House Passes the American Health Care Act

On May 4, the House of Representatives, by a vote of 217 to 213, passed the American Health Care Act (AHCA), the Republican plan to repeal and replace the Affordable Care Act (ACA, Obamacare), as amended. The bill now heads to the Senate for its consideration. This summary examines the effects of repealing ACA and the many tax provisions found in AHCA.

ACA Repeal

The AHCA, as amended, would repeal virtually all of the ACA, including the following tax provisions. Except as otherwise provided, the following provisions would be repealed effective 2017:

- The individual mandate, retroactively effective beginning in 2016.
- The employer mandate, retroactively effective beginning in 2016.
- The premium tax credit, effective in 2020.
- The 3.8% net investment income tax (NIIT).
- The 0.9% additional Medicare tax, effective 2023.
- The higher floor for medical expense deductions. (The AHCA provides a new, lower floor—see next page.)
- The small employer health insurance credit, effective 2020.
- The limitation on health Flexible Spending Account (FSA) contributions.
- The so-called "Cadillac" tax on high cost employer-sponsored health plans, while not repealed, would be delayed until 2026.
- The exclusion from "qualified medical expenses" of over-the-counter medications for purposes of Health Savings Accounts, Archer Medical Savings Accounts, Health Flexible Spending Arrangements, and Health Reimbursement Arrangements.

Replacement

The main feature of the AHCA’s ACA replacement would be a new refundable tax credit for health insurance, described below. The AHCA would also make a number of significant changes to strengthen HSAs in addition to those described above, as well as reduce the "floor" for deductible medical expenses.

- **Health insurance coverage credit.** The AHCA would create a new refundable tax credit for health insurance coverage equal to the lesser of:
  
  i. The sum of the applicable monthly credit amounts (from $2,000 - $4,000, depending on age) or
  
  ii. The amount paid by the taxpayer for "eligible health insurance" for the taxpayer and qualifying family members.
HSA Reforms

The AHCA would make a number of changes intended to strengthen and enhance HSAs, effective beginning in 2018, including:

- **Increased contribution limits.** The AHCA would increase the maximum HSA contribution to approximately double the current limits.

- **"Catch-up contributions" by both spouses.** The AHCA would also allow both spouses to make "catch-up contributions" to the same HSA.

- **Pre-HSA medical expenses.** Finally, the AHCA would provide a special rule under which, if an HSA is established within 60 days of the date that certain medical expenses are incurred, it would be treated as having been in place for purposes of determining if the expense is a "qualifying medical expense".

- **Lower floor for medical expense deduction.** The AHCA would provide a 5.8% floor for medical expense deductions.

What next?

The amended bill will likely be scored by the CBO in the coming weeks, which may well inform the Senate's deliberation. Senator Bob Corker (R-TN) told MSNBC there was no way the healthcare bill would receive a quick up-or-down vote in the Senate and predicted senators would spend "at least a month" studying it.

Republicans hold a narrow 52-seat majority in the Senate, and so Republicans can only afford to lose a few votes and keep the bill moving forward.

We will keep you abreast of any additional information.

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