

May 2010

Health Care Reform Legislation: Summary and Timeline of Tax Changes*

Prepared by the North Dakota Office of State Tax Commissioner

Introduction

Patient Protection and Affordable Care Act
(Health Care Act, or “PPACA,” P.L. 111-148)

Health Care and Education Reconciliation Act of 2010
(Reconciliation Act, or “HCERA,” P.L. 111-152)

The massive overhaul contains a host of tax changes, many of which are both complex and novel. To compound the challenge, the tax changes go into effect over a number of years—ten if two retroactively effective tax changes are counted and nine if they are not.

This document provides a summary of the tax changes and when they become effective.

2009 Tax Year

1. Investment credit for qualifying therapeutic discovery projects

- 50% nonrefundable investment tax credit for qualified investments in qualifying therapeutic discovery projects
- Allowed to businesses with up to 250 employees
- Qualifying therapeutic discovery project—project designed to develop a product, process, or therapy to diagnose, treat, or prevent diseases and afflictions by either (1) conducting pre-clinical activities, clinical trials, clinical studies, and research protocols or (2) developing technology or products designed to diagnose diseases and conditions, including molecular and companion drugs and diagnostics, or to further the delivery or administration of therapeutics
- \$1 billion is allocated to such projects in the 2009 and 2010 tax years

Effective date: Expenses paid or incurred in tax years 2009 and 2010 only

I.R.C. section: Code Sec. 48D

2. Exclusion from income for state student loan repayment or loan forgiveness programs for health professionals

The gross income exclusion for amounts received under the National Health Service Corps loan repayment program or certain State loan repayment programs (described in Section 338I of the Public Health Service Act) is modified to include any amount

**Source of information: Checkpoint® by Thomson Reuters™*

received by an individual under any State loan repayment or loan forgiveness program that is intended to provide for the increased availability of health care services in underserved or health professional shortage areas (as determined by the State).

Effective date: Loan repayments (constituting income to the individual) made in tax years 2009 and after

I.R.C. section: Code Sec. 108(f)(4)

2010 Tax Year

1. New qualification requirements for nonprofit hospitals

New qualification requirements apply to any Code Sec. 501(c)(3) organization that operates at least one hospital facility. These requirements include: conducting, implementing and widely publicizing a community health needs assessment; adopting and implementing a written financial assistance policy; and adopting and implementing a nondiscriminatory policy to provide emergency medical treatment to individuals.

Effective date: Tax years beginning on or after March 24, 2010

I.R.C. section: Code Sec. 501(r) and Code Sec. 6033(b)

2. Tanning services excise tax

- 10% excise tax on indoor tanning service, whether paid for by insurance or otherwise
- Tax is imposed on tanning service recipients (although the provider is secondarily liable)

Effective date: Tanning services performed on or after July 1, 2010

I.R.C. section: Code Sec. 5000B(a)

3. Small employer health insurance tax credit

- Tax credit of 35% of employer's nonelective contributions to employees' health insurance premiums for tax years 2010 through 2013 only
- Tax credit of 50% of employer's nonelective contributions to employees' health insurance premiums for tax years 2014 and after, but only for two tax years, if the employer purchases health insurance through a state exchange
- Full credit allowed to employer with up to 10 full-time equivalent employees, for which the average annual full-time equivalent wage is less than \$25,000
- Credit phases out as the number of full-time equivalent employees and average annual full-time equivalent wages increase, completely phasing out when the number of FTEs exceeds 25 and the average annual full-time equivalent wages exceed \$50,000
- Sole proprietors (including employed family members), partners, 2% "S" corporation shareholders, and 5% owners are not employees for purposes of the credit

Effective date: Tax years 2010 and after

I.R.C. section: Code Sec. 45R

4. Extension of coverage for employee's dependent child under employer-sponsored health plan

- Exclusion from income of reimbursements for medical care expenses under an employer-provided accident or health plan extended to any child of an employee who hasn't attained age 27 as of the end of the tax year
- Also applies for voluntary employees' beneficiary associations (VEBAs) and for qualified pension and annuity plans providing accident and sickness benefits
- Self-employed individuals allowed to deduct health insurance costs of any child of the taxpayer who has not attained age 27 as of the end of the tax year

