Potential Tax & Financial Planning Impact of Repealing the Health Care Act

Repealing the Affordable Care Act would trigger a wide variety of changes

President Donald Trump and the new Republican-controlled Congress made it clear very early on that repealing the Affordable Care Act (ACA) would be one of their top priorities heading into 2017. Recently, both the House and Senate took the first steps towards that goal by passing a budget resolution that will ease the repeal process, and Republicans have set a January 27 deadline for repeal to be completed. Republican leaders also said recently that the repeal of the ACA would happen simultaneous to a replacement program being enacted. Given the complexity of a replacement bill, there may ultimately have to be a delay in that repeal deadline.

Given the complexity of the existing health care plan, it's also realistic to expect the plan to continue to remain in place for a period of time, even after a repeal vote. Republicans have said that nobody who is covered under the current act would lose their coverage, which implies that at least some aspects of the existing program will have to continue until the new plan is in place.

The repeal process could result in a blanket repeal of the entire act, rather than just eliminating specific provisions. If that's the case, then there will be a variety of health and non-health related rules that will be impacted, including several tax laws. Below are several items that would be impacted by a full repeal. It's important to note that the replacement plan Republicans plan to introduce does not yet exist. It's very possible that some of these provisions could return in whatever replacement plan is ultimately proposed.

Income Tax Implications

Two of the most impactful taxes that were included in the original health care act were both designed to support the Medicare program. These taxes have been in place since 2013, and both only impact couples with income over $250,000 (singles over $200,000):

- 3.8% tax on net investment income
- 0.9% increase in the Medicare tax on earned income (wages, self-employment, etc.)

The 3.8% tax on net investment income applies to capital gains, as well as interest and dividends. This tax also applies to rental income, the taxable portion of annuity payments, and income from passive investments in a business. Taxpayers who were already above the thresholds for paying this tax have probably become accustomed to it by now, and its repeal may not have a dramatic impact on their investment portfolio. However, taxpayers whose income hovered near, but just below, the threshold for paying the tax were more likely to work to avoid paying this additional tax. A repeal of this tax might be enough incentive to encourage investors to realize gains they had otherwise been deferring, or to structure their portfolio to generate more income than in the past.

Other tax changes that would occur with a full repeal of the ACA include:

- The Adjusted Gross Income floor for deducting medical expenses would be lowered. Under the ACA, medical expenses have to be greater than 10% of AGI in order to be deductible. Prior to the ACA, this floor was just 7.5%. This change would make it easier for individual taxpayers to claim a medical expense deduction.
    - However, the deduction floor for medical expenses under the Alternative Minimum Tax would remain at 10%. As a result, this change might push some taxpayers into the AMT, effectively negating the benefit of the looser medical deduction rules.
- The penalty for not purchasing health insurance would be repealed. For 2017, the annual penalty amount is the lesser of:
    - $695 per uncovered family member (up to $2,085) or
    - 2.5% of income (up to the national average price of a Bronze-level health care plan)
- The penalties on employers who don't offer health care coverage to their employees (and aren't otherwise exempt from the requirement) would be eliminated.
- The tax credit available to low-income taxpayers to help offset the cost of health care, known as the Premium Assistance Credit, would disappear.
- The penalty on withdrawals from Health Savings Accounts (HSAs) and Archer Medical Savings Accounts (MSAs) not used for medical expenses would be reduced from the current 20%. The HSA penalty would fall to 10%, and the MSA penalty would return to 15%.
- In addition, the restriction on using HSAs and MSAs to pay for over-the-counter prescriptions would be repealed, making it easier to use the funds in those accounts.
- The tax on employer health plans that exceed a certain value (known as the "Cadillac tax") would be repealed. This tax was originally supposed to take effect in 2018, but has since been deferred to 2020.
- A 10% tax charged to users of indoor tanning services would also be repealed.

Other Planning Implications of Repeal

Outside of the tax implications, there are other significant implications of a repeal of the ACA:

- States would no longer be required to establish their own Health Care Exchanges (a marketplace where residents can shop for coverage options). Many states had already opted out of this, instead choosing to rely on the federally-run exchange, although presumably the federal exchange would also cease to exist.
- Insurance policies would no longer be required to provide specific levels of coverage or categories of benefits. Among other provisions, insurers could return to denying coverage for pre-existing conditions.
- Insurers would no longer be required to treat an employee's child through age 26 as a dependent eligible for coverage.
- Employers would no longer have to report the value of health care coverage they provide as a footnote on an employee's W-2.

One aspect of health care that is expected to take on a bigger role under the new Republican plan is the use of Health Savings Accounts.