

Summary of Tax Provisions—Suggested as Pay-Fors for Health Care

Provisions	Senate (Finance version)	Reid Bill	House—Affordable Health Care for America Act	NAM Position
Surtax on Individual Income tax		0.5 percent surtax on wage income over \$200,000 for individuals and \$250,000 for couples. The tax would not be deductible. It is also not indexed to inflation.	The provision would impose a 5.4 percent surtax on income that exceeds \$1,000,000 for joint filings and \$500,000 for individual filers beginning in 2011. The tax is not indexed to inflation.	<p>The NAM strongly opposes the surtax. Nearly 70 percent of manufacturers file as S-corps or some other pass-thru entity, potentially subjecting them to this tax increase.</p> <p>The surtax would result in rates reaching over 50 percent for small and medium sized manufacturers.</p>
Codification of Economic Substance			The economic substance doctrine provision would set a bright line test to determine when a company entered into a legitimate business deal as opposed to a tax shelter.	The NAM strongly opposes a provision that would codify the economic substance doctrine and impose new liability penalties on taxpayers. While the NAM supports efforts to limit the aggressive marketing of inappropriate tax products (so-called "tax shelters"), economic substance proposals do not represent a meaningful and balanced solution to the problem. The key to stopping these abuses is effective administration and enforcement of the tax code.
Delay in Worldwide Interest Allocation Rules:			Delays the implementation of Interest Allocation rules until 2020	
Limitation on Treaty Benefits for deductible items:			Under this provision, if a foreign-owned company in the US that is covered by a tax treaty, makes a payment to a sub in a non-treaty country, they would be subject to a 35 percent withholding tax. This is a back door way of imposing US withholding on payments to low or no tax jurisdictions, e.g., the Caymans.	The NAM strongly objects to this provision as it would impose discriminatory taxes on foreign-owned companies with facilities that provide jobs in the United States. This provision would violate many of the bilateral tax treaties currently in effect between the United States and foreign countries because it would require companies to pay higher than negotiated withholding tax rates on payments to their foreign affiliates. If enacted, the proposal could lead to retaliatory actions by other countries or withdrawal by our treaty partners from existing treaties, harming U.S.-based businesses and their employees. In addition to the impact on our tax treaty system, the proposal would impose a discriminatory tax hike on foreign investment in the United States.

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<p>Excise Tax on Insurance Plans</p>	<p>High Cost Insurance Excise Tax An excise tax of 40 percent would be applied any health insurance plan that is above \$8,000 for singles and \$21,000 for family plans.</p> <p>The threshold would be indexed to CPI plus 1, and a transition rule would raise the threshold by 20 percent, 10 percent, and 5 percent for the 17 highest cost states for the first three years in an effort to adjust for geographic disparities.</p> <p>Age variation is added to the calculation: For retired individuals over the age of 55, the threshold amount is increased by \$1,850 for individual coverage and \$5,000 for family coverage. The additional amounts are indexed to the CPI-U, as determined by the Department of Labor beginning in 2014, plus one percent.</p> <p>For plans that cover employees engaged in high risk professions, the threshold amount is increased by \$1,850 for individual coverage and \$5,000 for family coverage. The additional amounts are indexed to the CPI-U, as determined by the Department of Labor beginning in 2014, plus one percent. High risk includes: law enforcement officers, firefighters, members of a rescue squad or ambulance crew, and individuals engaged in the construction, mining, agriculture (but not food processing), forestry or fishing industries.</p>	<p>Same as Finance bill with one major exception, the thresholds would be increased to \$8,500 for individuals and \$23,000 for family plans.</p>		<p>NAM has concerns about an excise tax on health insurance plans. Specifically: The tax is overly complex and applies to all benefits, including major medical coverage, FSAs, HSAs, HRAs, dental and vision coverage.</p> <p>The \$21,000 threshold is too low. We suspect many plans will unintentionally be captured, including small self-insured plans and plans with high numbers of aged workers and retirees.</p> <p>We still believe that CPI plus 1 is likely too low and recommend that the committee index to medical costs.</p>
<p>Limitations and changes to Flexible Spending Accounts (FSAs), Health Savings Accounts (HSAs), and Health Reimbursement Accounts (HRAs)</p>	<p>Contributions to health Flexible Savings Accounts (FSAs) would be limited to \$2,500 per year beginning in 2011. (not indexed to inflation)</p> <p>The definition of qualified medical expenses for Health Savings Accounts (HSAs), Flexible Savings Accounts (FSAs), and Health Reimbursement Arrangements (HRAs) would be conformed to the definition used for the itemized deduction. An exception to this</p>	<p>Same as Senate Finance bill.</p>	<p>Contributions to health FSAs would be limited to \$2,500 per year. OTC drugs without prescriptions would be removed from definition of qualified medical expenses.</p> <p>Increased penalties for HSAs would also be included.</p>	<p>We oppose the limitations on Flexible Spending Accounts—both the statutory limit of \$2,500 and the definition of qualified medical expenses because they limit design flexibility options for manufacturers.</p>