Effective date: Effective March 30, 2010

I.R.C. section: Code Sec. 105(b), Code Sec. 501(c)(9), Code Sec. 401(h), and Code Sec. 162(l)(1)(D)

5. New uniform definition of economic substance and related penalties

- The economic substance doctrine (applicable to transactions generating tax benefits) is clarified and enhanced by way of a new uniform definition. With respect to any transaction to which the economic substance doctrine is relevant, the transaction has economic substance only if, apart from federal income tax effects, the transaction changes in a meaningful way the taxpayer's economic position and the taxpayer has a substantial purpose for entering into the transaction.
- A new strict liability penalty under Code Sec. 6662 applies for an underpayment attributable to any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (as defined in Code Sec. 7701(o)), or failing to meet the requirements of any similar rule of law. The penalty rate is 20% (increased to 40% if the taxpayer doesn't adequately disclose the relevant facts affecting the tax treatment in the return or a statement attached to the return).
- Several other penalty related provisions apply.

Effective date: Transactions, and underpayments, understatements, and refunds and credits attributable to transactions, entered into after March 30, 2010

I.R.C. section: Code Sec. 7701(o)(1), Code Sec. 6662(b)(6), Code Sec. 6662(i)(1), Code Sec. 6676(c), and Code Sec. 162(l)(1)(D)

6. Expansion of adoption credit and exclusion for employer-provided adoption assistance

- Maximum adoption credit increased to \$13,170 per eligible child (a \$1,000 increase) for both non-special needs adoptions and special needs adoptions
- Credit is made refundable
- Maximum exclusion for employer-provided adoption assistance increased to \$13,170 per eligible child (a \$1,000 increase)

Effective date: Tax years 2010 and 2011 only; credit and exclusion sunset after 2011 (special needs adoption credit does not sunset but is reduced to \$6,000)

I.R.C. section: Code Sec. 36C, Code Sec. 137, and Code Sec. 162(l)(1)(D)

7. Elimination of tax breaks for health organizations with medical loss ratios below 85%

Nonprofit Blue Cross Blue Shield organizations must maintain a medical loss ratio of 85% or higher in order to take advantage of the special tax benefits provided to them, including the deduction for 25% of claims and expenses and the 100% deduction for unearned premium reserves.

Effective date: Tax years 2010 and after

I.R.C. section: Code Sec. 833(c)(5)

8. Tightened rules for cellulosic biofuel producer credit

The cellulosic biofuel producer credit is not allowed for fuel with significant water, sediment, or ash content, such as “black liquor.” This is a fuel that is more than 4% (determined by weight) water and sediment in any combination or has an ash content of more than 1% (determined by weight).

Effective date: Fuels sold or used on or after January 1, 2010

I.R.C. section: Code Sec. 40(b)(6)(E)

2011 Tax Year**1. Reporting of employer-provided health insurance cost on employee’s Form W-2**

An employer must disclose on each employee's annual Form W-2 the value of the employee's health insurance coverage sponsored by the employer, including dental, vision, and other separate health insurance coverage.

Effective date: Tax years 2011 and after

I.R.C. section: Code Sec. 6051(a)(14)

2. Limitation on eligibility of over-the-counter medications for health expense account reimbursement

Unless prescribed by a physician, the cost of over-the-counter medications may not be reimbursed through a health flexible spending arrangement (FSA), health reimbursement account (HRA), health savings account (HSA), or Archer Medical Savings Account (MSA).

Effective date: For HSA and Archer MSA, amounts paid with respect to tax years 2011 and after; for health FSA and HRA, expenses incurred with respect to tax years 2011 and after.

I.R.C. section: Code Sec. 106(f), Code Sec. 220(d)(2)(A), and Code Sec. 223(d)(2)(A)

3. Higher “additional” tax on nonqualifying distributions from health savings account and Archer medical savings account

- The additional tax on distributions from a Health Savings Account (HSA) not used to pay qualified medical expenses is increased from 10% to 20% of the disbursed amount.

