THOMAS M. GILL & COMPANY
CERTIFIED PUBLIC ACCOUNTANTS
838 SHOEMAKER AVENUE
WEST WYOMING, PA. 18644

Thomas M. Gill, C.P.A.
Robert J. Gill, C.P.A.
William T. Gill, C.P.A.

Telephone 570.693.2460
Facsimile 570.693.2615
Website: www.gillcpas.com

U.S. SUPREME COURT'S DECISION ON HEALTH CARE LAW

On June 28, 2012, the United States Supreme Court issued its long-awaited decision on the constitutionality of the Patient Protection and Affordable Care Act (PPACA) and its companion law, the Health Care and Education Reconciliation Act (HCERA). In a nutshell, the nation's highest court upheld the law – except for certain Medicaid provisions. The 5 to 4 decision preserves many far-reaching tax provisions and health insurance reforms. In coming months, lawmakers and legal scholars will examine all of the nuances of the Court's highly complex decision. More immediately, individuals and businesses are concerned about what steps they need to take next.

Individual mandate

The PPACA includes a shared responsibility requirement for individuals. This has come to be known as the individual mandate. Broadly, this provision requires individuals to obtain minimum essential health coverage or pay a penalty starting in 2014. Many individuals, however, are exempt from the penalty. These include individuals covered by Medicare and Medicaid, individuals with coverage under military health plans, undocumented individuals, and others. The PPACA also imposes no penalty on individuals who could not afford coverage. Additionally, individuals with employer-provided coverage generally are treated as having minimum essential coverage and are exempt from the penalty unless the coverage is deemed unaffordable.

Tax provisions

Along with the individual mandate, the PPACA includes many tax provisions, which remain law. It cannot be over-emphasized that the tax provisions impact nearly every individual and business.

Here's a rundown some of the tax-related provisions:

Code Sec. 45R small employer health insurance tax credit
Additional Medicare tax for higher income individuals
Medicare tax on investment income
Contribution limits on health flexible spending arrangements (health FSAs)
Increased itemized medical expense deduction threshold
Excise tax on high-dollar health insurance plans
Additional tax on distributions from health savings accounts (HSAs) and certain other arrangements
Excise tax on certain medical devices
Indoor tanning excise tax
Tax credit for therapeutic discovery projects

Disclosure of cost of employer-provided coverage on Forms W-2 for informational purposes
Limits on use of health FSA dollars on over-the-counter medications
Enhanced simple cafeteria plan rules for small businesses
Changes to retiree prescription drug subsidies
Codification of the economic substance doctrine
Branded prescription drug fees
Reforms for charitable hospitals
Reporting requirements for sponsors of health care coverage

The PPACA also imposes a penalty on applicable employers (generally employers with more than 50 full-time employees) that do not provide affordable health insurance coverage to their employees. The penalty is scheduled to take effect after 2013. Employers need to review their coverage to determine if it satisfies the minimum essential coverage and affordability requirements under the PPACA. Employers also should review their benefits packages for compliance with the PPACA.

Insurance reforms
Along with the tax-related provisions we have discussed, the PPACA has set in motion many insurance reforms. They include:

Enhanced coverage for certain dependents
Summary of benefits coverage and uniform glossary
New rules for internal and external reviews of adverse decisions by health insurance carriers
Patient's bill of rights
New rules for preventive services

Health insurance exchanges
The PPACA requires every state to establish an American Health Benefit Exchange and Small Business Health Options Program (SHOP Exchange) to provide qualified individuals and qualified small business employers access to qualified health plans. Some states have already begun the process of setting up exchanges. Other states waited to see the outcome of the Supreme Court case.

Medicaid
The PPACA also expanded Medicaid to cover more individuals with incomes below 133 percent of the federal poverty level. The federal government would cover 100 percent of the Medicaid costs of the newly eligible individuals, with the percentage dropping to 90 percent (with states covering the difference) by 2020. States would be required to make up the difference. The PPACA also set minimum essential levels of Medicaid coverage and made other changes. States that fail to comply with the PPACA risk termination of all Medicaid funding from the federal government.

The Supreme Court held that Congress could expand Medicaid. However, Congress could not penalize states that choose not to participate in the expansion by taking away their Medicaid funding.