

## MBPA / MFBA National Healthcare Update (10/1/10)

### Potential Penalties to Businesses for Non-Compliance

Update: A closer look at H.R. 3590, "Patient Protection and Affordable Care Act" and H.R. 4872, "The Health Care and Education Affordability Reconciliation Act" shows penalties for businesses if not compliant with new conditions. This new compliance with our new national healthcare legislation will prove to be costly to those businesses that are unaware. These extra costs to the business community are both preventative and unpreventable, in certain instances.

Our government relations team continues to field many of your calls, emails, and letters asking for clarification on how to plan for potential future costs. We have compiled data from several sources documented below, which is also analyzed by our government and legal teams. Please see the following for possible tax penalties your business may have to adhere to.

- Taxes large employer plans (more than 50 workers) that impose longer than 30-day waiting periods on coverage eligibility up to \$600 per full-time employee
- Imposes tax on large employers who do not offer health coverage or offer coverage that costs more than 9.8 percent of an employee's modified gross income(MGI), beginning 6 months after the legislation is passed, thereby forcing the individual to seek a subsidy
  - Penalty when no coverage is offered is \$2000 per employee*
  - Penalty of \$2,000 when employee declines coverage in favor of insurance provided by state exchange**
  - First 30 employees are exempt*
  - Penalty when coverage offered is more than 9.8 percent of MGI is \$3,000 per employee receiving subsidies or \$750 per employee, whichever is less*
- Requires employers who offer coverage to provide vouchers to low- and middle-income workers to obtain insurance on their own through state-based insurance exchanges
  - Individuals who earn up to 400 percent of the Federal Poverty Level (\$88,200 for a family of four) would be eligible for the vouchers if their group premium costs exceed 9.8 percent of their modified gross income
  - Employees can use value of employer's contribution to find insurance through a state-based exchange with tax-free voucher if employer coverage is deemed insufficient

- Permanently grandfathers in employer plans existing at time of passage of the Act offering any level of coverage

-These plans are not required to adopt insurance reforms or quality standards, with several small exceptions

- Prohibition in lifetime benefits*

- Prohibition on rescissions*

- Extends dependent coverage to 26*

- Prohibits "unreasonable" limits on benefits under group coverage*

-Congressional Budget Office found that relatively few non-group policies would remain grandfathered by 2016

- Imposes a 40-percent excise tax on the excess cost of employer-sponsored plans that are above threshold amounts, a.k.a. "Cadillac plans". A health insurance plan is considered to be a Cadillac plan if the annual premium for single coverage is \$10,200 and \$27,500 for family coverage. In 2013: \$8,000 threshold amount for individual policy and \$23,000 threshold amount for family policy

- Excise tax only on employer if they are self-funded and act as the plan administrator

- Employer pays excise tax if they contribute to HAS or Archer MSA

- Higher threshold for individuals in "high-risk" professions

- Tax not indexed to medical inflation

- Disproportionately affects small businesses because they lack the numbers to adequately spread risk and are burdened by state-mandated benefit requirements

- Would raise \$148.9 billion over ten years

- Places cap on Flexible Savings Account contributions beginning in 2012 to \$2,500.00. FSA's and HSA's can no longer be used to purchase over-the-counter drugs.

In 2011, new IRS W-2 requirements will be in place and employers are required to report the value of their employee's health insurance coverage on their W-2.

Please contact our government relations team with any questions at (517)-374-9128 or [BBochniak@michbusiness.org](mailto:BBochniak@michbusiness.org)

References: Congressional Budget Office. *An Analysis of Health Insurance Premiums Under the Patient Protection and Affordable Care Act*, available at <http://cbo.gov/ftpdocs/107xx/doc10781/11-30-Premiums.pdf>. 30 November 2009.

Joint Committee on Taxation. *Estimated Revenue Effects of the Manager's Amendment to the Revenue Provisions Contained in the "Patient Protection and Affordable Care Act,"* available at

<http://www.jct.gov/publications.html?func=startdown&id=3641>. 19 December 2009.

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