- The additional tax on distributions from an Archer Medical Savings Account (MSA) not used to pay qualified medical expenses is increased from 15% to 20% of the disbursed amount.
- This additional tax on distributions not used for qualified medical expenses does not apply if the distribution is made after death, disability, or attainment of age of Medicare eligibility.
- This is an “additional” tax because it is on top of the regular income tax that applies to the nonqualifying distributions.

Effective date: Disbursements made in tax years 2011 and after.

I.R.C. section: Code Sec. 220(f)(4)(A) and Code Sec. 223(f)(4)(A)

4. Annual excise tax (fee) on drug manufacturers and importers that sell branded prescription drugs to specified government programs

- An annual excise tax (fee) must be paid by a manufacturer or importer of branded prescription drugs that receives gross income from the sale of the drugs to a specified government program or pursuant to coverage under any such program.
- Specified government programs and coverages are Medicare Parts B and D, Medicaid, Dept. of Veterans’ Affairs, Dept. of Defense, and the TRICARE pharmacy program.
- The amount of the fee, which is apportioned among affected businesses based on their respective share of the total branded prescription drug sales during the preceding calendar year, is: 2011, \$2.5 billion; 2012 and 2013, \$2.8 billion; 2014 through 2016, \$3 billion; 2017, \$4 billion; 2018, \$4.1 billion; and 2019 and later, \$2.8 billion.
- The amount of gross receipts from sales included in the apportionment calculation is: 0%, first \$5 million; 10%, over \$5 million but no more than \$125 million; 40%, over \$125 million but no more than \$225 million; 75%, over \$225 million but no more than \$400 million; and 100%, over \$400 million.
- This excise tax is nondeductible.

Effective date: Calendar years 2011 and after.

I.R.C. section: P.L. 111-148, Sec. 9008

5. Establishment of simple cafeteria plans by small employers

An employer having an average of 100 or fewer employees on business days during either of the two preceding tax years may provide employees with a “simple cafeteria plan.” The employer is provided with a safe harbor from the nondiscrimination requirements for cafeteria plans as well as from the nondiscrimination requirements for specified qualified benefits offered under a cafeteria plan, including group term life insurance, benefits under a self-insured medical expense reimbursement plan, and benefits under a dependent care assistance program.

Effective date: Tax years 2011 and after.

I.R.C. section: Code Sec. 125(j)

2012 Tax Year**Information reporting for business payments to corporations**

A person engaged in a trade or business must file an information return (Form 1099) for payments of income, which are made in the course of the payor's trade or business, aggregating \$600 or more during the calendar year to a corporate provider of property or services.

Effective date: Payments made on or after January 1, 2012.

I.R.C. section: Code Sec. 6041(h)

2013 Tax Year**1. Increased Medicare hospital tax on high-earning workers and self-employed taxpayers**

- The Medicare Hospital Tax (HI) portion of the FICA tax withheld from an employee's wages, currently 1.45%, increases by 0.9% to 2.35% on the amount of wages exceeding: \$250,000 for married persons filing jointly, \$125,000 for married persons filing separately, and \$200,000 in all other cases.
- The employer's matching HI tax is not increased by the 0.9%. (Note: An employer is only required to withhold the additional 0.9% on wages in excess of \$200,000 paid to an employee regardless of how the employee files or other wages of the employee or the employee's spouse.)
- The Medicare Hospital Tax (HI) portion of the SECA tax on self-employment income, currently 2.9%, increases by 0.9% to 3.8% on the amount of taxable self-employment income exceeding the same thresholds shown above.

Effective date: Tax years 2013 and after.

I.R.C. section: Code Sec. 3101(b)(2) and Code Sec. 1401(b)(2)

2. Tax on excess unearned income of individuals, estates, and trusts

- A Medicare contribution tax must be paid by individuals having unearned income in excess of the following modified adjusted gross income amounts:
\$250,000.....for married filing jointly or surviving spouse
\$200,000.....for single or head of household
\$125,000.....for married filing separately
- For an individual, the tax is 3.8% of the lesser of the following:
 - (1) Net investment income; or
 - (2) Excess of modified adjusted gross income over the applicable threshold amount.
- Net investment income means interest, dividends, annuities, royalties, rents, and capital gains not attributable to a trade or business reduced by allowable deductions. However, net income from a trade or business is included if the trade or business is

a passive activity or is engaged in trading financial instruments or commodities. Investment income does not include distributions from qualified retirement plans or any income item excluded from gross income, such interest on tax-exempt bonds.

- For an estate or trust, the tax is 3.8% of the lesser of (1) undistributed net investment income or (2) the excess of adjusted gross income over the dollar amount at which the highest income tax bracket begins.

Effective date: Tax years 2013 and after.

I.R.C. section: Code Sec. 1411

3. Higher adjusted gross income threshold for medical expenses for itemizers

- Only unreimbursed medical expenses in excess of 10% of adjusted gross income are deductible as an itemized deduction.
- Temporary exception for 65-year old individual—For tax years 2013 through 2016 only, the medical expense threshold is 7.5% if the individual or the individual's spouse reaches age 65 before the end of the tax year. The 10% medical expense threshold applies to 65-year old individuals in tax years 2017 and after.

Effective date: Tax years 2013 and after.

I.R.C. section: Code Sec. 213(a) and Code Sec. 213(f)

4. Limit on employee's contributions to an employer-sponsored health flexible spending account

- To be a qualified (nontaxable) benefit in an employer-sponsored cafeteria plan, a health flexible spending account must limit employee contributions through salary reduction to no more than \$2,500 for the plan year.
- The \$2,500 ceiling will be indexed for inflation after 2013.

Effective date: Tax years 2013 and after.

I.R.C. section: Code Sec. 125(i) and Code Sec. 213(f)

5. Disallowance of business deduction for retiree drug coverage subsidy received by drug plan sponsor

Qualified retiree prescription drug plan subsidies that plan sponsors receive from the Secretary of Health and Human Services to offset part of the sponsor's drug costs are nontaxable. However, current law allows the plan sponsor a business deduction for the total drug cost (including the reimbursed portion). The revised law requires the business deduction for retiree prescription drug expenses to be reduced by the amount of the nontaxable subsidy payments received.

Effective date: Tax years 2013 and after.

I.R.C. section: Code Sec. 139A

6. Fee on health plans to finance the Patient-Centered Outcomes Research Trust Fund

- A health insurance provider or a sponsor of a self-insured health plan must pay a fee on each health insurance policy or self-insured health plan.
- The fee is equal to an amount determined by multiplying \$2.00 (\$1.00 for policy years ending during 2013) by the average number of lives covered under the policy

or plan. For a policy year ending in any fiscal year beginning after Sept. 30, 2014, the fee is adjusted under a formula based on the percentage increase in the projected per capita amount of National Health Expenditures published by the Secretary of Health and Human Services.

- The purpose of the fee is to finance the Patient-Centered Outcomes Research Trust Fund established to carry out the provisions of the Health Care Act relating to comparative clinical effectiveness research.

Effective date: Plan policy years ending after September 30, 2012, and before October 1, 2019.

I.R.C. section: Code Sec. 4375, Code Sec. 4376, and Code Sec. 4377

7. Limit on compensation deduction for health insurance providers

A health insurance provider may not deduct more than \$500,000 of compensation paid to an officer, employee, director, and any other worker or service provider, e.g., a consultant. Under a complex rule, this limitation may reach back and apply to compensation for services performed in tax years 2010 through 2012.

Effective date: Tax years 2013 and after.

I.R.C. section: Code Sec. 162(m)(6)(A)

8. Excise tax on medical device manufacturers, producers and importers

- A 2.3% excise tax applies to the sale of a medical device as defined under the Federal Food, Drug, and Cosmetic Act that is intended for humans.
- The excise tax applies to an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar article, including any component, part, or accessory, that meets any of the following: (1) It is recognized in the official National Formulary or the U.S. Pharmacopeia; (2) It is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or, (3) It is intended to affect the structure or function of the body, but does not achieve its intended purpose through chemical action or metabolism.
- The excise tax does not apply to eyeglasses, contact lenses, hearing aids, and any other medical device determined by the Internal Revenue Service to be of a type that is generally purchased by the general public at retail for individual use.
- The sale of an otherwise taxable medical device is exempt from the excise tax if sold for further manufacture or export.

Effective date: For sales in tax years 2013 and after.

I.R.C. section: Code Sec. 4191

2014 Tax Year

1. Excise tax on large employers not offering affordable or minimum value benefit health insurance coverage

- An excise tax ("penalty") must be paid by a large employer if both of the following conditions apply:

- (1) The employer (a) does not offer health coverage for all of its full-time employees, (b) offers health coverage that is unaffordable* for one or more of its full-time employees, or (c) offers health coverage that pays less than 60% of the cost of allowed benefits; and,
- (2) At least one full-time employee purchases health insurance through an exchange for which the employee qualifies for the premium tax credit or cost-sharing reduction.

* “Unaffordable” means the annual premium payable by the employee is more than 9.5% of the employee’s household income.

- A “large employer” is defined as one that employed an average of at least 50 full-time employees on business days in the preceding calendar year. An exception applies to an employer whose workforce exceeds 50 employees for no more than 120 days and the number of employees over 50 are seasonal workers.
- For a large employer not offering health coverage, the excise tax *for each month* is calculated as follows:

$$\frac{\$166.67}{(1/12 \text{ of } \$2,000)} \times \text{Number of full-time employees} - 30$$

- For a large employer offering health coverage that is either unaffordable or does not pay at least 60% of the cost of allowed benefits, and at least one full-time employee purchases health insurance through an exchange which qualifies the employee for the premium tax credit or cost-sharing reduction, the excise tax *for each month* is calculated as follows:

Lesser Of:

$$(1) \quad \frac{\$250.00}{(1/12 \text{ of } \$3,000)} \times \begin{array}{l} \text{Number of full-time employees receiving} \\ \text{premium tax credit or cost-sharing reduction} \\ \text{(excluding any receiving a “free choice voucher”)} \end{array}$$

Or

$$(2) \quad \frac{\$250.00}{(1/12 \text{ of } \$3,000)} \times \text{Number of all full-time employees} - 30$$

- This excise tax is nondeductible.

Effective date: Months beginning on or after January 1, 2014.

I.R.C. section: Code Sec. 4980H

2. Health insurance requirement for individuals and related penalty

- Unless exempted, a citizen or legal resident of the U.S. must maintain health insurance coverage or pay a penalty.
- Health insurance coverage includes government sponsored programs (e.g., Medicare, Medicaid, Children's Health Insurance Program), employer-sponsored plans, private plans in the individual market, certain grandfathered group health plans and other coverage recognized by Health and Human Services (HHS) in coordination with IRS.

- The following individuals are exempt from this requirement:
 - (1) In general, individuals who cannot afford coverage because their required contribution for employer-sponsored coverage or the lowest cost “bronze plan” in the local Insurance Exchange exceeds 8% of household income for the year;
 - (2) Individuals with income below the income tax filing threshold;
 - (3) Individuals who are members of a recognized religious sect claiming exemption from the self-employment tax;
 - (4) Individuals residing outside of the U.S. who either qualify for the foreign earned income exclusion or are bona fide residents of U.S. possessions;
 - (5) Incarcerated individuals;
 - (6) Members of Indian tribes; and,
 - (7) Individuals granted a hardship exemption by Health and Human Services.
- The penalty, which is calculated per household, is equal to the greater of the following two amounts:
 - (1) Flat dollar amount per uninsured person in the household, or
 - (2) Percentage of household income in excess of the amount of income that triggers the filing of an income tax return.

Tax Year	Flat Dollar Amount Per Uninsured Adult	Percentage Of Excess Household Income
2014	\$ 95	1.0%
2015	325	2.0%
2016 and after	695	2.5%

Notes: (a) \$695 is indexed for inflation after 2016.

(b) For individuals under age 18, the flat dollar amount is one-half of the adult amount.

(c) The maximum penalty per household is 300% of the applicable per adult flat dollar amount.

Effective date: Tax years 2014 and after.

