



MEMORANDUM

TO:	Estate and Business Clients
FROM:	Santerre & Vande Krol, Ltd.
RE:	Health Care & Estate Tax Update
DATE:	April 1, 2010

Most everyone is well aware of the health care debate that has dominated Congress over the past several months. Because there has been so much said about these Health Care bills and what they accomplish or do not accomplish, we thought that we would briefly address just those items from the bills that we believe will affect many of our business and estate planning clients. This information is based on summaries of the bills provided by RIA Tax Services.

Universal Health Coverage Mandate

Individuals. Beginning in 2014, U.S. citizens and legal residents will be required to maintain minimum essential coverage or pay an annual penalty. The penalty is the greater of 2.5% of household income, or \$695 per uninsured adult in the household (up to a maximum per household of \$2,085). The penalty will be phased in over three years. Low income individuals are exempted from this mandate.

Low Income Tax Credit. Beginning in 2014, a tax credit will be available for individuals and families making less than four times the federal poverty level (\$43,320 for individuals or \$88,200 for a family of four) who are not eligible for Medicaid or employer-sponsored insurance. These individuals will have to obtain health care coverage in the newly-established Insurance Exchanges.

Large Employers. Beginning in 2014, large employers with an average of at least 50 full-time employees who do not offer minimum essential coverage to all full-time employees will have to pay an excise tax penalty. This excise tax will be \$2,000 per year, calculated on a monthly basis, for each of its full-time employees over 30 employees.

Small Employers. Beginning now, qualified small employers will be given a tax credit for providing health insurance to its employees. The full credit is available for employers with 10 or fewer full-time employees, and a partial credit is available for employers with 25 or fewer full-time employees. However, in order to qualify, the full-time employees must have average annual wages of \$50,000 or less.

Additional Taxes

Surtax on Unearned Income. Beginning in 2013, a 3.8% surtax (the "Unearned Income Medicare Contribution") will be imposed on the net investment income (interest, dividends, rents and capital gains) over a threshold. The threshold amount is \$250,000 for married persons filing a joint return, \$125,000 for a married person filing separately, and \$200,000 for all others.

Excise Tax on High Cost Employer Sponsor Health Plans. Beginning in 2018, a 40% excise tax will be imposed on insurance companies and plan administrators that provide a health coverage plan to the extent the annual premium exceeds \$10,200 per individual or \$27,500 for family coverage, subject to some adjustments.

Medicare Hospital Insurance Tax. Beginning in 2013, the Medicare portion of the FICA tax will be increased by 0.9 % on earnings over \$200,000 for individuals (\$250,000 for married couples filing jointly).

Increased Threshold for Deducting Medical Expenses. Beginning 2013, medical expenses of taxpayers will have to exceed 10% of adjusted income before the taxpayer is able to claim a medical deduction (up from 7.5%).

Employer Reporting Responsibilities. Beginning in 2013, employers will be required to disclose the value of health benefits provided to employees on the employee's Form W-2.

Corporate Information Reporting. Beginning in 2012, businesses that pay \$600 or more to any corporation for property or services will have to file a report with each provider and the IRS.

ESTATE TAX UPDATE

Some House leaders have indicated that Congress hopes to begin work on the estate tax in the coming weeks following its recess; and many propose the extension of the 2009 estate tax exemption and rate, possibly retroactive to the beginning of 2010. However, there continues to be debate in the Senate over what the rate and exemption amount should be and it does not appear that there are 60 votes in favor of any specific proposal. At the present time, Senate leaders have not released details on how they plan to proceed and there is some speculation that the Senate will not address the matter until after the fall election.

As we have mentioned previously, most of the revocable trusts for married persons utilize word formula clauses to allocate assets upon a death based on the existence of an estate tax. However, without any estate tax in effect, it may be unclear as to how the trust provisions work. Accordingly, most trust agreements for married persons should be modified to deal with the possibility of a death occurring during this period of time when there is no estate tax. This is particularly important for married persons with provisions in their trust that, upon the first spouse's death, provide some benefits for persons other than the surviving spouse.

Also, many individuals have seen their net worth decline over the past few years, particularly if a large portion of that net worth originally came from Arizona real estate holdings. If your documents were drafted at a time when your net worth was significantly different from what it is today, it is important that your estate plan be reviewed in light of your current situation. In many cases it makes sense to simplify the client's trust as a result of these declines.

If you would like to schedule to an appointment to review your documents, please do not hesitate to contact us.