

The Odd Couple – Healthcare Reform and Executive Compensation – An Investor's Perspective



Presentation by
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Healthcare Reform and Executive Compensation

- Adds new Section 162(m)(6) to the Internal Revenue Code
- Restricts deductibility of compensation paid by "health insurers" to an individual to \$500,000 per year
- Affects all individuals who provide services, including officers, employees, independent contractors, outside directors, consultants
- No exceptions for "performance-based" comp

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- Code Section 162(m) deduction limits have historically applied only to public companies (industry restrictions added with TARP)
- Section 162(m)(6) applies to all "health insurers"
- Code Section 162(m) has historically exempted commissions and "performance-based" compensation from the deduction limit
- Code Section 162(m)(6) does not exclude such compensation from the \$500,000 limit and the limit applies regardless of the timing of the payment

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- **Code Section 162(m) has historically limited deductions for a small select group of executives**
- **Section 162(m)(6) defines "applicable individual" as any individual**
 - **Who is an officer, director, or employee, or**
 - **Who provides services for or on behalf of the covered health insurance provider**

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- "Covered Health Insurance Provider" defined as company receiving premiums from providing "health insurance coverage"
 - Medical care, dental vision and long-term care included
 - Coverage for specific disease or illness, hospital or other fixed indemnity insurance included
 - AD&D, on-site medical clinics, workers compensation insurance excluded
- Effective Date:
 - Applies to compensation for services provided during any "disqualified" year after 2009
 - Beginning 2013, at least 25 percent of premiums received from providing health insurance coverage must be from providing "minimum essential coverage"

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- Controlled group aggregation rules apply:
 - All entities treated as members of the same controlled group under Code Sections 414(b), (c), (m) and (o) are treated as a single employer (brother/sister controlled group and combined group rules are disregarded)
 - For example, a health insurance provider may be within the same parent-subsubsidiary controlled group as a hospital, a clinic, a brokerage agency, and a "headquarters" entity where the top administrators are housed

Contact Information for Follow Up Questions and Inquiries

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