Cadillac Tax Repealed and other Benefits Changes Contained in the End of Year Spending Bill Passed by Congress

Congress has passed the Further Consolidated Appropriations Act, 2020 (the spending bill). An important bill funding the Federal Government also includes important provisions related to employer sponsored health and welfare plans. Most importantly, the spending bill repeals a number of ACA related taxes:

- The “Cadillac Tax”
- Health Insurance tax (HIT)
- Medical device tax.

However, not all of the changes will be seen as good news to employers, the bill also extends the Patient-Centered Outcomes Research Institute (PCORI), fee, which had been scheduled to expire this year, until 2029.

**Cadillac Tax Repeal**
The Affordable Care Act (ACA) created an excise tax applicable to high-cost health plans, commonly called the Cadillac Tax. Employers who sponsor health plans with an annual cost above the amount defined by the law would pay a 40% tax on the excess plan costs. The tax was originally scheduled to take effect in 2018 but Congress has delayed the tax until 2022. The spending bill formally repeals the tax.

**Health Insurance Tax Repeal**
The Health Insurance Providers Fee, also known as the Health Insurance Tax (HIT) that was enacted as part of the ACA. The tax applies only to health insurance companies, not directly to employers. However, the insurance industry estimates that the HIT adds between 1.5% and 3% to fully insured health plan premiums. While the HIT had been suspended, it is scheduled to go back into effect for 2020. The spending bill repeals the HIT effective 2021.

**Extension of PCORI Fee**
Another provision of the spending bill extends the PCORI fee until 2029, the fee is paid by both health insurance carriers and self-insured employers. The PCORI fee was scheduled to expire for health plans with plan years ending after Sept. 30, 2019. Employers and carriers will be required to pay the fee for another 10 years. Additional changes that were supported by employer groups were included in the bill including how revenue generated by the PCORI fee money is spent and the focus of the research funded by the fee.
Self-insured health plans continue to pay the fee annually using quarterly excise tax Form 720 before July 31 of the year following the last day of the plan year. Health insurance carriers pay the fee directly in the case of fully insured plans.

The PCORI fee is indexed annually to a spending amount defined in the law. The current fee, applicable to plan years ending prior to October 1, 2019, is $2.45 per participant. Due to the extension the IRS is expected to issue new guidance on fees for plan years ending after the original expiration date of the fee. **Important Note:** self-insured employers with calendar year plans, who thought they were done with the PCORI fee, will now be again required to file and pay the next fee no later than July 31, 2020.

**Other Provisions Related to Employee Benefits**
The spending bill also repeals the medical devise tax. While not directly related to employer sponsored plans, it was expected that this tax would increase the cost to a plan when reimbursing claims related to medical devices.

**Summary**
The demise of the Cadillac Tax and the Health Insurance Tax have been on the legislative agenda for a while. Although the PCORI fee represents a small amount of money relative to the cost of health plans, it remains an administrative issue for employee benefit managers of self-inured plans who will want to continue scheduling.

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