Democrat Takeover of Health Care – Tax Provisions

As you know, Congressional Democrats passed and President signed into law H.R. 3590, the so-called Patient Protection and Affordable Care Act (PPACA) a massive government takeover of our nation's health care system, and H.R. 4872, to reconciliation bill. In order to pay for the new programs, bureaucracies, and a new entitlement program created, the enacted health care "reform" law increases taxes by $569.2 billion over ten years.

Here is a breakdown of the enacted tax increases, listed by the year in which the tax will be implemented:

2010

$2.7 Billion Tanning Tax: 10% excise tax on indoor tanning services, beginning July 1, 2010.
[H.R. 3590, Patient Protection and Affordable Care Act, Section 10907]

$400 Million Tax on Health Organizations: Under Section 833 of the Internal Revenue Code, certain Blue Cross/Blue Shield entities and other health businesses are eligible for special tax deductions. These include the 25% deduction for claims and expenses, and a 100% deduction for unearned premium reserves. Under the health care overhaul, these entities are now denied these special deductions unless they spend at least 85% of received premium dollars on medical treatment. This raises taxes by $400 million.
[H.R. 3590, Patient Protection and Affordable Care Act, Section 9016]

***$4.5 Billion "Economic Substance Doctrine" Tax*:** Starting in 2010, the IRS may disallow a tax deduction, or other tax relief provision, simply because the IRS deems that the motive of the taxpayer was not primarily business-related (as opposed to tax-related).
[H.R. 4872, the Health Care and Education Affordability Reconciliation Act, Section 1409]

Black Liquor Tax: Raises taxes by $26.3 billion by prohibiting "black liquor", a paper production byproduct, from qualifying for the cellulosic biofuel production tax credit.
[H.R. 4872, the Health Care and Education Affordability Reconciliation Act, Section 1408]

"Doc Fix": Without further congressional action, Medicare payments for physician services will be cut 21% effective April 1, 2010.

2011

Prescription Drug Increase: An annual non-deductible "fee" will be imposed on major brand-name pharmaceutical manufacturers and importers, which is estimated to raise $27 billion. The tax does not apply to companies with sales of branded pharmaceuticals of $5 million or less.
[H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1404]

Health Savings Accounts Withdrawal Tax Increase: Beginning in 2011, the penalty on non-medical early withdrawals from health savings accounts will increase from 10% to 20%. This provision is expected to raise $1.4 billion.
[H.R. 3590, Patient Protection and Affordable Care Act, Section 9003 (a)]

Health Savings and Flexible Spending Accounts Tax Increases: $5 billion is expected to be raised by prohibiting Americans from using pre-tax dollars in Health Savings Accounts or Flexible Savings Accounts to purchase over-the-counter, non-prescription drugs (with the exception of insulin).
[H.R. 3590, Patient Protection and Affordable Care Act, Section 9003 (a) and (c)]

2012

New Tax on Employers: 1099-MISC tax forms are used to report miscellaneous income for individuals and businesses that have paid more than $600 to independent contractors for rent, royalties or other fees and services during that tax year. Prior to passage of the PPACA, these forms did not need to be sent to most corporations, unless payments were made for certain activities. Starting in 2012, businesses will be required to report payments made to corporations and issue those corporations 1099-MISC forms. This represents yet another compliance burden for employers. This provision is expected to raise $17 billion.
[H.R. 3590, Patient Protection and Affordable Care Act, Section 9006]

2013

Medicare Payroll and Investment Income Tax: Raises $210.2 billion by increases the Medicare payroll tax to 3.8% on individuals making over $200,000 and families making $250,000, a .9% increase. This creates a new marriage penalty, and as the thresholds are not indexed for inflation, the tax will affect more of the middle class over time. The bill also applies the 3.8% tax on these same individuals and families' investment income, including estate and trust income, dividends, interest, royalties or rents.
[*Payroll tax increase:* H.R. 3590, Patient Protection and Affordable Care Act, Section 10906; *Investment income tax:* H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1402]

Medical Device Tax: Raises $20 billion in revenue with the creation of a 2.3% excise tax on medical device manufacturers and importers of all Class II and III medical devices, and most Class I devices (such as mechanical wheelchairs, crutches, and prosthetics), unless deemed by the Secretary of Health and Human Services as a product purchased by the public at retail price for individual use. Specifically exempt from the tax are eyeglasses, contact lenses, and hearing aids.
[H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1405]

Flexible Spending Account (FSA) Taxes: Raises $13 billion by instituting an annual cap of $2,500 on FSA contributions. Currently, contributions to FSA's are uncapped due to the "use-it-or-lose-it" rule whereby at the end of a plan year, money remaining in the account is forfeited by the employee.

