

Important Tax  
Dates &  
Deadlines:

April 15, 2010:

Individuals:  
File Individual In-  
come Tax Returns  
(Form 1040, 1040A,  
or 1040-EZ)

Or

Individual Exten-  
sions Due (Form  
4868)

First Installment of  
Individual Esti-  
mated Tax Due  
(Form 1040-ES)

Last day to file  
Form 1040X  
Amended Individual  
Tax Return for the  
3rd preceding tax  
year - continued on  
page 2

**Quote of the  
Month:**  
**Sacrificing indi-  
vidual gain for the  
team's greater  
good is the price  
of admission  
members must  
pay....and keep  
paying....to be on  
the team.**  
—Scott Beare



# Zimmerman, Boltz & Company

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APRIL 1, 2010

## Tax Provisions of the Patient Protection and Affordable Care Act (the “Act”)

Congress approved and Obama signed into law a comprehensive health care reform bill (the Act) that raises nearly \$438 billion over 10 years through tax increases on high-income individuals, excise taxes on health care group plans, and new fees on selected health care-related industries. This article provides a summary of the major tax provisions of the Act that impact high-income individuals. This article does not discuss the nontax provisions of the Act; such as individual and group market reforms; expanded access to coverage; and changes in government programs such as Medicare and Medicaid.

1. **Medicare Tax Hike.** The Medicare payroll tax is the primary source of financing for Medicare's hospital insurance trust fund, which pays hospital bills for beneficiaries, who are 65 and older or disabled. Under current law, wages are subject to a 2.9% Medicare tax. Workers and employers pay 1.45% each. Self-employed people, who pay both halves of the tax, are allowed to deduct half of this amount for income tax purposes. Unlike the payroll tax for Social Security, which applies to earnings up to an annual ceiling (\$106,800 for 2010), the Medicare tax is levied on all of a worker's wages without limit. Beginning in 2013, the Act imposes an additional 0.9 percent Medicare tax on self-employed individuals and employees with respect to earnings and wages received during the year above certain specified thresholds. This additional tax applies to earnings of self-employed individuals or wages of an employee received in excess of \$200,000. If an individual or employee files a joint return, then the tax applies to all earnings and wages in excess of \$250,000 on that return. Self-employed individuals are not permitted to deduct any portion of the additional tax.

If a self-employed individual also has wage income, then the threshold above which the additional tax is imposed is reduced by the amount of wages taken into account in determining the taxpayer's liability for the additional tax. The Act also imposes obligations for withholding on the employer, and subjects the employer to additional penalties for failing to meet these obligations. The effective tax for the additional Medicare tax applies to wages received in taxable years beginning after December 31, 2012.

**Practice Note:** So, what impact will this have on most high-income taxpayers? Well, earnings of \$250,000 to \$1,000,000 will generate between \$450 and \$7,200 in additional tax. The amount will fluctuate depending on whether you are a single taxpayer versus a joint return filer.

2. **Unearned Income Medicare Contribution.** The Act also includes a provision requiring an unearned income Medicare contribution (“UIMC”) levied on income from interest, dividends, capital gains, annuities, royalties, and rents, other

## ZBC - Phone System

Thank you for your patience and understanding during the implementation of our new phone system.

Now that we are grasping the change and understand how to use the system I thought I would list a few pointers that will assist you as you contact our office.

First of all please note that we are making every effort to have the phone answered during our normal business hours by one of our staff members. Should your call go into the automated system, you can at anytime say the name of the person that you are trying to reach and the system will transfer you to their extension. If you receive their voice mail you have the option of leaving a message or if your call requires immediate attention you can dial “0” and your call will be re-directed to our team member that is taking care of the phones at that time.

Thank you again for your continued friendship. The Zimmerman, Boltz Team.

## Practice Impact

Dr. Jon B. Dove welcomes the patients of Dr. David Milne.

Practice Impact  
(614) 855-2500 or  
visit their website at  
[www.practiceimpact.com](http://www.practiceimpact.com)



Important Tax Dates & Deadlines:

April 15, 2010:

Estates & Trust:  
File Fiduciary Tax Returns (Form 1041)

Fiduciary Extension Due (Form 7004)

Last day to file an Amended Fiduciary Tax Return for the 3rd preceding tax year

Businesses:  
File Partnership Income Tax Return (Form 1065)

Or

Partnership Extension Due (Form 7004)

Last day to file an Amended Partnership Tax Return for the 3rd preceding tax year

April 30, 2010:

Businesses:  
1st quarter payroll returns due (Form 941)

1st quarter sales tax returns due



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**Tax Provisions of the Patient Protection and Affordable Care Act (the “Act”) - continued**

income derived in the ordinary course of a trade or business and not treated as a passive activity. The Act taxes this income at a rate of 3.8 percent. The tax is applied against the lesser of the taxpayer’s net investment income or modified adjusted gross income (AGI) in excess of the \$200,000 single and \$250,000 joint filer thresholds. The UIMC applies to taxable years beginning after December 31, 2012.

