusions or credits allocable to the foreign income.

vi. Tax sounds like it will be easy to calculate but if you are not active in that business that income is considered to be investment income the tax can become complicated.

vii. Estates and trusts will be subject to this tax for undistributed earnings

viii. Tax Planning tips

1. Again, consider accelerating income or deferring expenses to 2011 or 2012.

2. If a business could be considered "passive" gear up the active participation and detail your involvement.

3. From my readings, rental property will always be considered investment property

e. Itemized Deductions (after 12.31.12)

   i. Medical deductions haircut going from 7.5% to 10%

   ii. Exception over age 65 the 7.5% extended until 2017

f. Penalty for failing to carry health insurance (after 12.31.13)

   i. Penalty will be assessed on all US Citizens and legal residents

   ii. Acceptable Plans

      1. Government sponsored Health Programs

      2. Eligible employer-sponsored plans

      3. Individual Market plans

      4. Grandfathered Group Health Plans

      5. Coverage recognized by the Secretary of Health and Human Services

   iii. Exempt Persons

      1. Undocumented aliens

      2. Religious conscience and health care sharing ministry

      3. Individuals who can not afford coverage (8% of household income test)

      4. Income below filing threshold

      5. Native Americans

      6. Short lapses in coverage

   iv. Penalty

      1. Penalty is imposed on any month the individual is without coverage and is based on the national average premium for a qualified plan

      2. As this does not start until 2014 the penalties could be subject to change. Currently the penalty is set at the lower of a percentage of income and or a set flat fee.

      3. The penalty typically will amount to less than the amount Health Insurance would actually cost.

3. Individual Tax Benefits:

a. Premium Assistance Credit

i. Eligibility

1. If premiums exceed 9.35% of employee's household income

2. Plan Benefits are less than 60%

3. Household income must be 100% to 400% of federal poverty level

4. US Citizen or legal national or alien

5. Enrolled in a Qualified Health plan

ii. How it works

1. Individual enrolls in a plan offered through an exchange and report their income to the exchange

2. Through this information the Treasury pays a premium assistance credit directly to the insurance plan.

3. Individual pays the difference

4. Employee must report the credit received to the employer who is required to report the credit

1. Small employer tax credit for 2010 through 2015:

a. Please see "3 SIMPLE STEPS" attached to determine if you may be eligible for the credit.

b. This same handout along with other important health care reform information can be found at the Internal Revenue Service web-site: http://www.irs.gov

c. Full 2010 year premiums eligible.

d. Must offer coverage to employees and contribute at least half of the total premium cost.

e. Half of premium coverage eligibility rule based on single rate.

f. Separate limited scope dental or vision policies eligible.

g. If coverage's are separate you must meet 50% or more premium payment for each policy.

h. Must not employ more than 25 full-time equivalent employees (FTEs).

i. Annual FTE wages cannot average more than $50,000.

j. Full amount of credit available to employer with 10 of fewer FTEs and average FTE wages of $25,000.

k. Phase out – Gradual as you increase averages from 10 to 25 FTEs and $25,000 to $50,000 average wages.

l. Phase out calculation – ratio driven:

    1. FTE - use amount in excess of 10 as numerator and denominator of 15.
    2. Average wages - use average over $25,000 as numerator and $25,000 as denominator.

m. Credit available for potential 6 years:
    1. 2010-2013 – health insurance coverage purchased from an insurance company licensed under state law.
    2. 2014 -2015 – health insurance through state exchange.

n. Credit is 35% for 2010-2012 and 50% thereafter of employer's contribution.

o. Credit for Tax-exempt small business meeting requirements is 25% for 2010-2012 and 35% thereafter. Credit cannot exceed total income and Medicare tax employer required to withhold from employee and employers share of Medicare tax.

p. Credit only counts towards portion of premium paid by employer.

2. Claim Credit:

a. Use Form 8941 to receive credit (see attachment)

b. For profit entities can carry unused credit forward 20 years.

c. Tax-exempt – credits are refundable.

3. Full Time Equivalent (FTE):

a. 1 FTE equals average of 40 hours per week per employee for small business credit

b. You can combine part-time workers to achieve 1 FTE.

c. Employees hours of service include each hour for which employee is paid. This includes vacation, holiday, etc…

d. Do not include leave hours without pay.

e. Do not include hours per employee over 2080 or 40 hour work week.

f. Round results to next lowest whole number.

g. Seasonal workers disregarded unless worked more than 120 days during tax year. Premiums paid on their behalf will count in credit even if seasonal employee disregarded for FTE calculation.

