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Short-Term Spending Bill Delays Cadillac Tax, Other ACA Taxes

On January 22, 2018, President Trump signed H.R. 195: Extension of Continuing Appropriations Act, 2018, which is a short-term spending bill that re-opened the federal government after a three-day shut-down. As discussed below, the bill:

- Extends the Children's Health Insurance Program (CHIP) for six years, through fiscal year 2023;
- Extends the existing suspensions of the Affordable Care Act's (ACA) medical device excise tax through 2019 and the tax on high cost employer-sponsored health coverage (the "Cadillac Tax") through 2021; and
- Suspends the annual fee on health insurance providers for 2019.

No other changes were made to the ACA as part of this bill. Last month, as part of the Tax Reform and Jobs Act, the individual mandate penalty was reduced to $0 beginning in 2019.

Cadillac Tax – Delayed until 2022

The spending bill includes a two-year delay of the 2020 effective date to tax years beginning after December 31, 2021. The Cadillac Tax – a 40% tax on employer-sponsored health coverage that exceeds $10,200 for individual and $27,500 for family coverage (indexed) – was previously delayed two years (to 2020) under the Protecting Americans From Tax Hikes Act of 2015 (PATH Act).

While the delay was welcome news for many employers, efforts to fully repeal the Cadillac Tax are likely to continue as many employers believe it will increase both employee and employer costs and will cause employers to reluctantly cut benefits to avoid the tax.

Medical Device Tax – Extension of Moratorium for 2018 and 2019

The spending bill includes a two-year extension of the moratorium on the ACA's 2.3% tax on the sale of medical devices. Under the spending bill, the tax will not apply to sales during the period beginning on January 1, 2018 and ending on December 31, 2019. The PATH Act had placed a two-year moratorium on the medical device tax for 2016 and 2017, which is now extended for 2018 and 2019.

Annual Fee on Health Insurance Providers – Suspended for 2019

The spending bill places a one-year moratorium on the annual fee on health insurance providers for calendar year 2019. The PATH Act had placed a one-year moratorium on the fee for 2017. Although it remains in effect for 2018, it will be suspended again for 2019. The tax applies to fully insured medical, dental and vision plans based on the carrier's net premiums and is typically passed through to employers that sponsor such plans.

About the Author. This alert was prepared for Clark & Lavey Benefits Solutions by Marathas Barrow Weatherhead Lent LLP, a national law firm with recognized experts on the Affordable Care Act. Contact Peter Marathas or Stacy Barrow at pmarathas@marbarlaw.com or sbarrow@marbarlaw.com.

Stacy H. Barrow, Esq.
Compliance Director
This alert was prepared by Stacy Barrow. Mr. Barrow is a nationally recognized expert on the Affordable Care Act and BAN's Compliance Director. His firm, Marathas Barrow Weatherhead Lent LLP, is a premier employee benefits, executive compensation and employment law firm. He can be reached at sbarrow@marbarlaw.com.