



## Health care tax reconciliation bill includes new tax on investment income and other tax offsets

March 18, 2010

House Democratic leaders on March 18 announced the details of a health care tax reconciliation bill (H.R. 4872) that may be voted on by the House as early as Sunday. The 153-page package of health care reconciliation tax provisions generally follows the outline of a plan proposed by President Barack Obama on February 22, but includes some significant changes.

A House vote on the reconciliation measure would follow House approval of the "Patient Protection and Affordable Care Act" ("PPACA") as originally passed by the Senate last December. If the House is able to approve both the Senate-passed bill and the new reconciliation bill, President Barack Obama would sign the Senate bill into law, and it is expected that the Senate next week would proceed with action on the reconciliation package. Under budget reconciliation rules, the reconciliation tax bill would require only a 51-vote majority in the Senate.

If approved by both the House and Senate, the reconciliation health care tax provisions would modify several health care-related revenue-raising provisions in the PPACA that President Obama would have signed into law:

Medicare Hospital Insurance Tax on Upper-Income Taxpayers: The PPACA includes a 0.9-percent increase in the Medicare HI payroll tax paid by upper-income individuals, increasing the individual share of tax from 1.45-percent to 2.35-percent (the employer share would remain 1.45-percent). The combined Medicare HI tax rate on upper-income wages (including both the employee rate and employer rate) would be 3.8 percent.

The reconciliation bill (H.R. 4872) would add a new 3.8-percent tax on net investment income, including capital gains, interest, dividends, annuities, royalties, and rents (other than such income which is derived in the ordinary course of trade or business that is not a passive activity). Both the increased HI tax on wage income in PPACA and the new tax on non-wage income in the reconciliation bill would apply to individuals with incomes above \$200,000 for singles and \$250,000 for married couples filing jointly. These income levels are not indexed for inflation.

The Joint Committee on Taxation (JCT) staff has estimated that the combined Medicare HI taxes on wage and non-wage income would raise \$210.2 billion over ten years. The Medicare HI tax changes are proposed to be effective in 2013.

Tax on "High-Value" Health Plans: H.R. 4872 would delay until 2018 implementation of the 40-percent excise tax on high-value insurance plans included in the PPACA. In addition, H.R. 4872 would increase the thresholds for applying the tax to \$27,500 for a family plan and to \$10,200 for a single plan.

H.R. 4872 would index the thresholds for general inflation, instead of CPI plus one-percent as previously proposed. If health care costs increase at unexpected rates between now and 2018, the threshold amounts would be adjusted upwards automatically. The reconciliation measure also permanently adjusts the thresholds for employers facing higher healthcare costs due to the age or gender of their workers and for workers in high risk professions. Dental and vision benefits no longer would be counted for the purpose of measuring a high-value health plan.

JCT staff has estimated that the revised tax on high-value health plans would raise \$32 billion over ten years, down from the \$148.9 billion estimate for the original proposal included in the PPACA.

- Pharmaceutical industry assessment: H.R. 4872 would increase to \$27 billion over ten years the proposed assessment on pharmaceutical manufacturers. The fee also is delayed until 2011.
- Insurance industry assessment: H.R. 4872 would modify and delay until 2014 an assessment on health insurers totalling \$60.1 billion over 10 years.
- Medical device manufacturers assessment: H.R. 4872 would convert a proposed \$20 billion over 10 years fee on medical device manufacturers to an excise tax estimated to raise the same amount. The excise tax would be delayed until 2013.

H.R. 4872 also would delay until 2013 repeal of the deduction for employer subsidies for retiree drug coverage under Medicare part D. In

addition, the bill would index for inflation at CPI plus one-percent the proposed \$2500 limit on contributions to flexible spending arrangements.

The health care tax reconciliation measure also includes two revenue raising proposals that were approved recently by the Senate as part of a tax extender bill (H.R. 4213): codification of the economic substance doctrine, with related penalties, and (2) modification of the biofuel producer credit to exclude "black liquor" paper or pulp processing byproducts. Congress is expected to consider alternative revenue raising provisions to offset the cost of tax extender legislation if these revenue offsets are enacted as part of health care legislation.

**JCX-16-10: Estimated Revenue Effects Of The Amendment In The Nature Of A Substitute To H.R. 4872, The “Reconciliation Act Of 2010,” In Combination With The Revenue Effects Of H.R. 3590, The “Patient Protection And Affordable Care Act (‘PPACA’),” As Passed By The Senate**

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*For more information on this WNTS Insight, please contact Larry Campbell at (202) 414-1477 or [larry.campbell@us.pwc.com](mailto:larry.campbell@us.pwc.com), John Stell at (202) 312-7583 or [john.l.stell@us.pwc.com](mailto:john.l.stell@us.pwc.com), or Andrew Prior at (202) 414-4572 or [andrew.prior@us.pwc.com](mailto:andrew.prior@us.pwc.com).*

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