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H.R.1 – 2018 Tax Legislation (Formerly "Tax Cuts and Jobs Act")

OVERVIEW

On December 20th, Congress passed H.R.1, the largest change to the tax code in 30 years. The bill passed the Senate 51-48 along party lines, and the House 227-203. Of the 12 House Republicans who voted against the bill, nine represent New York and New Jersey: Dan Donovan (R-NY), John Faso (R-NY), Rodney Frelinghuysen (R-NJ), Peter King (R-NY), Leonard Lance (R-NJ), Frank LoBiondo (R-NJ), Chris Smith (R-NJ), Elise Stefanik (R-NY), and Lee Zeldin (R-NY).

The legislation is projected to increase the Federal budget deficit by approximately $1.5 billion, which would trigger $25 billion in annual Medicare cuts and could lead to significant cuts to Medicaid and other entitlement programs in order to address the deficit in the future. President Trump has indicated that he will sign the bill into law in January, which would delay these triggered cuts until 2019, and would push back the date by which Congress has to decide whether to waive the cuts until after the November 2018 elections.

This document summarizes key provisions of the bill that will affect the health care industry. The text of the bill is available here.

Individual Mandate

The bill will repeal the Affordable Care Act's (ACA) individual mandate penalty in 2019. The Congressional Budget Office (CBO) estimates that repeal of the penalty will increase the number of uninsured by 13 million, including 5 million would-be Medicaid beneficiaries, by 2027. In 2019, the estimated loss is 1 million from Medicaid and 3 million from the individual insurance market nationally. CBO also estimates that premiums will increase by approximately 10% in most years over the next decade as healthier individuals exit the market.

Deduction for Medical Expenses

The bill will not repeal the deduction for medical expenses, as was proposed by an earlier House-version of the bill. The bill instead increases access to the deduction by lowering the threshold from 10% to 7.5% of gross adjusted income in 2017 and 2018. Beginning in 2019, the threshold will return to 10%.

Standard Deduction

The bill will increase the standard deduction from $6,500 to $12,000 for single individuals and from $13,000 to $24,000 for couples. This change is estimated to decrease the number of individuals who itemize their taxes from 45 million in 2017 to 7 million in 2018.

The financial disincentive to itemize taxes may lead to a decrease in charitable giving to nonprofit entities, though the net impact of the bill on charitable giving is unclear because the bill simultaneously removes the overall limit on itemized deductions and increases the percentage limit for deductible charitable donations from 50% to 60% of the donor's contribution base.

State and Local Tax (SALT) Deductions

The bill will allow individuals to continue to take income, sales and property SALT deductions, but combined deductions cannot exceed $10,000 beginning in 2018. This provision will disproportionately burden areas with high state and local taxes, including New York City and its suburbs, and will put additional pressure on state and local governments to level taxes, which could lead to cuts to Medicaid and other entitlements. In New York City, 45% of residents take a SALT deduction, with an average value of $60,400.

Advance Refunding Bonds

The bill will repeal the tax exemption for interest on advance refunding bonds issued in 2018 and future years. State and local governments often issue new bonds to pay off existing bonds in order to reduce debt through lower interest rates. New York entities have used advance refunding bonds to generate billions in savings in recent years. The New York City Office of Federal Affairs has estimated the repeal will cost the City $425 million over the next four years.

Nonprofit Executive Compensation

The bill will require tax-exempt entities, including health care organizations organized under 501(c), to pay a 21% excise tax on compensation exceeding $1 million to the five highest paid employees. Compensation to doctors and nurses for medical services will be exempt. The tax goes into effect on January 1, 2018.

Interest Payment Deductions

The bill will cap interest payment deductions at 30% beginning in 2018 for for-profit entities, including for-profit health care organizations.

PROVISIONS NOT INCLUDED IN THE FINAL BILL

Several health care-related provisions that were proposed in earlier versions of the legislation were not passed in the final bill. These provisions include:

- *Endowments* – The House-version of the bill would have implemented a 1.4% excise tax on endowments for most private universities and academic medical centers, but the Senate parliamentarian determined that this provision violates the Senate budget reconciliation rules.
- *Private Activity Bonds (PABs)* – The bill will not eliminate the tax exemption for interest on new PABs, as was originally proposed by the House. PABs are often used by nonprofit, tax-exempt hospitals to raise capital.
- *Waiver for Graduate Students* – The bill will not eliminate the tax waiver for reduced tuition for graduate students, including medical students.