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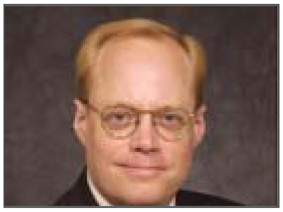

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Paying Obamacare's 3.8% Investment Tax? Like Your Investments, Keep Your Investments

Whether it made your health insurance better or worse, whether more costly or less, Obamacare costs. And as you settle down to finish your 2013 taxes, you may feel it and not in a good way. The tax actually started on January 1, 2013 as a direct new tax that was explicitly intended to help fund the now not-so-new Affordable Care Act.

Meet the 3.8% Net Investment Income Tax. It's and add-on to other taxes you pay, so don't start thinking what a great low tax rate this is. As one example, depending on your income, your long-term capital gain might be taxed at 20%.

However, you must now add the 3.8% tax, making your total 23.8%. But the tax is considerably broader than this. You may owe this tax if you have income from investments, and if your income for the year is more than certain limits.

The IRS has issued a reminder of these key points it wants everyone to know. The 3.8% rate is applied to the ***lesser*** of either your net investment income or the amount by which your modified adjusted gross income exceeds a threshold amount based on your filing status. What are the income thresholds?

(Photo credit: 401(K) 2013)

You may owe the tax if you have net investment income and your modified adjusted gross income is more than these amounts:

- Single or Head of household filing status – $200,000
- Married filing jointly - $250,000
- Married filing separately – $125,000
- Qualifying widow(er) with a child – $250,000

If you are below these numbers, you’re OK. If you’re not—perhaps because of selling a big asset in 2013—get ready to pay. The most important definition is what constitutes net investment income. It is a broad list, and includes such items as:

- interest;
- dividends;
- capital gains;
- rental and royalty income; and
- non-qualified annuities.

The IRS is quick to point out that this list is not all-inclusive. But what *doesn't* it include? It excludes wages and most self-employment income. It also does not include unemployment compensation, Social Security benefits or alimony. And here's a helpful one for home sellers: net investment income also does not include any gain on the sale of your main home that you can exclude from your income.

But if you meet the income threshold and have investment gains from stocks, real estate, etc., get ready to pay. IRS tells you to add up your total investment income, then subtract your deductions that are allocable to this income. The result is your net investment income. The IRS instructions for Form 8960 give additional detail on how to figure it.

Filing Mechanics. If you owe this tax, you must file Form 8960 with your federal income tax return. And although you may not yet be used to this tax, it even enters into estimated tax payments and penalties. IRS points out that if you had too little tax withheld or did not pay enough estimated taxes, you may have to pay an estimated tax penalty.

The IRS website has more details on the Affordable Care Act here. You can also check out the IRS's questions and answers on the Net Investment Income Tax. And if you want even more on the Net Investment Income Tax, see IRS Tax Topic 559.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.