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ACA Costs Revised Downward; Senate Panel Focuses on Tax Simplification

Congressional budget and revenue estimators revised their prediction of Affordable Care Act costs downward this week — reducing that total by 11%. This week the Senate Finance Committee heard testimony on tax code simplification — which included proposals on the tax incentives for retirement — and requested input from interested parties on tax reform proposals. A bipartisan bill was also introduced in the Senate that would allow medical marijuana use in states where it is legal without fear of federal prosecution.

In this article: Healthcare | Retirement | Labor and Employment

Healthcare

The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) issued a revised estimate of the cost of the health coverage provisions of the Affordable Care Act (ACA) between 2016 and 2025. These coverage provisions are the Medicaid expansion and the new public marketplaces, and also include the cost of the premium tax credits and other subsidies available for lower and middle-income taxpayers to reduce the cost of marketplace coverage.

Under the revised estimate, the net cost of the ACA's health coverage provisions over the next ten years is projected to be $1.2 trillion — $142 billion (or 11%) lower than the two agencies estimated in January. This cost is net of revenue collected from the individual mandate, employer shared responsibility, the excise tax on high-cost plans (the so-called "Cadillac tax" that is first effective in 2018), and indirect revenue impacts (e.g., some employers dropping tax excludable health coverage benefits and paying employees increased taxable cash compensation instead).

The reasons for the downward revision are:

- Slower increases in the rate of spending by private health insurers on health claims and administration — although the agencies predict that premiums in the public marketplaces for policies on which the premium tax credits and subsidies are based (the second lowest cost silver level plan) will increase on average by 8.5% per year from 2016 to 2018. Major drivers of these increases include (1) the end of transitional reinsurance and risk corridor programs that provide payments to insurance plans with disproportionately higher claims experience (scheduled to end with the 2016 coverage year, and partially funded by a transitional reinsurance fee that applies to self-insured and insured health plans); and (2) higher benefit levels for plans offered in the public marketplaces (e.g., wider provider networks and higher provider payment rates compared to plans offered in 2014). Please see our December 6, 2012 *For Your Information* for more on the transition reinsurance program and its fee on insured and self-insured plans.
- New data shows there are fewer uninsured than previously thought — with lower uptake (and lower associated costs) for the ACA's Medicaid expansion and premium tax credits available for coverage purchased in the public marketplaces. The new data also indicates there are more workers employed by businesses with at least 1,000 employees than previously thought. Because the two agencies predict that large employers are less likely to drop coverage, the new report predicts that the ACA will reduce employer coverage by 7 million in 2025 — 2 million less than estimated in January.

Call for Comments by April 15

The Senate Finance Committee has **invited** interested parties to submit tax reform ideas by April 15, 2015. The committee has established five bipartisan working groups to explore tax reform and consider stakeholder comments:

- Individual income tax (non-retirement employee benefits are included here)
- Business income tax
- Savings and investment (retirement tax incentives are included here)
- International tax
- Community development and infrastructure

The five groups — each co-chaired by one Republican and one Democrat — have been **charged** with analyzing current tax law and reform options within their assigned areas. The groups will work with JCT to produce a final report on their findings. The report is expected to be published in late May 2015.

Retirement

The Senate Finance Committee held a tax reform hearing on Tuesday focusing on simplification of the tax code. Retirement proposals were suggested by several witnesses:

- The overlapping tax incentives for retirement savings should be consolidated, and incentives should be targeted to taxpayers who need them.
- Tax preferred savings accounts should be consolidated into two simple accounts — "retirement savings account" and "lifetime savings accounts."
- The required minimum distribution (RMD) rules should be revised so that a taxpayer may choose from which account to take RMDs among the tax-favored retirement savings vehicles available — for example, a taxpayer with 403(b), 401(k), and IRA account balances could elect to take RMDs solely from the IRA.
- The 10% early withdrawal penalty — and its exceptions — should be uniform among all types of tax-favored retirement savings vehicles.

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Labor and Employment

This week, Senators Rand Paul (R-KY), Cory Booker (D-NJ), and Kirsten Gillibrand (D-NY) introduced a bill — the Compassionate Access, Research Expansion and Respect States (CARERS) Act (S. 683) — that would change the current legal landscape by allowing medical marijuana use in states where it is legal without fear of federal prosecution.

The CARERS Act would:

- Amend the federal Controlled Substances Act to allow states to set their own medical marijuana policies and eliminate potential federal prosecution of patients, doctors and caregivers in states that legalize its use
- Reschedule marijuana from a Schedule I to a lower level Schedule II drug to recognize its accepted medical use
- Remove specific strains of Cannbidiol (CBD) from the federal definition of marijuana to allow states to import CBD for the treatment of epilepsy and seizure disorders
- Allow doctors in Department of Veterans Affairs facilities to prescribe medical marijuana for veterans
- Provide a safe harbor to banks and credit unions that provide financial services to marijuana-related businesses that engage in lawful state activities
- Expand opportunities for research into marijuana's medicinal properties

What are the prospects for S. 683?

The best chance for enactment of S. 683 may be its inclusion in a government funding bill for FY 2016 — which starts October 1, 2015. The government funding bill for FY 2015 included a provision that prohibited the Department of Justice from using government funds to prevent states from implementing their own laws that authorize the use, distribution, possession or cultivation of medical marijuana — Section 538 of Division B of **PL 113-235** (originally introduced as H.R. 83). (Please see our **December 12, 2014** *Legislate* for more information on H.R. 83.)

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