

Omnibus Budget Bill Delays Implementation of "Cadillac" Tax on Expensive Health Plans, Makes Other Tax Changes to the Affordable Care Act

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On Friday, December 18, 2015, President Obama signed the Consolidated Appropriations Act of 2016 (the "Omnibus Bill"), funding the federal government through the end of the 2016 fiscal year. The Omnibus Bill makes several changes to the Affordable Care Act (the "ACA"), including a delay in the implementation of the ACA's so-called "Cadillac tax" for two years, until 2020. The Omnibus Bill also makes the Cadillac tax a tax-deductible expense.

The Cadillac tax is a 40% excise tax on the total monthly cost of employer-sponsored health coverage above a specified dollar amount (\$10,200 for single coverage, and \$27,500 for family coverage, indexed for inflation). Under the ACA, the 40% excise tax is imposed on the "coverage provider," which is the health insurance carrier in the case of an insured group health plan, the employer with respect to a health savings account or Archer medical savings account, or in all other cases, the "person that administers the plan benefits."

During 2015, the IRS began issuing notices identifying various administrative challenges in how the Cadillac tax would be implemented but did not provide concrete guidance. Calls for the repeal or delay of the Cadillac tax have intensified recently, as a recent report from the Kaiser Family Foundation showed that about 1 in 4 employers offering health insurance would be impacted by the tax in 2018. With most presidential candidates indicating that they do not support the Cadillac tax, the long-term future of the tax is unclear.

The Omnibus Bill also placed a moratorium on two additional taxes under the ACA. First, the ACA's tax on medical devices was frozen for 2016 and 2017. That tax, which first went into effect in 2013, imposes a 2.3% tax on the sale of taxable medical devices. Second, the ACA's annual, non-deductible fee on health insurance providers, which is treated as an excise tax and was first due in 2014, was frozen for 2017.

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