SABC FLEXNews July 26, 2013

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# NEW TAXES UNDER THE "AFFORDABLE CARE ACT (ACA)"

As predicted, now that the legal experts have had a chance to read and decipher the ACA regulations, a slew of new taxes are headed our way. Trying to understand the various taxes and how they will affect each of us is the challenge. So we will try and break down each tax and how it applies, as we know it today.

## Health Insurer Fee

Section 9010 of ACA and Section 1406 of Reconciliation Act impose an annual fee on the health insurance industry starting at $8 billion in 2014, and will increase yearly to $14.3 billion in 2018. This fee is based on each carrier's premiums from the following year.

Because these taxes are imposed starting January 1, 2014, we will see fully insured health, dental and vision plans pass those new cost on to consumers in the form of higher premiums. Most in the industry are expecting a 2.5% increase. That will increase from 3 to 4% in future years. Carriers are working diligently with their attorneys and fiscal staff to determine the impact.

Bottom line, is that your fully insured plans are about to go up to cover the cost of the new tax.

## Patient-Centered Outcomes Research Institute (PCORI)

ACA establishes a private, nonprofit corporation called the Patient-Centered Outcomes Research Institute to conduct comparative clinical effectiveness research. ACA requires health insurers and sponsors of self-insured plans to pay fees to help finance this institute.

The fees are based on the number of lives (employee and dependents) under the plan. For plan sponsors that maintain both a self-funded health plan and a Health Reimbursement Arrangement (HRA), the IRS developed special rules for applying PCORI fees, to avoid being charged twice. Under the special rules, an HRA is not subject to a separate research fee if the plans sponsor also maintains another self-funded plan providing major medical coverage, as long as the plans both have the same plan year.

PCORI fees apply for plan years ending on, or after, October 1, 2012, and before October 1, 2019. For calendar year plans, the research fees will be effective for 2012 through 2018 plan years. The first payment will be due on July 31, 2013.

For plan years ending before October 1, 2013, the fee is $1.00 per covered life under the plan. For plan years ending on or after October 1, 2013, and before October1, 2014, the fees increase to $2.00 per covered life. These fees will continue to grow based on increases in the projected per capita amount of the National Health Expenditures.

**Transitional Reinsurance Fee**

Beginning in 2014 (and continuing for 2015 and 2016), employers and other sponsors of self-funded health plans, as well as insurance companies offering insured health plan products, are subject to the Affordable Care Act's transitional reinsurance fee. This fee is designed to fund reinsurance payments to health insurance issuers that cover high-risk individuals in the individual market. The transitional reinsurance payments are intended to stabilize insurance premiums in the individual market from 2014 – 2016.

The amount of the transitional reinsurance fee for 2014 will be $63 (or $5.25 per month) per covered life, which means spouses and covered dependent are included.

The fee applies only to plans providing major medical coverage, which is defined as health coverage for a broad range of services and treatments, including diagnostic and preventive services, as well as medical and surgical conditions in inpatient, outpatient, and emergency room settings. The following types of coverage are excluded from the transitional reinsurance fee:

- Prescription drug coverage
- Health reimbursement accounts (HRAs) integrated with other coverage (although the other coverage, such as a high deductible health plan, may constitute major medical coverage)
- Unreimbursed medical spending accounts (URM/Health FSAs)
- Health savings accounts (HSAs)
- Employee assistance plans (EAPs)
- Coverage that is secondary to Medicare
- Excepted benefits, such as stand-alone vision and dental plans
- Long-term care coverage

The fee also does not apply to Medicare Part C and Part D programs.

Again these fees will be passed along to the consumer in the form of higher premiums.

**Risk Adjustment Fee**

This fee is intended to cover the administration of the risk adjustment program.  The primary goal of the program is to spread the financial risk borne by the health insurance issuers in the individual and small-group markets.

The fee will be paid by fully insured plans that participate in the individual and small group market in a given state. The fee is estimated to be $0.08 per month, per member. The fee goes into effect in 2014 and is permanent.  These fees will be passed along as well.

**Exchange User Fee**

The ACA requires health insurance exchanges to be financially self-sustaining by 2015 and imposes a user fee on health insurance issuers and potentially others in the health care sector that may use the exchanges.

Health insurer issuers who offer qualified health plans in the exchanges will be largely responsible for paying the fees, which are expected to be equal to 3.5% of the monthly premium. These fees go into effect for the 2014 plan year. These fees do not apply to grandfathered plans. And like the other new fees/taxes, these too are expected to be passed along to the consumer, in the form of higher premiums.

**Cadillac Excise Tax**

ACA requires health insurers to pay a 40% tax on annual premiums that exceed defined thresholds for single and family coverage. This tax will be used to help finance health reform.

Beginning January 1, 2018, the excise tax will be imposed on health care if the aggregate cost of the plan(s) is more than $10,200 for individual coverage and $27,500 for family coverage. This includes the amounts sheltered under an Unreimbursed Medical spending account, HSA's and HRA's. The tax will be payable by "the insurer" (the insurance company or the employer or the plan administrator in case of self-insurance or other non-insurance company coverage like a Unreimbursed Medical spending account).

Not included above are the penalties and taxes that the employer will pay if they fail to provide coverage (groups over 50), or do not comply with the volume of regulations. Due to this and the overall impact ACA will have on every business, we strongly suggest that you seek legal advice in order to avoid fines and penalties for failure to comply. Even the best practitioners in the field are having a hard time grasping and understanding the total effect of these ever changing regulations.

The above information is meant to help you understand the various taxes and how they will affect you and should not be considered as legal advice.