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<p>Limitations and changes to Flexible Spending Accounts (FSAs), Health Savings Accounts (HSAs), and Health Reimbursement Accounts (HRAs)—<i>continued</i></p>	<p>rule would be included so that amounts paid for over-the-counter medicine with a prescription still qualify as medical expenses.</p> <p>Increase the Penalty for Use of Health Savings Account Funds for Non-qualified Medical Expenses. This proposal would increase the additional tax for Health Savings Account (HSA) withdrawals prior to age 65 that are not used for qualified medical expenses from 10 percent to 20 percent.</p>			
<p>Eliminate Exclusion for Employer Part D Subsidy</p>	<p>The proposal would eliminate the exclusion from gross income for the subsidy for employers who maintain prescription drug plans for their Medicare Part D eligible retirees.</p>	<p>Same as Senate Finance bill</p>	<p>Same as Senate</p>	<p>The NAM strongly supported this provision as part of the Medicare part D bill. This limitation would make it even more difficult for employers to continue offering prescription drug coverage for their retirees.</p>
<p>Tax Gap Provisions</p>	<p>The proposal would require businesses that pay more than \$600 annually to corporate providers of property and services to file an information report with each provider and with the Internal Revenue Service (IRS). Information reporting is already required on payments to non-corporate providers for services.</p> <p>The proposal would require employers to disclose the value of the benefit provided by the employer for each employee's health insurance coverage on the employee's annual Form W-2.</p>	<p>Same as Senate Finance bill</p>	<p>Same as Senate</p>	<p>The new corporate reporting requirement is extremely onerous—especially for small manufacturers. It will require that companies file a form 1099 every-time they make a purchase over \$600. We also have concerns about the disclosure requirements on W-2s, as some companies have concerns that it will open the door towards further taxation of benefits.</p>
<p>Industry fees</p>	<p>An annual fee of \$2.3 billion would be imposed on the pharmaceutical manufacturing sector beginning in 2010. The fee would be allocated by market share.</p> <p>An annual fee of \$4 billion would be imposed on the medical devices manufacturing sector beginning in 2010. The fee would be allocated by market share.</p>	<p>An annual fee of \$2.3 billion on Pharmaceuticals companies. (allocated by market share).</p> <p>An annual fee of \$2 billion on Medical Device Manufacturers.</p> <p>An annual fee of \$6.7 billion on Health Insurers.</p>	<p>Establishes a 2.5 percent excise tax on medical devices sold for use in the U.S. The excise tax does not apply to exported devices and does not apply to retail sales of devices.</p>	<p>The NAM opposes these fees. Singling out a particular type of business expenditure or industry sector is objectionable in principle and is particularly objectionable where the underlying rationale is to generate additional revenue rather than to develop fair and consistent tax policy principles. Furthermore, there is consistent agreement that once applied, these fees will likely be passed to employers.</p>

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Industry fees — <i>continued</i>	An annual fee of \$6 billion would be imposed on the health insurance sector beginning in 2010. The fee would be allocated by market share.			
Executive Comp Rules	Insurance plans (defined as having 25 percent of profits derived from health plans) would be subject to new 162m limitations of \$500,000. The limits would apply to all employees and service providers (such as contractors) (current law is \$1 million).	Same as Senate Finance		The NAM opposes efforts by the government to set limits on how private businesses pay employees.
Excise tax on cosmetic surgery		Adds a 5 percent excise tax on consumers for cosmetic surgery. <i>(exceptions are made for reconstructive surgery as a result of treatment or trauma).</i>		