COMPLIANCE ALERT

EPIC Insurance Brokers & Consultants

SECURE ACT REPEALS CADILLAC AND OTHER ACA TAXES, EXTENDS PCORI

January 1, 2020

QUICK FACTS

- President Trump recently signed the SECURE Act which, among other things, repealed three ACA taxes.
- Among the taxes repealed by the SECURE Act is the so-called Cadillac Tax – a 40% tax on certain high-cost group health plans -- which has been vocally opposed by bi-partisan legislators and business groups from its inception.
- Additionally, the SECURE Act repeals the ACA's health insurance tax and medical device tax.
- The health insurance tax on health insurers will continue to apply for 2020. Thus, employer plan sponsors of fully insured group health plans will not see any potentially positive impact on health insurance policy rates until 2021.
- The law extends the PCORI fee that was supposed to have sunset this year.

ACA taxes repealed

The ACA included a number of taxes that Congress originally designed to generate revenue to help pay for certain expenses and programs implemented under the law. Among those tax provisions, was an excise tax on certain high-cost group health plans that could have resulted in some employers facing a hefty 40% tax on the excess cost of their group health plans. The so-called Cadillac tax was supposed to have taken effect in 2018, but was delayed twice (to 2020 and 2022, respectively) as lawmakers on both sides of the aisle fought to repeal it. Many employers spent a significant amount of time and resources over the past several years developing strategies to minimize or eliminate exposure to the Cadillac tax, but they can officially and permanently scrap those efforts under the new law.

The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) is a massive piece of legislation aimed primarily at avoiding another government shutdown that could have occurred at midnight on December 20, 2019. In addition to keeping the government operating through next September, the law aimed to alter certain ACA tax provisions.

The SECURE Act, as noted above, eliminates the Cadillac tax, and also permanently eliminates two additional ACA taxes that have been enforced sporadically over the life of the ACA.

The health insurance tax – a tax on health insurance carriers – became effective in 2014, but Congress implemented a one-year moratorium on the tax in 2017 and 2019. Employer plan sponsors ultimately bore the burden for this tax because carriers generally passed it along in the form of increased policy premiums. Unfortunately for plan sponsors, the health insurance tax repeal will not take effect until January 1, 2021, so the increases felt as a result of the health insurance tax being back in play for 2020 will remain intact.

The ACA also included a 2.3% tax on medical devices that became effective in 2013. Congress already had suspended this tax, which only indirectly impacted employer plan sponsors, from 2016 through 2020. The SECURE Act permanently repeals the tax.

PCORI fees extended

Not all of the fallout from the SECURE Act will be positive for employers, however. The law includes a provision to continue to fund the Patient-Centered Outcomes Research Institute (PCORI) created by the ACA to evaluate the effectiveness of medical treatments, procedures, and strategies. Employers have been paying a per capita amount each year to help fund PCORI, and this coming July was to have been the last date any employer would have had to pay the PCORI fee. The SECURE Act provides that self-funded plan sponsors and insurance carriers will have to continue to make annually-adjusted PCORI payments through 2029 or 2030. We will monitor this development and provide details on the new PCORI fee amounts when they become available.

EPIC Employee Benefits Compliance Services

For further information on this or any other topics, please contact your EPIC benefits consulting team.