4. Average annual wages:

a. Divide total wages by average FTEs.

b. Round down to nearest thousand.

c. Wages = paid for FICA reporting purposes without regard for wage base limitation.

5. Non - eligible for credit:

a. Self-employed individuals (sole proprietors, partners, LLC and LLP members, 2% or more owners of s corporations and 5% or more owners of corporation) are not treated as employees for this credit.

b. Any employee not performing service in the trade or business is not eligible. This includes domestic employee of sole proprietor.

c. Family members are ineligible for credit. These employees are also not included for FTE and average wage calculations.

d. Family member = child, sibling, parent, niece, nephew, aunt, uncle, all in-laws.

e. Note – you can still provide health insurance under family members name in order to get deduction. You will not receive credit.

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6. Controlled groups:

a. Businesses with same owners treated as single employer for credit purposes.

7. Penalties (January 1, 2014):

a. There is pay or play penalties for employers with 50 or more FTEs.

b. 50 FTEs determined by look back to prior year.

c. FTE – 30 hours or more a week (different than FTE calculation for small business credit FTE).

d. Under 50 employees – not subject to penalties.

e. Over 50 employees – must offer coverage for all FTEs, and must offer minimum essential coverage that is affordable.

f. If FTE has purchased health insurance through a state exchange and tax credit or cost sharing reduction is allowed or paid to employee - employer penalty

g. If over 50 and no coverage – there is a fee of $2,000 per FTE excluding first 30 employees.

h. Additional penalty condition – over 50 employee, providing health coverage and at least one employee receives premium tax credit - $3,000 penalty per employee receiving credit (capped at amount employer would have paid for not covering at $2,000 per employee after first 30).

i. Penalty is monthly (1/12th of $2,000)

j. Complicated – Over 50 employees – only subject to penalties if at least one FTE is certified to the employer as enrolled in health insurance coverage purchased through NYS exchange and premium tax credit or cost-sharing reduction is allowed or paid to employee.

8. Free choice vouchers (January 1, 2014):

a. Employers offering plan and paying portion must provide non-participating eligible employees with voucher.

b. Eligible employee – employee contribution to coverage exceeds 8% of household income (but does not exceed 9.8%) and employee total household income does not exceed 400% of poverty line for the family.

c. Employer voucher – equal to value of employer contribution.

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9. Cadillac Tax (January 1, 2018):

a. Excise tax on high-cost employer sponsored health coverage

b. 40% excise tax (nondeductible) on insurance companies

c. Annual premium exceeds $10,200 for single and $27,500 for family.

d. Will excise tax be passed on to consumer?

e. Retired persons and high risk professions – add an additional $1,650 for single and $3,450 for family to calculation.

f. Does not apply to stand alone dental and vision plans.

3 SIMPLE STEPS

If you are a small employer (business or tax-exempt) that provides health insurance coverage to your employees, determine if you may qualify for the **Small Business Health Care Tax Credit** by following these three simple steps:

1

Determine the total number of your employees (not counting owners or family members):

Full-time employees: ______________
(enter the number of employees who work at least 40 hours per week)

+

Full-time equivalent of part-time employees: ______________
(Calculate the number of full-time equivalents by dividing the total annual hours of part-time employees by 2080.)

= [ ] total employees

If the total number of employees is fewer than 25 **GO TO STEP 2**

2

Calculate the average annual wages of employees (not counting owners or family members):

Take the total annual wages paid to employees: ______________

÷

Divide it by the number of employees from STEP 1: ______________
(total wages ÷ number of employees)

= [ ] average wages

If the result is less than $50,000, **AND**

3

You pay at least half of the insurance premiums for your employees at the single (employee-only) coverage rate, then

» you may be able to claim the **Small Business Health Care Tax Credit.** Find out more information at **IRS.gov**

IRS

Roback, Kumlander & Pehl, CPAs, LLP

2715 Route 9, Suite 101
Malta, NY 12020
Phone: (518) 899-5544
Fax: (518) 899-4974
E-mail: info1@rkpcpa.com
www.rkpcpa.com

OBJECTIVE ADVICE ON THE ROAD OF LIFE

Robert R. Roback, Sr. CPA, CFS, CFA
Daniel R. Kumlander, CPA
Timothy W. Pehl, CPA, CFP

Dear Client,

June 29, 2010

For owners of small businesses and their workers, the recently enacted health reform legislation has some key provisions to pay attention to. The major ones include: tax credits; excise taxes; and penalties. But whether a business will be affected by them depends on a variety of factors, such as the number of employees the business has. We are writing to give you an overview of the provisions in the new law with the biggest impact on small business.

