MARSH & McLENNAN AGENCY

COMPLIANCE UPDATE, JANUARY 24, 2018

GOVERNMENT PASSES STOPGAP FUNDING BILL DELAYING SEVERAL ACA TAXES AND EXTENDING FUNDING FOR CHIP

Executive Summary:

- On January 22, 2018, the government passed the stopgap funding bill into law, which ended the government shutdown. The bill makes significant changes to three tax provisions under the ACA and extends CHIP funding. The law became effective on January 22, 2018.
- The new law delays the effective date of the Cadillac Tax, an excise tax on high cost health plans, until January 1, 2022 (the previous effective date was January 1, 2020).
- The new law also delays the effective date of the medical device tax, to January 1, 2020 (the previous effective date was January 1, 2018).
- The new law places a moratorium on the Health Insurer Fee for the 2019 calendar year. The Health Insurer Fee is in effect for 2018.
- The new law also extends federal funding to the Children's Health Insurance Program (CHIP) for an additional six (6) years.

On January 22, 2018, Congress passed, and President Donald Trump signed into law, the stopgap government funding bill (The Bill), ending the government shutdown. As discussed below, The Bill delays the Cadillac Tax and medical device tax for an additional two (2) years, suspends the applicability of the Health Insurer Fee for 2019, and extends federal funding for the Children's Health Insurance Program (CHIP) for another six (6) years.

DELAY OF THE EXCISE TAX ON HIGH COST HEALTH PLANS ("THE CADILLAC TAX")

Originally, under the Affordable Care Act (ACA), the Excise Tax on High Cost Health Plans (hereinafter referred to as the "Cadillac Tax") imposed a 40% excise tax on high cost group health plans. The legislation defined high cost health plans as those plans that had an aggregate cost of coverage of more than $10,200 for self-only coverage, and $27,500 for other than self-only coverage.

The Cadillac Tax was originally set to take effect in 2013, but legislation immediately delayed it until 2018. In 2016, the Cadillac Tax was again delayed until 2020, by the 2016 federal budget deal.

The Bill extends the effective date of the Cadillac Tax to January 1, 2022 (i.e., delaying the legislation for another two (2) years).

MORATORIUM ON THE HEALTH INSURER FEE

Beginning in 2014, the ACA imposed an annual, non-deductible fee on health insurance providers, allocated across the industry according to market share. This Health Insurer Fee requires insurance providers to pay an excise tax to the government by September 30th of each calendar year. In 2016, the federal budget deal imposed a suspension (or moratorium) on the collection of the Health Insurer Fee for the 2017 calendar year. For 2018, health insurance providers are again required to pay the Health Insurer Fee to the government for the calendar year.

The Bill places a moratorium on the Health Insurer Fee for 2019, meaning health insurance providers would not be required to pay these fees for 2019. Employers should be aware that there may be a reduction in premium cost in 2019 because of the Bill.

DELAY OF THE MEDICAL DEVICE TAX

The ACA imposed a 2.3% excise tax on the sales of certain medical devices, beginning in 2013. Generally, the medical device manufacturer or importer would be responsible for reporting and paying this fee to the Internal Revenue Service (IRS). In 2016, the federal budget deal suspended collection of the medical device tax for two (2) years (2016 and 2017), meaning the tax would not apply to sales made between January 1, 2016 and December 31, 2017.

The Bill suspends the medical device tax for another two years (2018 and 2019), meaning the tax would not go into effect until January 1, 2020.

EXTENSION OF CHILDREN'S HEALTH INSURANCE PROGRAM FUNDING

The Children's Health Insurance Program (CHIP) is a federal and state-funded health insurance program that offers low-cost health insurance to children of families that have a lower income bracket, but do not qualify for Medicaid. The federal government assists states in the funding of CHIP by matching state funding for this program, up to a certain percentage. However, federal funding for CHIP had expired on September 30, 2017. In December 2017, Congress approved a $2.85 billion allocation of funding to CHIP programs, but that money would have only funded CHIP for most states until February 1, 2018. This would mean that most states would have run out of funding for CHIP by the beginning of 2018 without additional federal assistance.

The Bill extends federal funding for CHIP for an additional six (6) years, through 2023.

CONCLUSION

The Bill makes significant changes to the three ACA taxes, as well as the future funding of CHIP. From an employer perspective, employers should be aware of the future impact of these taxes and plan accordingly for the taxes' effective dates. As this Bill relates to CHIP, employers should continue to ensure they provide any notices required under CHIP.