

IRS explains reporting and withholding issues for post-2013 0.9% Medicare tax increase - June 12,2012

An IRS payroll industry conference call that took place on June 7 shed some light on the higher Medicare tax rate that high wage earners will pay beginning in 2013. Among other issues, the call addressed how the tax will be reported and how certain employees may increase their withholding to avoid large liabilities at filing time.

Background. The 2010 Patient Protection and Affordable Care Act (PPACA, P.L. 111-148) includes a provision that, effective for tax years beginning after 2012, imposes an additional 0.9% Medicare (health insurance, or HI) tax on taxpayers (other than corporations, estates, or trusts) receiving wages with respect to employment in excess of \$200,000 (\$250,000 for married couples filing jointly and \$125,000 for married couples filing separately). (Code Sec. 3101(b)(2)) These amounts aren't indexed for inflation.

Observation: The Supreme Court might reject PPACA in its entirety if it rules this month that the individual mandate (i.e., the post-2013 requirement for individuals to carry minimum essential health care coverage) is unconstitutional. Nevertheless, IRS, and employers, must make plans under current law, i.e., assume that the 0.9% HI tax, and the individual mandate requirement, will go into effect.

The tax is in addition to the regular Medicare rate of 1.45% on wages received by employees with respect to employment. The tax only applies to the employee portion of the Medicare tax. The employer Medicare tax rate remains at 1.45%. (See Weekly Alert ¶ 38 05/03/2012 for a *Practice Alert* on planning for the additional 0.9% tax.)

New insight. John Tuzynski, Chief of Employment Tax Operations for the IRS's Small Business/Self-Employed (SB/SE) Division, said that an additional line will be added to the 2013 Form 941, Employer's Quarterly Federal Tax Return, to report this tax. However, Form W-2 will not be revised. All employee Medicare tax withholding will continue to be reported in box 6 of Form W-2.

IRS was asked whether an employer would be required to combine all of the wages that an employee earned through related companies in a controlled group for purposes of determining whether the employee's wages were over the \$200,000 threshold. Scott Mezistrano, IRS SB/SE Policy Analyst, said that the wages should not be combined unless the companies are paid through a common paymaster.

IRS was also asked if employees can request that the additional 0.9% Medicare tax be withheld if they expect their wages to exceed the \$200,000 threshold later in the year. Mezistrano said that the additional 0.9% Medicare tax should not be withheld by an employer unless the employee has received more than \$200,000 of wages from that

company. However, employees could revise their Form W-4 to request additional income tax withholding, which would then be applied against the employee's personal income tax liability on Form 1040.

Employees who begin working for a company midway through the year, and who expect to exceed the \$200,000 threshold after taking into account their wages from all employers, could also revise their Form W-4 to request additional income tax withholding in order to avoid a large tax liability on their personal income tax return.