



THE SMALL BUSINESS LEGISLATIVE COUNCIL ALERT

2018: NUMBER 6

JULY 17, 2018

IN THIS ALERT:

- **HOUSE WAYS AND MEANS COMMITTEE APPROVES MULTIPLE HEALTH CARE BILLS**
- **ACA RISK ADJUSTMENT PAYMENTS**
- **DELAY TO PROPOSED REGULATIONS ON SECTION 199A**
- **TAX REFORM 2.0**
- **UPCOMING EVENTS**

HOUSE WAYS AND MEANS COMMITTEE APPROVES MULTIPLE HEALTH CARE BILLS

Last week the House Ways and Means Committee reviewed and approved eleven health care related bills, which will now make their way to the House floor.

Among the bills that were voted out of the Committee was the **Employer Relief Act of 2018** (H.R. 4616), which would **retroactively suspend the ACA's employer mandate penalties for the 2015 through 2018** tax years. The bill would also **delay the Cadillac tax for another year until 2023**. According to the Joint Committee on Taxation (JCT), if passed in its current form, the Employer Relief Act would cost \$39.5 billion over 10 years. This price tag could get even bigger if, as Ways and Means Committee Chairman Kevin Brady predicted it might, the bill gets amended to also include a repeal of the medical device tax.

Also approved were a number of bills relating to health savings account (HSAs) and other tax-favored accounts, like health reimbursement arrangements (HRAs) and flexible spending arrangements (FSAs). These included H.R. 6306, which would increase the annual contribution limits for HSAs from \$2,250 to \$5,000 for self-only coverage (or from \$4,500 to \$10,000 for family coverage) and allow both spouses to make catch up contributions to the same HSA. The bi-partisan H.R. 6199, which would expand the list of allowable items which can be paid by tax favored health accounts to include the purchase of over the counter medications and menstrual care products, was also approved.

ACA RISK ADJUSTMENT PAYMENTS

Adding a further level of uncertainty in the ACA landscape, last week the U.S. Centers for Medicare and Medicaid Services (CMS), announced that they would be suspending ACA risk-adjustment payments because of a court ruling earlier this year that found that the formula that CMS had been using to calculate these payments was flawed. The purpose of the risk-adjustment payments is to help spread risk across those insurers participating in the ACA marketplaces and encourage insurers to join the marketplace. The payments are calculated and collected from the insurers who had lower costs in a given year and distributed to those insurers who saw higher costs and had more high need individuals in their plans (who, under the ACA, they must accept and must not charge any greater premium). The elimination of the risk-adjustment payments could impact not only premiums but also the decision by insurers of whether they will continue to participate in the marketplaces. In other words, the suspension of these payments will generate more chaos into the current health insurance market and particularly with respect to the ACA (aka Obamacare) marketplaces. Insurers are urging the Administration to issue interim final rules (which could go into effect immediately and allow the risk-adjustment payments to be made) and then propose new permanent rules.

DELAY TO PROPOSED REGULATIONS ON SECTION 199A

The IRS has stated that regulations interpreting Section 199A [which provide pass-through entities with a new 20% deduction on “qualified business income” under certain circumstances] is one of its top priorities with respect to rolling out regulations to implement the 2017 Tax Cuts and Jobs Act. However, this week it was announced that the release of proposed rules on Section 199A, which was previously promised for late June/early July, will now be delayed until the end of July. Unfortunately, for the small businesses who are eagerly awaiting these rules, it is possible that we will see further delay in the release of the proposed rules which, even after they are released, will have a long way to go before they are finalized. Because there are so many unanswered questions with new Section 199A, including even the most fundamental question of whether a particular business is considered a service business and thus subject to more stringent rules, it is unlikely that all of the guidance and proposed regulations will be issued at one time. The SBLC is working on a primer for small businesses on Section 199A but has been waiting to release it pending issuance of the proposed rules. If the proposed rules are delayed past the end of July, the SBLC will release an initial version of the primer and then update it when the proposed regulations come out.

TAX REFORM 2.0

House Ways and Means Committee Chairman Kevin Brady has announced that drafts of a package of new tax bills (which are being referred to as “Tax Reform 2.0”) will be circulated around the House in the coming month and formally released in early August.

While it is yet unclear exactly what might be included in this package, there has been significant discussion about making the individual provisions of the 2017 Tax Cuts and Jobs Act (which are set to sunset at the end of 2025) permanent as well as some suggestions about further lowering the corporate tax rate (down to 20% for C corps). Given the high cost that would be associated with either or both of these proposals, it is probable that Congressman Brady and his committee will be looking for revenue raisers to include in the package.

UPCOMING EVENTS

July 25, 2018, 3:00 p.m. EST – The SBLC will be holding a member call to discuss whether tariffs are impacting their members and industries and whether this is an area where SBLC should be taking a more active role.

Call-in Number: (301) 968-3400

Conference Number: 325#

PIN Number: 1111#

After you hear the beep the beep, you will be joined to the call.

August 7, 2018 – SBLC Legislative Meeting Conference Call [Tentative]