



# ACA COMPLIANCE BULLETIN

## HIGHLIGHTS

- President Trump has signed a spending bill that fully repeals three ACA taxes and fees—the Cadillac tax, the medical devices excise tax and the health insurance providers fee.
- Notably, the law does not include provisions related to surprise medical billing, as many had expected.

## IMPORTANT DATES

### December 20, 2019

President Trump signed a continuing resolution that repealed three ACA taxes and fees.

### January 1, 2020

The repeals of the Cadillac tax and medical devices excise tax take effect beginning in 2020.

**Provided By:**

McGohan Brabender

## CADILLAC TAX AND OTHER KEY ACA TAXES REPEALED

### OVERVIEW

On Dec. 20, 2019, President Trump signed into law a [spending bill](#) that prevents a government shutdown and repeals the following three taxes and fees under the Affordable Care Act (ACA):

- ