

## High Income Taxpayers Shoulder Burden of Health Reform Beginning in 2013 Continued

The 3.8% tax will apply to the lesser of: (1) the taxpayer's(s') net investment income or (2) the amount by which the taxpayer's(s') modified adjusted gross income ("AGI") exceeds the high-income threshold. The high-income threshold is \$200,000 for single filers and \$250,000 for married couples filing jointly. Modified AGI is AGI increased by excludible foreign-earned income or foreign housing costs under Code §911. As an example, if a couple filing jointly has modified AGI of \$300,000 and net investment income of \$10,000, the tax will apply to the \$10,000. If they have net investment income of \$100,000, the tax will apply to \$50,000 (the excess of their AGI over the \$250,000 high-income threshold).

Commentators point out that tax-exempt income such as the yield on tax-exempt bonds is favored because it is not subject to the 3.8% tax. Because earnings in a qualified retirement plan or IRA are not subject to the tax, maximizing contributions of pre-tax wages has two benefits. It reduces the taxpayer's(s') AGI for the year of the contribution while permitting the accumulation of tax-free income. Commentators expect taxpayers to consider planning techniques that substitute tax-exempt for taxable income and that otherwise reduce AGI.

### Tax Section

Montgomery McCracken has the experience and talent to assist clients in all areas of federal, state, local and international taxation. We counsel clients regarding tax-free corporate reorganizations and taxable mergers and acquisitions, partnerships and joint ventures, tax efficient structures for investment vehicles and international operations, investment vehicles, international operations and tax issues faced by nonprofit and tax-exempt organizations.

Please contact a member of our Tax Section if you have questions or if we may be of assistance.

**Attorneys**

Gary M. Edelson+  
Clifford Scott Meyer+\*  
Virginia P. Sikes+

**E-Mail**

gedelson@mmwr.com  
cmeyer@mmwr.com  
vsikes@mmwr.com

**Telephone**

215-772-7264  
215-772-7445  
215-772-7275

+ Admitted to practice in Pennsylvania

\* Admitted to practice in New Jersey



The Tax Bulletin is produced by Montgomery, McCracken, Walker & Rhoads, LLP. This publication should not be considered legal advice and should not be relied upon without consultation with appropriate professional advisers.

©2010 Montgomery, McCracken,  
Walker & Rhoads, LLP

123 South Broad St.  
Avenue of the Arts  
Philadelphia, PA 19109  
215-772-1500  
215-772-7620 fax

1235 Westlakes Dr.  
Suite 200  
Berwyn, PA 19312  
610-889-2210  
610-889-2220 fax

Liberty View  
457 Haddonfield Rd.,  
Suite 600  
Cherry Hill, NJ 08002  
856-488-7700  
856-488-7720 fax

Comerstone  
Commerce Center  
1201 New Road  
Linwood, NJ 08221  
609-837-6278  
609-601-8785 fax

1105 N. Market St.  
15th Flr.  
Wilmington, DE 19801  
302-504-7800  
302-504-7820 fax

Richard L. Schaff, Chairman

Louis A. Petroni, New Jersey  
Responsible Partner