



Client Alert

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Impact of New Medicare Investment Tax on Trusts and Estates

As part of the Patient Protection and Affordable Care Act enacted in 2010, Section 1411 was added to the Internal Revenue Code. Beginning in 2013, this section imposes an additional tax on individuals and on trusts and estates. It is a tax on net investment income tax. Net investment income includes capital gains.

It has generally been reported that the tax on individuals does not apply unless their modified adjusted income exceeds \$200,000 (\$250,000 for a married couple).

What is less well known is that this new investment tax applies to trusts and estates *at a much lower income level*. Section 1411 provides that the new tax applies when income reaches the level at which it is taxed at the highest marginal rate. In 2012, the highest marginal tax rate is reached when undistributed net income reaches \$11,650. This figure will be adjusted for inflation in 2013.

Depending upon what the income tax rates are in 2013, a trust or estate which has a substantial amount of undistributed net taxable income may find itself paying federal income tax of 43.4 percent (39.6 + 3.8) on much of that income. This is in addition to any state income tax (6 percent on income in excess of \$9,000 in Missouri).

This makes careful income tax planning for estates and trusts more important than it has ever been.

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