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ACA Tax Relief in Senate Healthcare Bill

Last Thursday, Senate Republicans unveiled the Better Care Reconciliation Act of 2017, a bill that, if enacted, would make sweeping changes to the current system of federal healthcare taxes and subsidies under the Affordable Care Act (ACA). While any healthcare bill that becomes law will likely be a compromise between the Senate bill and the House bill passed last month, both bills eliminate or delay the effective date of three key taxes introduced by the ACA.

Elimination of Net Investment Income Tax. First, both bills eliminate the 3.8 percent net investment income tax (NIIT) on high-income earners. The NIIT, an additional tax on investment income, including capital gains, that went into effect in 2013, applies to U.S. citizens, resident aliens and trusts with modified adjusted gross income above certain thresholds – $200,000 for single taxpayers, $250,000 for married couples filing jointly, $125,000 for married couples filing separate returns and $12,500 for trusts. A taxpayer subject to the NIIT would pay a 23.8 percent tax at the federal level on qualified dividends and long-term capital gains. After repeal, the rate would be 20 percent. It is worth noting that the repeal would apply retroactively to the beginning of the year. Thus, taxpayers could enjoy a reduction in rates for capital gains already realized and dividends already received.

Elimination of Medicare Surtax. Second, both bills would repeal the 0.9 percent Medicare surtax after 2022. The surtax, which went into effect in 2013, applies to individuals with total wages, compensation and self-employment income above $200,000 for single taxpayers, $250,000 for married couples filing jointly and $125,000 for married couples filing separate returns. A taxpayer in one of these groups currently would pay 1.45 percent Medicare tax on the first $200,000 of compensation and a 2.35 percent Medicare tax (1.45 percent plus 0.9 percent) on compensation in excess of $200,000. After repeal, such a taxpayer would pay only the 1.45 percent Medicare tax.

Delay in Effective Date of Cadillac Tax. Third, both bills would delay the effective date of the tax on so-called Cadillac group health plans. Starting in 2020, the ACA would impose an annual 40 percent excise tax on annual premiums for employer-sponsored group health plans exceeding $10,800 for individuals or $29,500 for a family. The tax is imposed on insurance carriers (for insured plans), or plan sponsors (for self-insured plans) but the costs likely would have been passed on to consumers (or related in material reduction of benefits). Both the Senate and House bills would delay implementation of the Cadillac tax until 2026.

If you would like to discuss how healthcare reform could impact your plans, we encourage you to contact your attorney at Day Pitney.

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