I.R.C. section: Code Sec. 5000A

3. Requirement of employers offering health insurance to provide “free choice” vouchers to eligible employees

- An employer offering health insurance coverage through an employer-sponsored plan and paying a portion of that coverage must provide qualified employees with a “free choice” voucher, the value of which can be applied to the purchase of a health plan through the Insurance Exchange.
- A qualified employee is one who (1) does not participate in the employer-sponsored plan, (2) has a total household income that does not exceed 400% of the poverty line, and (3) would have had to contribute to the cost of the employer-sponsored health coverage an amount over 8% but not over 9.8% of household income if the employee had chosen to participate. *(Note: After 2014, the 8% and 9.8% thresholds*

will be indexed to reflect the rate of premium growth over income growth between the preceding calendar year and 2013.)

- In general, the value of the “free choice” voucher is equal to the monthly portion of the cost of the employer-sponsored health plan which would have been paid by the employer if the employee were covered under the plan.
 - (1) If the voucher’s value exceeds the premium for the health plan chosen by the employee, the excess value is paid to the employee.
 - (2) The excess amount paid to the employee is includible in the employee’s gross income.
 - (3) To the extent the voucher’s value is applied to the cost of the chosen health plan, that amount is not taxable to the employee.
 - (4) The voucher’s value is a deductible expense to the employer as compensation for personal services.
- An employee who receives a voucher is not eligible for the premium tax credit or cost-sharing reduction for the purchase of a plan in the Insurance Exchange, and the employer is not subject to the large employer excise tax for the employee.

Effective date: Vouchers issued on or after January 1, 2014.

I.R.C. section: Health Care Act Sec. 10108, Code Sec. 139D (sic 139E) and Code Sec. 162(a)

4. Refundable tax credit for low- or moderate-income families to offset cost of Exchange-purchased health insurance

- A refundable tax credit (called the “premium assistance credit”) is available to a qualifying individual to help reduce the cost of health insurance coverage obtained by enrolling in a qualified health plan (QHP) through a state-established “American Health Benefit Exchange.”

Note: Each state is required to establish an Exchange by January 1, 2014, and insurance providers are required to provide QHPs for sale on the Exchanges. The Exchange is not an insurer but will provide access to insurers’ QHPs in a comparable manner.

- A qualifying individual generally is an individual whose household income is at least 100% but not more than 400% of the federal poverty line and who does not receive health insurance under an employer plan.
- Amount of tax credit—In general, the tax credit for a tax year is equal to a percentage of the amounts paid for QHP coverage for the individual and qualifying family members for the year. The percentage is based on the individual’s household income level relative to the federal poverty line.
- Process—In general, a qualifying individual will enroll in a plan offered through an Exchange and report his or her income to the Exchange which, in turn, determines the amount of the tax credit. The IRS will submit a payment for the amount of the tax credit directly to the insurance plan in which the individual is enrolled. The individual submits a payment to the plan equal to the difference between the tax credit and the total premium due for the plan. For employed individuals who purchase health insurance through an Exchange, the premium payments will be

made through payroll deductions. Initial eligibility for the premium assistance credit will be based on the individual's income for the tax year ending two years before the enrollment period.

- Cost-sharing reduction (or subsidy)—A cost-sharing reduction is available to an individual who receives a tax credit. The cost-sharing (i.e., the deductibles, co-payments, etc.) required under a QHP will be reduced for individuals at or below 400% of the poverty line. The standard out-of-pocket maximum limits will be reduced by two-thirds for individuals with household income of more than 100% but not more than 200% of the poverty line, by one-half for individuals between 201% and 300% of the poverty line, and by one-third for individuals between 301% and 400% of the poverty line.

Effective date: Tax years ending after December 31, 2013. (Note: This generally applies to tax years 2014 and after because most individuals' tax years run from January 1 through December 31; however, this effective date also makes the credit available to individuals with a fiscal year beginning in 2013 and ending in 2014 (i.e., their 2013 tax year).