Tax credits to certain small employers that provide insurance. The new law provides small employers with a tax credit (i.e., a dollar-for-dollar reduction in tax) for nonelective contributions to purchase health insurance for their employees. The credit can offset an employer's regular tax or its alternative minimum tax (AMT) liability.

Small business employers eligible for the credit. To qualify, a business must offer health insurance to its employees as part of their compensation and contribute at least half the total premium cost. The business must have no more than 25 full-time equivalent employees ("FTEs"), and the employees must have annual full-time equivalent wages that average no more than $50,000. However, the full amount of the credit is available only to an employer with 10 or fewer FTEs and whose employees have average annual full-time equivalent wages from the employer of less than $25,000.

Years the credit is available. The credit is initially available for any tax year beginning in 2010, 2011, 2012, or 2013. Qualifying health insurance for claiming the credit for this first phase of the credit is health insurance coverage purchased from an insurance company licensed under state law. For tax years beginning after 2013, the credit is only available to an eligible small employer that purchases health insurance coverage for its employees through a state exchange and is only available for two years. The maximum two-year coverage period does not take into account any tax years beginning in years before 2014. Thus, an eligible small employer could potentially qualify for this credit for six tax years, four years under the first phase and two years under the second phase.

Calculating the amount of the credit. For tax years beginning in 2010, 2011, 2012, or 2013, the credit is generally 35% (50% for tax years beginning after 2013) of the employer's nonelective contributions toward the employees' health insurance premiums. The credit phases out as firm-size and average wages increase.

Special rules. The employer is entitled to an ordinary and necessary business expense deduction equal to the amount of the employer contribution minus the dollar amount of the credit. For example, if an eligible small employer pays 100% of the cost of its employees' health insurance coverage and the amount of the tax credit is 50% of that cost (i.e., in tax years beginning after 2013), the employer can claim a deduction for the other 50% of the premium cost.

Self-employed individuals, including partners and sole proprietors, two percent shareholders of an S corporation, and five percent owners of the employer are not treated as employees for purposes of this credit. There is also a special rule to prevent sole proprietorships from receiving the credit for the owner and their family members.

Thus, no credit is available for any contribution to the purchase of health insurance for these individuals and the individual is not taken into account in determining the number of full-time equivalent employees or average full-time equivalent wages.

Most small businesses exempted from penalties for not offering coverage to their employees. Although the new law imposes penalties on certain businesses for not providing coverage to their employees (so-called "pay or play"), most small businesses won't have to worry about this provision because employers with fewer than 50 employees aren't subject to the "pay or play" penalty. For businesses with at least 50 employees, the possible penalties vary depending on whether or not the employer offers health insurance to its employees. If it does not offer coverage and it has at least one full-time employee who receives a premium tax credit, the business will be assessed a fee of $2,000 per full-time employee, excluding the first 30 employees from the assessment. So, for example, an employer with 51 employees who doesn't offer health insurance to its employees will be subject to a penalty of $42,000 ($2,000 multiplied by 21). Employers with at least 50 employees that offer coverage but have at least one full-time employee receiving a premium tax credit will pay $3,000 for each employee receiving a premium credit (capped at the amount of the penalty that the employer would have been assessed for a failure to provide coverage, or $2,000 multiplied by the number of its full-time employees in excess of 30). These provisions take effect Jan. 1, 2014. The premium tax credits relates to credit issued to employees who are not offered affordable health coverage. The premiums and calculations related to this credit are quite technical and can be discussed on a case by case basis as needed.

The "Cadillac tax" on high-cost health plans. The new law places an excise tax on high-cost employer-sponsored health coverage (often referred to as "Cadillac" health plans). This is a 40% excise tax on insurance companies, based on premiums that exceed certain amounts. The tax is not on employers themselves unless they are self-funded (this typically occurs at larger firms). However, it is expected that employers and workers will ultimately bear this tax in the form of higher premiums passed on by insurers.

