

A provision of health care legislation creates a 3.8% Medicare tax on real estate transactions.

3.8% tax on real estate transactions

Under the new health care bill - did you know that all real estate transactions are subject to a 3.8% "Sales Tax"?

If you sell your \$400,000 home, this will be a \$15,200 tax.

TAX ON HOME SALES

Imposes a 3.8 percent tax on home sales and other real estate transactions.

Middle-income people must pay the full tax even if they are "rich" for only one day — the day they sell their house and buy a new one.

Origins: One of the provisions of the recently passed Patient Protection Affordable Care Act (PPACA) health care legislation calls for high-income households to be subject to a new 3.8% Medicare tax on investment income starting in 2013:

The PPACA creates a new Code Section 1411, which will generally impose a 3.8 percent tax on the lesser of "net investment income" or the excess of modified adjusted gross income over a "threshold amount" (generally, \$250,000 for taxpayers filing a joint return, \$125,000 for married taxpayers filing a separate return and \$200,000 in all other cases). Net investment income generally means the excess of (i) interest, dividends, annuities, royalties, rents, income from passive activities, income from trading financial instruments and commodities, and gain from the disposition of certain non-business property, over (ii) allowable deductions properly allocable to such income. In determining the amount of net investment income, special rules apply with respect to dispositions of equity interests in certain partnerships and S corporations, and to distributions from certain qualified plans. This additional tax applies to taxable years beginning after December 31, 2012.

This is a complicated section of a complicated piece of legislation, and the 3.8% Medicare tax has been frequently misreported as amounting to a 3.8% "sales tax" on all real estate transactions. This is incorrect: the Medicare tax is not a sales tax, nor does it apply to all real estate transactions; it is a tax on investment income (income which may or not derive from the sale of property) for persons who earn more than the amounts specified in the bill: As Sara Orrange, Government affairs director of the Spokane Association of Realtors noted in [response](#) to a repetition of the "sales tax" rumor in the *Spokane Spokesman-Review*:

In his recent guest column regarding the impact of the health care bill, Paul Guppy of the Washington Policy Center claimed that a 3.8 percent tax on all home sales was a part of the recently passed legislation. This is inaccurate and needs to be corrected. The truth about the bill is that if you sell your home for a profit above the capital gains threshold of \$250,000 per individual or \$500,000 per couple then you would be required to pay the additional 3.8 percent tax on any gain realized over this threshold.

Most people who sell their homes will not be impacted by these new regulations. This is not a new tax on every seller, and that correction needs to be made. This tax is aimed at so-called "high earners" — if you do not fall into that category you will not pay any extra taxes upon the sale of your home.

The referenced tax is therefore not a tax on all real estate sales; it is an investment income tax which could result in a very small percentage of home sellers paying additional taxes on home sales profits over a designated threshold amount. In short, if you're a "high earner" and you sell your home at a substantial profit, you might be required to pay an additional 3.8% tax. However, given that the existing home sale capital gains exclusion on a principal residence (\$250,000 allowable gain for individuals, or \$500,000 for couples) still stands and no Medicare tax will apply for gains within those limits, that the bill's definition of "high earners" encompasses less than 5 percent of all taxpayers, and that the median sales price of existing single-family homes in the U.S. was only \$170,700 in March 2010, the Medicare tax will likely affect only a small percentage of home sellers when it is implemented in 2013.