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December 28, 2017

U.S. House and Senate Pass Tax Cut and Jobs Act in 2017

On December 19th the House of Representatives voted along party lines to pass H.R. 1, the Tax Cut and Jobs Act of 2017, by a vote of 224-201. Senate passage followed early on December 20th by a party-line vote of 51-48, with Sen. McCain not voting while recovering in Arizona from cancer treatments. As anticipated, President Trump signed the legislation on December 22nd.

HR1 makes significant changes to individual and corporate provisions of the U.S. tax code, including a reduction in the corporate tax rate to 21%, down from 35%, beginning in 2018. **The bill includes permanent effective repeal of the Affordable Care Act (ACA) individual mandate**, requiring individuals to purchase and maintain health coverage, by zeroing out the penalty beginning in 2019. For 2018, most individuals are still required to maintain coverage or pay a penalty when they file their 2018 federal income tax return.

The legislation avoids taxing employer-sponsored health insurance benefits. In addition to the individual mandate repeal, this legislation restores cost-sharing payments to insurance companies, reforms the 1332 (state flexibility) waiver process (the so-called Alexander/Murray legislation), and create a federal reinsurance pool (the Collins/Nelson legislation).

It is neither clear when a vote on these ACA fixes being sought by Sen. Collins will happen in the Senate nor certain if the House will even consider it. The fate of Alexander/Murray and Collins/Nelson remains a sticking point in final legislation to avoid a government shutdown. The Senate has appeared poised to consider the legislation in its funding package, while House conservatives remained opposed to any effort to shore up the Affordable Care Act.

Meanwhile, House Leadership separately plans to move legislation to **further delay the Cadillac Tax** by one year and create a moratorium on employer mandate penalties from 2015-2018. The moves are significant for Council members as the IRS began imposing significant penalties last month for violation of the employer mandate.

HR1 changes how certain tax thresholds will be indexed for inflation. Affected provisions, including the ACA "Cadillac" Tax (scheduled to take effect in 2020), will now be indexed to the Chained Consumer Price Index (CPI) instead of the regular CPI (the previous metric). That change makes it likely that more employer-sponsored plans would trigger the Cadillac tax sooner. **Accordingly, other legislation calls for a further delay on the Cadillac Tax until 2021 (the tax is currently scheduled to be effective in 2020, and the legislation introduced last week would implement the excise tax in 2021).** That legislation could be included in an end-of-year omnibus bill that could also repeal the medical device tax for five years, eliminate HSA restrictions for over the counter purchases for two years, repeal the Health Insurance Tax for some plans in 2018 and all plans in 2019, and reauthorize the Children's Health Insurance Program.

Links

- The official GOP summary
- Comprehensive legal analysis – by Steptoe & Johnson
- 12/15 Comparison chart – Current Tax Law & the House & Senate Tax Reform Bills

Source: Crawford Advisors

Should you have any questions or concerns please contact a member of the AssuredPartners' Benefits Team