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REFORM UPDATE

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CONSOLIDATED APPROPRIATIONS ACT IMPACT ON EMPLOYER BENEFIT PLANS

At the end of 2015, the Consolidated Appropriations Act was signed into law. The Act contains a number of benefit-related provisions that may affect employer benefit plans.

TWO-YEAR DELAY OF CADILLAC TAX EFFECTIVE DATE

The Cadillac tax was originally a non-deductible 40 percent excise tax applied to the cost of employer-sponsored health coverage that exceeded specified thresholds. It was scheduled to take effect in the 2018 tax year, when the cost thresholds would be $10,200 for self-only coverage and $27,500 for family coverage. The Consolidated Appropriations Act made the following changes to the Cadillac tax:

- Delayed the effective date to the 2020 tax year.
- Changed the status of the tax from non-deductible to deductible as a business expense.

The IRS has released only preliminary thoughts on how to implement the Cadillac tax. They are reviewing stakeholder comments and plan to release proposed regulations in the future.

Please note that the ACA includes annual indexing of the Cadillac tax thresholds, so the thresholds will be different in 2020.

ONE-YEAR MORATORIUM ON INSURANCE CARRIERS' MARKET SHARE TAX

The Consolidated Appropriations Act includes a one-year moratorium on collection of the market share tax levied on insurance carriers based on their market share. The tax has targeted revenues for each year, and the target revenue for 2017 was $13.9 billion. Although the tax will not be collected in 2017, it will resume in 2018.

Employers that insure their group health plans will see some rate impact in 2017, because insurance carriers have passed on the cost of the tax to their policyholders.

TWO-YEAR MORATORIUM ON MEDICAL DEVICE TAX

The Act also places a two-year moratorium on the ACA's 2.3 percent tax on the sale of medical devices. The tax imposed under this provision will not apply to sales during the period beginning January 1, 2016 and ending December 31, 2017. This may have some effect on employer plans. However, this tax applied to a relatively small number of claims for most health plans.

PARITY FOR TRANSIT AND PARKING BENEFITS

The Act equalized the maximum monthly exclusion for all pre-tax transportation fringe benefits. In 2015, the maximum exclusion for mass transit pass and vanpool benefits dropped to $130 per month, while the maximum exclusion for qualified parking benefits remained $250 per month. Congress made parity permanent, so the maximum income-adjusted exclusion for all transportation fringe benefits in 2015 is $250 per month, retroactive to January 1, 2015.