I.R.C. section: Code Sec. 36B

5. Health plan premium reimbursement allowed as benefit under employer-maintained cafeteria plan

- For a qualified employer, a reimbursement for the premiums paid for coverage under a qualified health plan obtained through an Exchange is a qualified benefit under a cafeteria plan.
- Prior to 2017, a “qualified employer” is limited to one that:
 - (1) Is a small employer, which employed an average of at least one but not more than 100 employees on business days during the preceding calendar year, and employs at least one employee on the first day of the plan year; and,
 - (2) Elects to make all of its full-time employees eligible for one or more qualified health plans offered in the “small group market” through an Exchange that offers qualified health plans.
- Beginning in 2017, a “qualified employer” will also include one that:
 - (1) Is a large employer, which employed an average of at least 101 employees on business days during the preceding calendar year, and employs at least one employee on the first day of the plan year; and,
 - (2) Elects to make all of its full-time employees eligible for one or more qualified health plans offered in the “large group market” through an Exchange (This assumes the state allows insurance providers to offer qualified health plans in the “large group market” through an Exchange.)
- A “group market” is the health insurance market under which individuals obtain health insurance coverage through a group health plan maintained by an employer.
 - (1) “Large group markets” contain the group health plans maintained by large employers.
 - (2) “Small group markets” contain the group health plans maintained by small employers.

- Broadly, a “qualified health plan” is one that meets certain certification requirements, provides “an essential health benefits package,” and is offered by an insurer meeting detailed requirements.

Effective date: Tax years 2014 and after.

I.R.C. section: Code Sec. 125(f)(3)(B)

6. New information reporting requirements for employers providing health coverage

- New information reporting requirements apply to:
 - (1) Large employers required to offer their full-time employees health coverage under an employer-sponsored plan (i.e., employers subject to the excise tax or “penalty” for not offering affordable or minimum value coverage), and
 - (2) Employers paying any portion of the cost of health coverage offered to its employees through an employer-sponsored plan, under which the portion of the annual premium paid by any individual employee for self-only coverage exceeds 8% of the employee's wages.
- The essential information required to be reported includes the following: (1) Employer’s identity; (2) Certification as to whether the employer offers health coverage to its full-time employees and their dependents under an employer-sponsored plan; (3) Number of full-time employees for each month during the calendar year; (4) Identity of each full-time employee and the number of months, if any, during which the employee was covered under a plan sponsored by the employer during the calendar year; and, (5) Any other information yet to be determined by the IRS.

Effective date: Periods beginning on or after January 1, 2014.

I.R.C. section: Code Sec. 6056

7. Annual excise tax (fee) on health insurance providers

- Businesses that provide health insurance covering U.S. health risks must pay a share of an annual excise tax (fee).
 - (1) The excise tax does not apply to governmental entities, certain nonprofits, or organizations that qualify as a VEBA that are established by an entity other than an employer, e.g., a union.
 - (2) For purposes of the fee, health insurance does not include (a) coverage only for a specified disease or illness, (b) hospital indemnity or other fixed indemnity insurance, (c) insurance for long-term care, or (d) Medicare supplemental health insurance.
- The annual excise tax that is to be apportioned among all affected health insurance providers is as follows:

Calendar Year	Amount
2014.....	\$8 Billion
2015 And 2016.....	\$11.3 Billion
2017.....	\$13.9 Billion
2018.....	\$14.3 Billion
2019 And After	Indexed For the Rate of Premium Growth

- The amount of the annual excise tax (fee), which is apportioned among affected businesses based on their respective share of the total net premiums written during the preceding calendar year for U.S. risk health insurance, is: \$8 billion for 2014; \$11.3 billion for 2015 and 2016; \$13.9 billion for 2017; \$14.3 billion for 2018; and an amount indexed for the rate of premium growth for 2019 and after.
- The amount of net premiums written during the calendar year that are included in the apportionment calculation is: 0%, first \$25 million; 50%, over \$25 million but no more than \$50 million; and 100%, over \$50 million.
- This excise tax (fee) is nondeductible.

Effective date: Calendar years 2014 and after.

I.R.C. section: Not applicable—see PPACA Sec. 9010, as amended by HCERA Sec. 10905, as further amended by HCERA Sec. 1406.

