

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

### **Health-Related Revenue Raisers**

**Restricted definition of medical expenses for employer provided coverage.** For purposes of employer provided health coverage (including health reimbursement accounts (HRAs) and health flexible savings accounts (FSAs), health savings accounts (HSAs), and Archer medical savings accounts (MSAs)), the definition of medicine expenses deductible as a medical expense is generally conformed to the definition for purposes of the itemized deduction for medical expenses. But this change does not apply to doctor prescribed over-the-counter medicine. Thus, the cost of over-the-counter medicine (other than insulin or doctor prescribed medicine) cannot be reimbursed through a health FSA or HRA. In addition, the cost of over-the-counter medicines (other than insulin or doctor prescribed medicine) cannot be reimbursed on a tax-free basis through an HSA or Archer MSA. These changes for HSAs and Archer MSAs apply for amounts paid with respect to tax years beginning after Dec. 31, 2010. The changes for health FSAs and HRAs apply for expenses incurred with respect to tax years beginning after Dec. 31, 2010 ( Code Sec. 106(f) , Code Sec. 220(d)(2) , and Code Sec. 223(d)(2) , as amended by 2010 Health Care Act Sec. 9003). For analysis, see ¶701 .

**Increased tax on nonqualifying HSA or Archer MSA distributions.** For distributions made after Dec. 31, 2010, the additional tax for HSA withdrawals before age 65 that are used for purposes other than qualified medical expenses is increased from 10% to 20%, and the additional tax for Archer MSA withdrawals that are used for purposes other than qualified medical expenses is increased from 15% to 20% ( Code Sec. 220(f)(4)(A) and Code Sec. 223(f)(4)(A) , as amended by 2010 Health Care Act Sec. 9004). For analysis, see ¶1501 .

**Modified threshold for claiming medical expense deductions.** For tax years beginning after Dec. 31, 2012, the adjusted gross income (AGI) threshold for claiming the itemized deduction for medical expenses will be increased from 7.5% to 10%. However, the 7.5%-of-AGI threshold will continue to apply through 2016 to individuals age 65 and older (and their spouses) ( Code Sec. 56(b)(1)(B) , Code Sec. 213(a) , and Code Sec. 213(f) , as amended by 2010 Health Care Act Sec. 9004). For analysis, see ¶703 .

**Deduction for employer Part D is eliminated.** For tax years beginning after Dec. 31, 2012, the deduction for the subsidy for employers who maintain prescription drug plans for their Medicare Part D eligible retirees will be eliminated (2010 Health Care Act Sec. 9012, as amended by 2010 Reconciliation Act 1407). For analysis, see ¶705 .