HCR ALERT

January 23, 2018

ACA Cadillac Tax Delayed Another Two Years

On January 22, 2018, Congress passed a short-term funding resolution to end the federal government shutdown that began several days ago. While ending the shutdown is the centerpiece of the legislation, Congress also incorporated a few kernels of good news for employers in the form of relief from certain Affordable Care Act (ACA) taxes, at least temporarily. The Extension of Continuing Appropriations Act (ECAA) of 2018 grants an additional two-year delay for implementation of the high-value health plan excise tax ("Cadillac tax"), an additional one-year moratorium on the annual fee on health insurers, and an additional two-year moratorium on the medical device tax.

Cadillac Tax

The Cadillac tax imposes a 40% excise tax on the aggregate cost of applicable employer-sponsored coverage in excess of certain statutory limits, which is assessed on the plan's insurance carrier or self-funded plan sponsor. Originally set to begin this year, the 2018 limits were to be $10,200 per year for self-only coverage and $27,500 per year for coverage other than self-only, with adjustments allowed for pre-65 retirees, high-risk professions, and significant age and gender factors.

The effective date of the Cadillac tax was delayed once before by the Protecting Americans from Tax Hikes Act (PATHA) of 2015, which pushed back implementation of the tax until 2020. The ECAA further shifts the tax's effective date to 2022.

Opponents of the tax fear it will lead to shifting of health care costs to employees through increased deductibles, coinsurance, and copayments in an effort by employers to keep plan costs down and avoid the tax. Opponents also argue that, because annual adjustments to the thresholds after 2018 are tied to general inflation rather than annual change in health care costs, a significant number of employer plans could be affected by the tax by the time it is implemented.

Many hoped the initial two-year delay passed in 2015 was an indication that a full repeal might follow, but to-date, permanent relief from the Cadillac tax has not come. Although the figure is a topic of debate, the Congressional Budget Office previously projected the tax would generate $87 billion over a 10-year period. So, while there is considerable support for repeal of the Cadillac tax among lawmakers, employers, and other stakeholders, potential loss of the Cadillac tax's projected revenue stream on a permanent basis is an obstacle for some legislators.

At the very least, today's action is recognition of the Cadillac tax's unpopularity and it suggests Congress is likely to continue to at least contemplate workable plans for eliminating it. The move also provides some more breathing room for the many employers that have been evaluating strategies to curb the impact of the Cadillac tax. The additional time may allow employers to identify effective cost-management strategies that would enable them to avoid aggressive plan design modifications if and when the tax becomes a reality. Despite significant chatter regarding the possibility of a full repeal of the Cadillac tax, until any new developments occur, employers should plan for its implementation in 2022.

Medical Device Tax

Effective in 2013, the Medical Device Tax is a 2.3% excise tax imposed on the sale of certain medical devices by the manufacturer or importer of the device. The 2015 PATHA tax bill placed a two-year moratorium on the tax for device sales occurring in 2016 and 2017. The ECAA extends that relief to 2018 and 2019 as well.

Health Insurance Providers Fee

Effective in 2014, the Health Insurance Providers Fee is an excise tax imposed on providers of insured health insurance coverage, which insurers then pass on to purchasers as additional premium cost. The tax is a fixed dollar amount that is determined based on an insurer's industry market share, so resulting premium increase percentages vary. The 2015 PATHA tax bill placed a one-year moratorium on the fee (which should result in less of an increase to group health insurance premiums) in 2017. The ECAA reinstates that relief for another year in 2019.

###

Your Trion Strategic Account Managers are here to answer any questions you might have as you prepare to comply with upcoming ACA requirements. If you are not currently a Trion client and would like assistance navigating the changes required by health care reform, please contact us today by emailing trionsales@trion-mma.com.

About Trion Group, a Marsh & McLennan Agency, LLC (Trion) HCRAlert!

MARSH & McLENNAN AGENCY

trion™