

U. S. House of Representatives Bill Proposes Repeal of All ACA-Related Taxes

With a new Administration in power the long anticipated action to repeal Obamacare now appears to be in full swing. Under draft legislation currently being crafted by House Republicans, an intermediate step is being taken that would repeal all of the *Affordable Care Act's* tax provisions along with a host of other ACA provisions. At the same time Senate Republicans recently unveiled a bill ultimately designed to replace ACA (Obamacare).

The ACA (Obamacare) created a number of new tax provisions designed to help fund health care reform. These included the net investment income (NII) tax, additional Medicare tax, excise tax on high-dollar health plans, excise tax on medical devices, and excise tax on indoor tanning services. The law also overhauled the rules for the itemized medical expense deduction, making it more difficult for individual tax filers to receive a deduction for out of pocket medical expenses.

Additionally, the ACA imposed a "shared responsibility" requirement on qualifying employers (known as the employer mandate) and individuals who failed to carry minimum health coverage for themselves and their dependents (known as the individual mandate), established a government sponsored health insurance marketplace, and created a premium assistance tax credit to help lower earning individuals and families afford the cost of healthcare.

The House bill currently being drafted would repeal the NII tax, additional Medicare tax, excise tax on high-dollar health plans, the medical device excise tax, and the excise tax on indoor tanning services. The bill would also effectively abolish the individual and employer mandates and the premium assistance tax credit.

In its place the bill would create a new tax credit to help individuals purchase health insurance. The credit would be age-adjusted rather than income-adjusted and the itemized medical expense deduction would revert to its pre-ACA rules (e.g. drop back to 7.5% of adjusted gross income). Additionally, the bill would cap the current tax exemption for employer-provided health insurance that exceeds an "annual limitation."

In the Senate, four Republican senators have introduced the *Patient Freedom Act of 2017*. This proposal would repeal the ACA's individual and employer mandates and certain other ACA provisions. The proposal would also create Roth Health Savings Accounts (HSAs) and a new Roth HSA tax credit.

In the meantime, while Congress works on repeal and replacement, some ACA guidance has been released by the Whitehouse. In January, President Trump signed *Executive Order 13771*, which provides that whenever a federal agency proposes for notice and comment or otherwise promulgates a new regulation, the agency must identify at least two existing regulations to be repealed, unless prohibited by law. Further, for fiscal year (FY) 2017, the heads of all agencies

are directed that the total incremental cost of all new regulations, including repealed regulations, to be finalized this year must be no greater than zero, unless otherwise required by law or consistent with advice provided in writing by the Office of Management and Budget (OMB).

On February 15, the U.S. Department of Health and Human Services (HHS) issued guidance, which according to HHS, would help stabilize the ACA until a replacement plan takes effect. The guidance would change the standards relating to special enrollment periods, guaranteed availability, the timing of the annual open enrollment period in the individual market for the 2018 plan year, network adequacy and essential community providers for qualified health plans (QHPs), and the rules around actuarial value requirements. Later that same month on February 23, HHS announced that it would extend its transitional policy for non-grandfathered coverage in the small group and individual health insurance markets. These plans generally would not be in compliance with the ACA for, among other reasons, failing to satisfy the ACA's market reforms. The extension for these plans runs through 2018.

Why is this Important to Know?

All these actual and proposed changes to health care means that there may be health care cost savings available now to individuals and employers that can be taken advantage of immediately. To learn more about these changes (and potential changes) we encourage you to contact your current healthcare brokers and providers to determine if you can take advantage of any of these adjustments. And then follow up regularly with your brokers and providers throughout the year so that as changes are implemented you can plan for their impact on your ministry in the coming years.

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