



Written by [Joe Wolverton, II, J.D.](#) on March 29, 2010

## New Taxes, Tax Increases in Healthcare Law

As a candidate, Barack Obama repeatedly promised never to raise taxes on American families earning less than \$250,000 a year or on individuals earning less than \$200,000. He reiterated that vow on February 24, 2009 during an address to Congress. On March 23, 2010 the president broke that promise, however, when he signed into law the Patient Protection and Affordable Care Act, codifying thereby every one of its component taxes and penalties.



A cursory reading of the text of the law exposes at least 19 new taxes or tax increases. Of these, at least seven violate President Obama's "firm pledge" to never raise taxes on the American middle class. The rates and reasons for these taxes are distributed throughout nearly every section of the law's more than 2,000 pages. Among the most noxious violations of the President's promise are taxes related to the individual mandate to purchase a medical care insurance policy, the requirement that nearly every employer provide health insurance options to their employees, and the taxes (and penalties) levied on savings plans earmarked for healthcare.

The taxes imposed by the healthcare bill signed into law by President Obama raise approximately \$500 billion over the first 10 years. Much of that revenue is raised through taxing the middle class, despite the president's assurances to the contrary. What follows is a simple, brief denomination of some of the most egregious examples of the health care law's addition to the already crushing tax burden lashed onto the backs of the American middle class.

First, there is the notorious (and grossly unconstitutional) individual mandate. The mandate is the law's inviolable command that every American, regardless of income, purchase a qualifying health insurance policy.

This policy may be purchased from an employer or from the "exchange," that is to say, the government-funded and administered- health insurance marketplace created under the law.

The mandate will go into effect in 2014. Anyone failing to comply with this mandate faces a penalty of the greater of \$95 or one percent of income in 2014, \$325 or two percent of income in 2015, and \$695 or 2.5 percent of income in 2016, up to a cap of the national average bronze plan premium. Families will pay half the amount for children up to a cap of \$2,250 for the entire family. After 2016, dollar



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amounts will increase by the annual cost of living adjustment. The precise guidelines for the mandate in question, as well as the violations thereof that trigger the imposition of the penalty, are found in Section 1501 of the bill.

It's not just the individual American that will be tapped as a revenue source to fund the behemoth bureaucracy overseeing the health care system. Small businesses, a familiar quarry for federal tax hunters, are subjected to a slate of new taxes and regulations to which they must comply or face crippling penalties.

The section of the bill entitled "Shared Responsibility for Employers" (Section 1513) sets out the mandates placed on the nation's employers. First, employers with more than 200 employees must immediately provide every one of their employees with a health insurance policy. The employee reserves the right to opt-out of the plan offered by his or her employer.

Next, employers with 50 or more full-time workers that do not offer health insurance coverage will pay an assessment of \$2,000 per full-time worker (not including the first 30 workers) if any of their employees obtains premium tax credits through the newly created government funded health care insurance exchange. Employers that offer unaffordable coverage or coverage that does not cover at least 60 percent of allowable costs will pay \$3,000 for any employee that receives a tax credit in the Exchange up to a cap of \$2,000 for every full-time employee.

As if the compliance with the reams and reams of federal labor regulations was not already disabling, the new law demands that employers provide notice to their employees of their health insurance options, including coverage through the exchange. Adherence to this new provision will undoubtedly require employers to either hire new staff or (more likely) pass along the burden to compliance officers already spending every minute of the work week complying with the ever-changing tasks laid out in the federal obstacle course.

Employers of all sizes are shrieking in the face of the specter of the additional and unbearable burden the law places on them and the resulting disincentive to hire new employees or expand their business. Congressman Tom Price (R-Ga.) questioned President Obama's promises to small business owners that the law would benefit them in the long run. "Employers as varied as John Deere, Verizon, Caterpillar, Honeywell International, ski resorts, and medical device manufacturers have already announced that this government takeover will drive up their costs," said Price.

"The Democrats' plan punishes families and those who create jobs with trillions of dollars in new spending, taxes, and debt while incentivizing many small and large businesses to drop their employees' insurance coverage. Health reform shouldn't mean wrecking our economy and upending Americans' access to the coverage they enjoy," Price continued.

It is of note that two of the nation's largest small business advocacy organizations — the Chamber of Commerce and the National Federation of Independent Businesses — opposed passage of the act from the beginning. Unfortunately, their opposition was ineffective in the face of the more robust lobbying efforts of the American Association of Retired Persons (AARP) and the AFL-CIO.

With or without health insurance, Americans purchase over-the-counter medicines at a historic rate. And, as many powerful prescription drugs are now being sold without a prescription, that number will likely continue increasing. Under the recently enacted law, Americans cannot purchase over-the-counter medicines with pre-tax dollars drawn from health savings accounts (HAS), flexible spending accounts (FSA), or health reimbursement accounts (HRA). As of 2011, funds from these accounts can



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only be used to purchase medicine prescribed by a physician approved under the auspices of the exchange or other qualifying plan.

A further burden on the funding of these various savings accounts is the increase in the early-withdrawal penalty, from 10 to 20 percent, imposed on account holders under 65 who withdraw money early for non-medical reasons..

President Obama and his lictors were unsatisfied with merely forcing every citizen of this republic to purchase medical insurance, so they have also wrested control of withdrawing money from citizens' private deposit accounts. The replacement of doctors with dictators is accompanied by the replacement of bankers with bureaucrats, with the aggregate effect that the national government will be empowered to control the what, why, how, when, and where of medical care in each of the 50 states.

Finally, there is the so-called Cadillac Tax. Under the provisions of the new law, a 40-percent tax is imposed on any health insurance plan whose benefits exceed \$10,200. Of course, a politician of the mien of Barack Obama abides by the principle of not biting the hand that feeds you; so union members are exempt from the tax increase unless their plan goes over the \$27,500 ceiling.

In analyzing the effect of this exorbitant impost is the fact that the tax is assessed not on the insured, but the insurers. The cost of compliance, therefore, will be manifest in a reduction of insurance benefits offered by "evil" insurance companies to businesses ostensibly providing attractive perquisites to prospective employees. So, the best and brightest employees will be dissuaded from accepting employment at the most generous companies because of the lack of full-service health insurance plans. Therefore, the quality of worker and the quality of the work they would have produced is reduced.

While a careful review of the voluminous penalties, taxes, and surcharges levied in the recently enacted Patient Protection and Affordable Care Act is advisable and crucial to a considered and well-crafted legal and moral refutation of the act, there is a more fundamental characteristic of the law that must be constantly highlighted: The law is unconstitutional. Specifically, the law obliterates the 10th Amendment, the palladium of the formerly well-guarded and well-regarded sentinel of state sovereignty.

If we as a nation capitulate to these unconstitutional mandates either tacitly through mute resistance or actively through the payment and purchase of the diverse roster of penalties and programs provided in the act, then we have no one to blame but ourselves for the irreversible and lamentable slouching into European-style socialism and the demise of American federalism.

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