[H.R. 3590, Patient Protection and Affordable Care Act, Section 9005; H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1403]

Tax Increase on Companies that Offer Retiree Prescription Benefits: The bill raises $4.5 billion by eliminating the tax deduction on federal tax-free subsidies to companies that offer retirees prescription drug benefits. This could lead to employers dropping drug benefits for retirees, leading to greater enrollment in Medicare.
[H.R. 3590, Patient Protection and Affordable Care Act, Section 9012; H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1407]

Tax on Executives: Generally, employers may deduct compensation costs for employees as business expenses. This provision raises $600 million by placing a $500,000 limit (current law is $1 million) that a health insurance company can deduct on its officers, employees, directors, and service providers. The limit includes salaries as well as the cash value of health benefits for employees subject to the limit.
[H.R. 3590, Patient Protection and Affordable Care Act, Section 9014]

$15.2 Billion in Health Care Deduction for Expenses Tax Increases: Currently, taxpayers can deduct medical expenses in excess of 7.5% of their adjusted gross income (AGI). Beginning in 2013, most individuals will only be able to deduct expenses greater than 10% of AGI. For taxpayers age 65 and older, and their spouses, the AGI floor remains at 7.5% through 2016.
[H.R. 3590, Patient Protection and Affordable Care Act, Section 9013]

$2.6 Billion Comparative Effectiveness Research (CER) Tax Increase: Imposes a new tax on health insurers to fund the Patient-Centered Outcomes Research Trust Fund. There are exemptions from the fee for non-profit insurers that meet certain requirements (only two insurers in Nebraska and Michigan currently qualify).
[H.R. 3590, Patient Protection and Affordable Care Act, Section 9511, Subchapter B]

2014

Health Insurer Tax Increase: Raises $60.1 billion by imposing an annual, non-deductible tax on health insurers relative to health insurance premiums collected that year. There is a partial exclusion for non-profit plans, where no net earnings go to private shareholders or individuals, and plans where 80% of the revenue is from government programs for low-income, elderly or disabled individuals.
[H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1406]

Individual Mandate Penalty: Imposes a flat $695 penalty or 2.5% of taxable income (whichever is greater) on individuals who fail to purchase government-sanctioned health care coverage. This is expected to raise $17 billion.
[H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1002]

$52 Billion Increase Due to the Employer Mandate: Employers with 50 or more employees that do not offer health coverage and has at least one full-time employee (FTE) receiving a premium tax credit or subsidy are fined $2,000 per FTE. The first 30

workers employed by the employer are disregarded in calculating the penalty. Large employers that offer coverage that is deemed “unaffordable” by the government and have at least one FTE receiving the tax credit or subsidy will pay penalties of $3,000 per employee receiving a premium credit.
[H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1003]

Corporate Tax Timing Gimmick: This provision applies a 15.75% corporate tax timing shifts to corporations in 2014. It is a gimmick used to comply with the House PAYGO rule, yet it forces certain companies to pay more of their tax payments ($8.8 billion worth) earlier. Given the time value of money, earlier payments hurt the bottom line of employers
[H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1410]

2018
$32 billion “Cadillac Tax” Increase: Imposes a 40% excise tax on insurance companies and plan administrators for any health insurance plan that is above the threshold of $10,200 for individual coverage and $27,500 for family plans. There are additional carve-outs from the tax for retirees, and the cost of vision and or dental plans and individuals with “self-only” coverage under a collectively bargained (union) health plan so that they receive the higher family coverage threshold.
[H.R. 4872, Health Care and Education Affordability Reconciliation Act, Section 1401]