8. Estimated income tax payments accelerated for large corporations

- The estimated tax payment due for large corporations (assets of at least \$1 billion at the end of the previous tax year) in July, August, or September 2014 is increased from 157.75% to 173.50% of the payment otherwise due, and the amount of the next required installment is appropriately reduced.
- Purpose of change is to increase revenue for the U.S. government's fiscal year ending September 30, 2014, with an equivalent reduction in the revenue for the fiscal year ending in 2015, effectively accelerating the receipt of revenues.
- This requirement affects:
 - (1) 2014 calendar year corporations,
 - (2) Corporations with a fiscal year beginning in July, August, September, November, and December of 2013 (i.e., their 2013 tax year), and
 - (3) Corporations with a fiscal year beginning in February, March, April, May, and June of 2014 (i.e., their 2014 tax year).

Effective date: Applies to the estimated tax installments due in July, August, or September of 2014.

I.R.C. section: Not applicable—see HCERA Sec. 1410.

2018 Tax Year

Excise tax on high-cost employer provided health insurance coverage

- To induce health insurers to offer policies that cost no more than annual limits set by law, an excise tax must be paid by health insurers if:
 - (1) An employee is covered under employer-sponsored health insurance coverage, and
 - (2) There is an excess benefit with respect to the coverage.
- The excise tax is 40% of the excess benefit.

- An excess benefit exists if the value of health insurance coverage for an employee exceeds specified threshold amounts.
 - (1) The value of health insurance coverage for an employee equals the sum of (a) premiums for employer-sponsored health insurance coverage for the employee, (b) employee salary reduction contributions to a health flexible spending arrangement, and (c) employer contributions to a health savings account or an Archer medical savings account.
 - (2) For 2018, the basic specified threshold amount is \$10,200 for individual coverage and \$27,500 for family coverage. However, an additional threshold amount of \$1,650 (single coverage) or \$3,450 (family coverage) is added to the basic threshold for the following groups:
 - (a) Individual who is age 55 or more, non-Medicare eligible, and receiving employer-sponsored retiree health coverage.
 - (b) Individual covered by a employer-sponsored health plan under which the majority of covered employees are engaged either in a high risk profession—e.g., law enforcement and fire protection, construction, mining, and agriculture—or to repair or install electrical and telecommunications lines.
 - (3) The threshold amounts are indexed to the CPI-U starting in 2019.
 - (4) Other adjustments—(a) health cost adjustment % and (b) age and gender adjusted excess premium amount—also apply in determining the applicable threshold amount.
- This excise tax is not deductible.

Effective date: Tax years 2018 and after.

I.R.C. section: Code Sec. 4980I

FEDERAL HEALTH CARE REFORM FISCAL IMPACT ON NORTH DAKOTA

Agency Name: _____

FISCAL YEAR 2010						
Provision	Reform Provision		Fiscal Impact			
			Special Fund	General Fund	Political Subdivisions	Consumers
1		2010				
		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
2		2010				
		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
3		2010				
		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
4		2010				
		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
5		2010				
		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				

FISCAL YEAR 2011						
Provision	Reform Provision		Fiscal Impact			
			Special Fund	General Fund	Political Subdivisions	Consumers
1		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
2		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
3		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
4		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
5		2011				
		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				

FISCAL YEAR 2012						
			Fiscal Impact			
Provision	Reform Provision		Special Fund	General Fund	Political Subdivisions	Consumers
1		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
2		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
3		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
4		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
5		2012				
		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				

FISCAL YEAR 2013						
Provision	Reform Provision		Fiscal Impact			
			Special Fund	General Fund	Political Subdivisions	Consumers
1		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
2		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
3		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
4		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
5		2013				
		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				

FISCAL YEAR 2014						
			Fiscal Impact			
Provision	Reform Provision		Special Fund	General Fund	Political Subdivisions	Consumers
1		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
2		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
3		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
4		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
5		2014				
		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				

FISCAL YEAR 2015						
			Fiscal Impact			
Provision	Reform Provision		Special Fund	General Fund	Political Subdivisions	Consumers
1		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
2		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
3		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
4		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				
5		2015				
		2016				
		2017				
		2018				
		2019				
		2020				
		Total				