Keenan & Associates

BRIEFING

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HEALTH CARE REFORM: NEW SPENDING BILL MEANS CHANGES TO ACA TAX PROVISIONS

On December 18, 2015, the House and Senate approved and President Obama signed a $1.1 trillion spending measure for the federal government that includes significant changes to several tax provisions in the Affordable Care Act (ACA). It is the most significant legislative change to the ACA since its enactment.

The bill makes the following changes:

- **Enacts a two-year delay of the so-called Cadillac tax.** Employers now have two additional years to change their employee health offerings in anticipation of the 40% excise tax on the value of employer-provided health insurance over certain thresholds.

- **Enacts a two-year delay of the medical device tax.** This is a victory for medical device makers who have advocated for the repeal of this provision for five years.

- **Enacts a one-year moratorium on the health insurance provider fee under Section 9010 of the ACA.** Covered entities (including health carriers and Multiple Employer Welfare Arrangements or MEWAs but not self-insured plans) will not be required to pay the $13,900,000,000.00 in fees that the federal government would have collected from them under Section 9010 in 2017. Payment of this fee will resume in 2018. What remains to be seen is whether this one-year moratorium will have any effect on rates for fully-insured plans.

- **Makes Cadillac tax payments deductible.** Under the ACA, coverage providers who paid taxes under the Cadillac tax provision were not allowed to make deductions for the payment of those taxes. (Coverage providers for fully insured plans are generally the insurance carrier, but for self-funded plans, a coverage provider could potentially be the employer.) Under the new law, a coverage provider who pays taxes under the Cadillac tax provision will be allowed to take a deduction for it.

- **Requirement to re-examine the benchmark for age and gender adjustment of the Cadillac tax thresholds.** The new law requires the U.S. Comptroller General and the National Association of Insurance Commissioners (NAIC) to report to the Senate Finance Committee on the suitability of the current benchmark for age and gender adjustment of the Cadillac tax threshold and to make recommendations regarding a more suitable benchmark. Employers have been awaiting rules on the age and gender adjustment for some time. It appears that those rules will now not arrive until after this report to Senate Finance, 18 months from now.

WHAT'S AHEAD

These provisions delay enactment of these controversial taxes until the next presidential administration. It remains to be seen whether the next Congress and the next President are willing or able to repeal them entirely. For now, many employers will regard the signing of this bill as a well-timed gift at the end of 2015.

Please contact your Keenan Account Manager for questions regarding this *Briefing* or if you require any additional information regarding the Affordable Care Act.