Here are the specifics: The new tax, which applies for tax years beginning after Dec. 31, 2017, places a 40% nondeductible excise tax on insurance companies and plan administrators for any health coverage plan to the extent that the annual premium exceeds $10,200 for single coverage and $27,500 for family coverage. An additional threshold amount of $1,650 for single coverage and $3,450 for family coverage will apply for retired individuals age 55 and older and for plans that cover employees engaged in high-risk professions. The tax will apply to self-insured plans and plans sold in the group market, but not to plans sold in the individual market (except for coverage eligible for the deduction for self-employed individuals). Stand-alone dental and vision plans will be disregarded in applying the tax. The dollar amount thresholds will be automatically increased if the inflation rate for group medical premiums between 2010 and 2018 is higher than projected. Employers with age and gender demographics that result in higher premiums could value the coverage provided to employees using the rates that would apply using a national risk pool. The excise tax will be levied at the insurer level. Employers will be required to aggregate the coverage subject to the limit and issue information returns for insurers indicating the amount subject to the excise tax.

We hope this information is helpful. If you would like more details about these provisions or any other aspect of the new law, please call our offices for details.

Sincerely,

Roback, Kumlander & Pehl

Roback, Kumlander and Pehl, CPA's, LLP

State	Employee-only Coverage	Family Coverage
Alaska	$ 6,204	$ 13,723
Alabama	4,441	11,275
Arkansas	4,329	9,677
Arizona	4,495	10,239
California	4,628	10,957
Colorado	4,972	11,437
Connecticut	5,419	13,484
District of Columbia	5,355	12,823
Delaware	5,602	12,513
Florida	5,161	12,453
Georgia	4,612	10,598
Hawaii	4,228	10,508
Iowa	4,652	10.503
Idaho	4,215	9,365
Illinois	5,198	12,309
Indiana	4,775	11,222
Kansas	4,603	11,462
Kentucky	4,287	10,434
Louisiana	4,829	11,074
Massachusetts	5,700	14,138
Maryland	4,837	11,939
Maine	5,215	11,887
Michigan	5,098	12,364
Minnesota	4,704	11,938
Missouri	4,663	10,681
Mississippi	4,533	10,501
Montana	4,772	10,212
North Carolina	4,920	11,583
North Dakota	4,469	10,506
Nebraska	4,715	11,169
New Hampshire	5,519	13,624
New Jersey	5,607	13,521
New Mexico	4,754	11,404
Nevada	4,553	10,297
New York	5,442	12,867
Ohio	4,667	11,293
Oklahoma	4,838	11,002
Oregon	4,681	10,890
Pennsylvania	5,039	12,471
Rhode Island	5,887	13,786
South Carolina	4,899	11,780
South Dakota	4,497	11,483

Tennessee	4,611	10,369
Texas	5,140	11,972
Utah	4,238	10,935
Virginia	4,890	11,338
Vermont	5,244	11,748
Washington	4,543	10,725
Wisconsin	5,222	12,819
West Virginia	4,986	11,611
Wyoming	5,266	12,163

Form **8941**

Department of the Treasury
Internal Revenue Service

Credit for Small Employer Health Insurance Premiums

▶ See separate instructions.
▶ Attach to your tax return.