Application of the .9 percent additional Medicare tax and the UIMC apply independently of each other. As an example, if a taxpayer has wages of \$280,000, investment income of \$70,000, and modified AGI of \$340,000, then the taxpayer would pay the wage-based Medicare tax on the \$80,000 and the 3.8 percent UIMC on the \$70,000.

**Practice Note:** These two provisions alone (Medicare tax and UIMC) will raise approximately 48% of the new tax revenues for the Obama administration. These additional taxes stress the importance of individualized tax planning; such as the use of Qualified Deferred Compensation plans for the highly compensated.

**Practice Note:** Many tax practitioners were concerned that Obama’s prior proposal to increase the tax on income from the disposition of certain active partnerships, S corporations, and distributions from qualified plans would be included. But, thus far, the Act does not apply to these forms of income. This allows for continued planning, as an example, with S corporations by taking advantage of treating the income as distributions versus wages.

3. **Individual mandate.** The Act contains an individual mandate—a requirement that U.S. citizens and legal residents have qualifying health coverage or be subject to a tax penalty. Under the Act, those without qualifying health coverage will pay a tax penalty of the greater of: (i) \$695 per year, up to a maximum of three times that amount (\$2,085) per family, or (ii) 2.5% of household income over the threshold amount of income required for income tax return filing. The penalty will be phased in according to the following schedule: \$95 in 2014, \$325 in 2015, and \$695 in 2016 for the flat fee or 1.0% of taxable income in 2014, 2.0% of taxable income in 2015, and 2.5% of taxable income in 2016. Beginning after 2016, the penalty will be increased annually by a cost-of-living adjustment. Exemptions will be granted for financial hardship, religious objections, American Indians, those without coverage for less than three months, aliens not lawfully present in the U.S., incarcerated individuals, those for whom the lowest cost plan option exceeds 8% of household income, those with incomes below the tax filing threshold (in 2010 the threshold for taxpayers under age 65 is \$9,350 for singles and \$18,700 for couples), and those residing outside of the U.S.
4. **Floor on medical expenses deduction raised from 7.5% of adjusted gross income (AGI) to 10%.** Under current law, taxpayers can take an itemized deduction for unreimbursed medical expenses for regular income tax purposes only to the extent that those expenses exceed 7.5% of the taxpayer's AGI. The Act raises the floor beneath itemized medical expense deductions from 7.5% of AGI to 10%, effective for tax years beginning after December 31, 2012. The AGI floor for individuals age 65 and older (and their spouses) will remain unchanged at 7.5% through 2016.
5. **Limit reimbursement of over-the-counter medications.** The Act excludes the costs for over-the-counter drugs not prescribed by a doctor from being reimbursed through a health reimbursement account (HRA) or health flexible savings accounts (FSAs) and from being reimbursed on a tax-free basis through a health savings account (HSA) or Archer Medical Savings Account (MSA), effective for tax years beginning after December 31, 2010.
6. **Increased penalties on nonqualified distributions from HSAs and Archer MSAs.** The Act increases the tax on distributions from a health savings account or an Archer MSA that are not used for qualified medical expenses to 20% (from 10% for HSAs and from 15% for Archer MSAs) of the disbursed amount, effective for distributions made after December 31, 2010.
7. **Limit FSAs to \$2,500.** An FSA is one of a number of tax-advantaged financial accounts that can be set up through a cafeteria plan of an employer. An FSA allows an employee to set aside a portion of his or her earnings to pay for qualified expenses as established in the cafeteria plan, most commonly for medical expenses but often for dependent care or other expenses. Under current law, there is no limit on the amount of contributions to an FSA. Under the Act, however, allowable contributions to health FSAs will be capped at \$2,500 per year, effective for tax years beginning after December 31, 2012. The dollar amount will be indexed for inflation after 2013.

## Are Smoke-Free Hiring Policies Legal?

Smoke-free/tobacco-free workplace policies are perfectly legal in at least twenty states, including Ohio. Ohio law does not prohibit employers from making employment decisions based upon an employee's tobacco use. Since there are other states that do prohibit an employer from implementing a tobacco-based hiring policy, a company that has locations in other states should carefully review that state's law.

