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Legislation Introduced to Simplify Employer Reporting

As employers prepare for the third year of ACA-related reporting, new bipartisan legislation has been proposed that provides a glimmer of hope for the possibility that changes will be made to current IRS requirements. The "Commonsense Reporting Act of 2017," introduced by Senators Portman (R-OH) and Warner (D-VA), would significantly simplify ACA-related employer reporting.

BACKGROUND

All applicable large employers (those averaging 50 or more full-time equivalents), along with small employers who offer self-funded health plans, must report to the IRS information about the healthcare coverage offered to employees and must provide a statement to all full-time employees. The IRS uses this information to administer both the employer shared responsibility provisions under §4980H and the premium tax credits and cost-sharing subsidies available to some individuals who choose to purchase coverage through a public Marketplace.

Employers (and their vendors) have struggled to comply with the complicated reporting process, and there are fears that reporting mistakes will lead the IRS to believe that some employers owe shared responsibility payments (i.e. penalties), when in fact the employers are in compliance with the §4980H requirements.

WHAT WOULD THE BILL CHANGE?

EMPLOYER REPORTING TO THE IRS

The IRS would be required to create a voluntary employer reporting system beginning in 2019. Employers would provide the IRS with basic information about the coverage offered to employees, including the months coverage was available, information about waiting periods, and

whether the coverage meets ACA minimum value and affordability requirements. Employers would then be able to provide coverage updates through a federal data hub if the coverage offered were to change.

INFORMATION PROVIDED TO EMPLOYEES

Public Marketplaces (i.e. Exchanges) would be required to notify employers if any of their employees were enrolled in Marketplace-based coverage. Then, in a welcome change, employers would be required to provide a statement only to employees who have been identified by the Marketplace as having Marketplace coverage. Employers would not be required to provide statements to all full-time employees as required under current rules. The bill would also allow employers to use names and birthdates of employees' spouses and dependents for identification, rather than social security numbers, removing another current requirement that has created administrative difficulties for employers.

SUMMARY

Even if the bill is passed by both the Senate and the House, and is signed into law, the changes would not go into effect until 2019. As we near the end of 2017, employers need to prepare for the third year of the current ACA reporting requirements, and hope there will be relief in the near future.

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