OMB No. 1545-xxxx

2010

Attachment Sequence No. **63**

Name(s) shown on return	Identifying number

1	Enter the number of individuals you employed during the tax year who are considered employees for purposes of this credit (see instructions)	1	
2	Enter the number of full-time equivalent employees you had for the tax year (see instructions). If you entered 25 or more, skip lines 3 through 11 and enter -0- on line 12	2	
3	Average annual wages you paid for the tax year (see instructions). If you entered $50,000 or more, skip lines 4 through 11 and enter -0- on line 12	3	
4	Premiums you paid during the tax year for employees included on line 1 for health insurance coverage under a qualifying arrangement (see instructions)	4	
5	Premiums you would have entered on line 4 if the total premium for each employee equaled the average premium for the small group market in which you offered health insurance coverage (see instructions)	5	
6	Enter the **smaller** of line 4 or line 5	6	
7	Multiply line 6 by the applicable percentage: • Tax-exempt small employers, multiply line 6 by 25% (.25) • All other small employers, multiply line 6 by 35% (.35)	7	
8	If line 2 is 10 or less, enter the amount from line 7. Otherwise, see instructions	8	
9	If line 3 is $25,000 or less, enter the amount from line 8. Otherwise, see instructions	9	
10	Enter the total amount of any state premium subsidies paid and any state tax credits available to you for premiums included on line 4 (see instructions)	10	
11	Subtract line 10 from line 4. If zero or less, enter -0-	11	
12	Enter the **smaller** of line 9 or line 11	12	
13	If line 12 is zero, skip lines 13 and 14 and go to line 15. Otherwise, enter the number of employees included on line 1 for whom you paid premiums during the tax year for health insurance coverage under a qualifying arrangement (see instructions)	13	
14	Enter the number of full-time equivalent employees you would have entered on line 2 if you only included employees included on line 13	14	
15	Credit for small employer health insurance premiums from partnerships, S corporations, cooperatives, estates, and trusts (see instructions)	15	
16	Add lines 12 and 15. Partnerships and S corporations, stop here and report this amount on Schedule K; all others, go to line 17	16	
17	Credit for small employer health insurance premiums included on line 16 from passive activities (see instructions)	17	
18	Subtract line 17 from line 16	18	
19	Credit for small employer health insurance premiums allowed for 2010 from a passive activity (see instructions)	19	
20	Carryback of the credit for small employer health insurance premiums from 2011	20	
21	Add lines 18 through 20. Cooperatives, estates, and trusts, go to line 22. Tax-exempt small employers, skip lines 22 and 23 and go to line 24. All others, stop here and report this amount on Form 3800, line 29h	21	
22	Amount allocated to patrons of the cooperative or beneficiaries of the estate or trust (see instructions)	22	
23	Cooperatives, estates, and trusts, subtract line 22 from line 21. Stop here and report this amount on Form 3800, line 29h	23	
24	Enter the amount you paid in 2010 for taxes considered payroll taxes for purposes of this credit (see instructions)	24	
25	Tax-exempt small employers, enter the **smaller** of line 21 or line 24 here and on Form 990-T, line 44f	25	

Federal Taxes Weekly Alert,

Employer's reporting of health insurance coverage on Forms W-2 is optional for 2011

Notice 2010-69, 2010-44 IRB , IR 2010-103

IRS has announced that employers won't have to report the aggregate cost of employer-sponsored group health plan coverage on Forms W-2 issued for 2011. Reporting for 2011 will be optional, and employers taking advantage of the reprieve will not be treated as having failed to meet the Code Sec. 6051 wage and tax statement reporting requirements or be subject to any penalties. IRS anticipates issuing guidance on this reporting requirement before the end of this year.

Background. For tax years beginning on or after Jan. 1, 2011, Code Sec. 6051(a)(14) , which was added by §9002 of the Patient Protection and Affordable Care Act of 2010 (Health Care Act, P.L. 111-148, 3/23/2010), generally provides that the aggregate cost of the applicable employer-sponsored health insurance coverage (as defined in Code Sec. 4980I(d)(1)) must be reported on Form W-2. For this purpose, the aggregate cost is to be determined under rules similar to the rules of Code Sec. 4980B(f)(4) , referring to the definition of the "applicable premium" under the rules providing for COBRA continuation coverage.

Interim relief. Notice 2010-69 provides interim relief to employers with respect to reporting the cost of coverage under an employer-sponsored group health plan on Form W-2 under Code Sec. 6051(a)(14) . Specifically, Notice 2010-69 provides that reporting the cost of this coverage is not mandatory for Forms W-2 issued for 2011. IRS has determined that this relief is necessary to provide employers with the time they need to make changes to their payroll systems or procedures in preparation for compliance with the new reporting requirement.

In addition, IRS announced that it has issued a draft Form W-2 for 2011. The draft Form W-2 includes the codes that employers may use to report the cost of coverage under an employer-sponsored group health plan. IRS will be publishing guidance on the new requirement later this year. IRS stresses that the amounts reportable are not taxable, and that the new reporting requirement is intended to be informational only and to provide employees with greater transparency into overall health care costs. (IR 2010-103)

> **RIA observation:** For tax years beginning after Dec. 31, 2017, Form W-2 reporting of health insurance coverage will take on practical importance. Under Code Sec. 4980I , a 40% nondeductible excise tax will be levied on insurance companies and plan administrators for employer-sponsored health coverage to the extent that annual premiums exceed $10,200 for single coverage and $27,500 for family coverage. An additional threshold amount of $1,650 for single coverage and $3,450 for family coverage will apply for retired individuals age 55 and older and for plans that cover employees engaged in high risk professions.