Segal Consulting

update

Public Sector Benefits Compliance News

January 31, 2018

Spending Law Delays Cadillac Tax and Suspends Other Affordable Care Act Taxes

On January 22, 2018, President Trump signed into law spending legislation to fund the federal government through February 8, 2018.[1] The law, known as a Continuing Resolution (CR), resulted in the government reopening after a three-day shutdown. The CR delays or suspends two Affordable Care Act taxes that directly affect employer-sponsored plans: the 40 percent excise tax on high-cost plans (the "Cadillac tax") and the health insurance premium tax. It also suspends the medical device tax.

This *Update* summarizes the health provisions in the CR and notes the implications for plan sponsors.

Health Compliance News Highlights:

- The 40 percent excise tax on high-cost health plans ("Cadillac tax") is delayed two additional years (until 2022).
- The health insurance premium Tax is suspended during 2019.

The medical device tax is suspended for two more years (until 2020).

Health Provisions in the CR

The CR contains a six-year reauthorization of the Children's Health Insurance Program (CHIP) through 2023.[2] It also delays or suspends three Affordable Care Act taxes:

- The Cadillac tax is delayed two additional years, until January 1, 2022.
- The health insurance premium tax is suspended during 2019. (It was not suspended during 2018 because rates have already been filed.)
- The medical device tax is suspended for two more years (2018 and 2019).

The Cadillac tax imposes a 40 percent excise tax on coverage in excess of certain thresholds. The original thresholds were $10,200 for self-only coverage and $27,500 for family coverage in 2018. The thresholds will be indexed as provided in the law.[3]

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[1] The CR (Public Law 115-120) is available at https://www.congress.gov/public-laws/115th-congress. The provisions discussed here are in Division D.

[2] CHIP provides coverage to almost nine million children who are not eligible for other sources of coverage, such as Medicaid or employer-sponsored insurance.

[3] For information about comments that the Treasury Department and Internal Revenue Service (IRS) solicited about implementation of the Cadillac tax, see Segal Consulting's March 5, 2015 *Capital Checkup*, "Comments Sought on Implementation of the Affordable Care Act's Excise Tax," and August 6, 2015 *Update*, "Additional Comments Sought on Implementation of the Affordable Care Act's Excise Tax."

The Treasury Department and IRS have not published regulations implementing the Cadillac tax. With this new delay, as well as the demands on the Department due to the New Tax Law, it appears unlikely that regulations will be issued soon. A broad-based effort urging Congress to fully repeal the Cadillac tax will continue.

The health insurance premium tax was previously suspended for 2017, but reinstated for 2018. The tax, paid by insured plan sponsors, generally costs about 2 to 4 percent of insurance premiums. It varies depending on the insurer.

In 17 days, the CR will expire again. In addition to further legislative efforts on immigration reform, future spending legislation may address other pending health care issues, such as funding for community health centers and programs that could help stabilize individual insurance market plans in the federal Marketplace and the state Exchanges.

Implications for Plan Sponsors

Despite the delay in the Cadillac tax, plan sponsors should review their plans to determine whether they are on track to exceed the thresholds in 2022. Plan sponsors with insured plans will want to assure that premiums (for 2018 or 2019) do not include any surcharge to cover the premium tax for 2019.

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How Segal Can Help

Segal works with plan sponsors and their attorneys on compliance issues. We can also assist plan sponsors in projecting when their plan will reach or exceed the excise tax thresholds and by how much

Questions?

For more information about how the health provisions in the CR may affect your plan, please contact your Segal consultant or the Segal office nearest you.

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