

Tax and Benefits Provisions of the 2010 Health Care Act as Amended by the 2010 Health Care Reconciliation Act

Health-Related Revenue Raisers

Additional Hospital Insurance Tax (HI) for high wage workers. For tax years beginning after Dec. 31, 2012, the HI tax rate is increased by 0.9 percentage points on an individual taxpayer earning over \$200,000 (\$250,000 for married couples filing jointly); these figures are not indexed (Code Sec. 1401 and Code Sec. 3101 , as amended by 2010 Health Care Act Sec. 9015, as amended by 2010 Health Care Act Sec. 10906). For analysis, see ¶601 .

Surtax on unearned income. For remuneration received, and tax years beginning after, Dec. 31, 2012, a 3.8% surtax (called the Unearned Income Medicare Contribution) will apply to net investment income of higher income taxpayers. The surtax for individuals is 3.8% of the lesser of (1) net investment income or (2) the excess of modified adjusted gross income (AGI) over the threshold amount. The threshold amount is \$250,000 for a joint return or surviving spouse, \$125,000 for a married individual filing a separate return, and \$200,000 in any other case. Modified AGI is AGI increased by the amount excluded from income as foreign earned income under Code Sec. 911(a)(1) (net of the deductions and exclusions disallowed with respect to the foreign earned income).

For an estate or trust, the surtax is 3.8% of the lesser of: (1) undistributed net investment income or (2) the excess of AGI (as defined in Code Sec. 67(e)) over the dollar amount at which the highest income tax bracket applicable to an estate or trust begins.

The tax does not apply to a nonresident alien or to a trust all the unexpired interests in which are devoted to charitable purposes, a trust that is exempt from tax under Code Sec. 501 , or a charitable remainder trust exempt from tax under Code Sec. 664 .

The surtax is subject to the individual estimated tax provisions and is not deductible in computing any tax imposed by subtitle A of the Code (relating to income taxes).

Net investment income for surtax purposes is interest, dividends, royalties, rents, gross income from a trade or business involving passive activities, and net gain from disposition of property (other than property held in a trade or business). Investment income is reduced by properly allocable deductions to such income to arrive at net investment income (Code Sec. 1411 , as added by 2010 Reconciliation Act Sec. 1402). For analysis, see ¶602 .

New limit on health FSA contributions. For tax years beginning after Dec. 31, 2012, the amount of contributions to health flexible spending accounts (FSAs) under cafeteria plans will be limited to \$2,500 per year. The dollar amount will be inflation indexed after 2013 (Code Sec. 125 , as amended by 2010 Health Care Act Sec. 9005, as amended by 2010 Health Care Act Sec. 10902, and as further amended by 2010 Reconciliation Act Sec. 1403). For analysis, see ¶702 .