If you are located in a state where smoke-free hiring policies are legal, such as in Ohio, you will find the following tips helpful on hiring non-smoker employees and implementing a smoke-free hiring policy:

**Tip #1: Employment Application.** Add language to your employment application that you only hire non-smokers; this puts applicants on notice of your policy at the first stage of the employment process.

**Tip #2: Interview Process.** Refrain from asking whether or not the applicant is a smoker during the interview process. This might illicit the disclosure of medical information which is prohibited during the pre-hire/interview process; If you followed Tip #1, however, you have already put the applicants on notice that you only hire non-smokers.

**Tip #3: Conditional Hiring.** Once you have made a decision that you want to hire an applicant, you can then inform the applicant that his/her employment with you is conditional upon his/her being a non-smoker.

**Tip #4: Legitimate Business Reason.** Documenting the legitimate business reason for this policy is important as well. (If you maintain a minute book, you can document this in your minute book.). A legitimate business reason could be that, as a health care provider, it is important to have employees who do not smoke, because these employees work closely with patients who (i) may have be allergic to the smell of smoke; (ii) may experience some other medical reaction related to the smell of smoke; and/or (iii) may just simply be offended by the smell. Documenting any other legitimate business reason is important as well.

**Tip #5: Hiring Policy.** If you are going to adopt a hiring policy where you only hire non-smokers, this should be incorporated into your current hiring policy. If you do not currently have a written hiring policy, you should develop and implement one that can be incorporated into your employee handbook or personnel policy manual.

Ultimately, if you do decide to implement a smoke-free hiring policy, it should be reviewed by legal counsel.

Capital University Law School has an informational website on this issue and can be accessed at [http://www.law.capital.edu/tobacco/workplace/costs\\_hiring.html](http://www.law.capital.edu/tobacco/workplace/costs_hiring.html).

Tanya Nardone is an attorney with the Nardone Law Group, LLC and specializes in employment related matters for dental practices. If you have any questions related to the development and implementation of a smoke-free hiring policy or any other employment related matters, you can contact her by telephone at (614) 223-9262 or by e-mail at [tnardone@nardonelawgroup.com](mailto:tnardone@nardonelawgroup.com).

## Tax Provisions of the Patient Protection and Affordable Care Act (the "Act")-continued

8. **Dependent coverage in employer health plans.** Effective on the enactment date, the Act extends the general exclusion for reimbursements for medical care expenses under an employer-provided accident or health plan to any child of an employee who has not attained age 27 as of the end of the tax year. This change is also intended to apply to the exclusion for employer-provided coverage under an accident or health plan for injuries or sickness for such a child. A parallel change is made for VEBA's and 401(h) accounts. Also, self-employed individuals are permitted to take a deduction for the health insurance costs of any child of a taxpayer who has not attained age 27 as of the end of the tax year.

**Practice Note:** It should be noted that there are other tax provisions outside of the Act that will negatively impact high-income taxpayers under the Obama administration; including: (i) the increase in ordinary tax rates; (ii) the increase in capital gains and dividend rates; (iii) restoration of the phase-out of personal exemptions; (iv) restoration of the 3 percent reduction in itemized deductions; and (iv) extension of the higher exemption for AMT purposes.

In sum, the Act targets high-income taxpayers by causing those taxpayers to pay more taxes; thus causing them to take less income home at the end of each year. This is very unfortunate. In a time when we should be incentivizing our high-income taxpayers to reinvest in our communities, we are instead punishing them for being successful. Having said that, the Act is now law and it now forces us to pay even closer attention to the tax planning opportunities based on each individual's circumstances. We will be following up this article with additional discussions regarding the impact of the Act on your businesses. In the mean time, please call us with any questions.

Authors: Jim Boltz is the majority shareholder of Zimmerman & Bolt Co., who specializes in the representation of dental practices and Vincent J. Nardone is the managing member of Nardone Law Group, LLC, specializing in tax, business, and estate planning for dental practices and their owners.

## Office Hours & Upcoming Events

### ZBC. hours:

**Monday - Friday**

**8:30am to 5:30pm**

### Upcoming Events

**April 23rd - Paragon Management** will be hosting their

Spring 1-Day Seminar in Columbus, Ohio.

For further information regarding any Paragon events contact Rhonda at 614-433-0790 or visit their website at:

[www.theparagonprogram.com](http://www.theparagonprogram.com)

### April 29th - May 1st:

The Ohio State University College of Dentistry will be holding the 66th Annual Post College Assembly. For more information about this event and the continuing education courses that will be offered please visit their website:

<http://www.dent.osu.edu/ce/pages/index.php>