

NAR Frequently Asked Questions Health Insurance Reform



National Association of REALTORS® Government Affairs Division
500 New Jersey Avenue, NW, Washington DC, 20001

Q-12: My rental property generates a net loss each year. How will those losses be factored into the new tax? And what if I have net capital losses when I sell?

A: Net losses from rents and net capital losses reduce AGI. Thus, the losses themselves would not be subject to the tax. If, after losses, AGI still exceeds the High Income thresholds, the 3.8% tax would still apply if there were any interest or dividends income. (Capital losses reduce capital gains. If losses exceed gains, no more than \$3000 of capital losses may reduce other income in any year.)

Note that passive loss limitations will continue to apply to rental income and loss.

Q-13: All of my income is derived from real estate investments that I own and operate myself. Will my rents and gains be subject to the new tax?

A: No. If the ownership and operation of real estate you own is your sole occupation, then those activities are what's called your "trade or business." Income derived from a trade or business is not subject to the new 3.8% tax, but could be subject to the 0.9% tax on earned income.

If the owner of rental properties has a "day job," however, real estate investments are *not* considered as a trade or business, but are rather considered as investments, even if they are a major source of income. Note that many Realtors engage in business activities that are the "typical" selling, leasing and brokerage endeavors usually associated with the term "Realtor." If they also own real estate assets as part of their own personal investment portfolio, the rents from that portfolio could become subject to the new 3.8% tax on net investment income, depending on AGI.

Q-14: Is there a real estate "sales tax" or a transfer tax in the new health care bill?

A: No. There is neither a real estate "sales tax" nor a real estate transfer tax in the bill.

Q-15: Will "High Income Filers" lose any portion of the Mortgage Interest they are allowed to deduct?

A: No. The mortgage interest deduction is unchanged. No cap was imposed on any itemized deductions.

Q-16: Why is this new tax called a "Medicare tax?"

A: The revenues generated from this tax will be allocated to the Medicare Trust Fund that is part of the Social Security System. That fund is currently on shaky financial footing. The additional revenues generated from the new earned income and unearned income taxes are intended to shore up the Medicare Trust Fund.



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Q-17: How will this new tax affect marginal (the highest) tax rates when it is combined with existing law and with the possible expiration of the Bush tax cuts enacted in 2001?

A: Marginal tax rates are the tax rates assessed on the “last” dollars included in taxable income. If the Bush tax cuts are allowed to expire, then the marginal rates for upper income individuals will increase, particularly for capital gains income. The chart below reflects the impact of those changes, presented based on implementation of current law effective dates.

MARGINAL TAX RATES – 2010 – 2013*

(Marginal Tax Bracket is Rate Imposed on Last Dollar of Income)

Year Income Category	Maximum Marginal Rate without Medicare	Maximum Rate with Medicare (Employee Only – 1.45%)	Maximum Rate with Medicare (Self- employed – 2.9%)
2010 (Current Law)			
Ordinary Income	35%	36.45%	37.9%
Capital Gains, Dividends	15%	15%	15%
Rental Income, Interest	35%	35%	35%
2011 (Expiration of Bush Tax Cuts)			
Ordinary Income	39.6%	41.05%	42.5%
Capital Gains	20%	20%	20%
Dividends, Interest	39.6%	39.6%	39.6%
Rental Income	39.6%	39.6%	39.6%

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2013 (Adds new Medicare Taxes)			
Ordinary Income (Adds 0.9% tax on Earned Income)	39.6%	41.95%	43.4%
Capital Gains (Adds 3.8% tax on Unearned Income)	20%	23.8%	23.8%
Dividends, Interest (Adds 3.8% tax on Unearned Income)	39.6%	43.4%	43.4%
Rental Income (Adds 3.8% tax on Unearned Income)	39.6%	43.4%	43.4%

*Several special calculations actually increase the marginal tax rates of many upper income individuals. These include the loss of the personal exemption, loss of some itemized deductions and special self-employment tax deductions and rate adjustments. This chart does not reflect those special calculations because their impact will vary from taxpayer to taxpayer.

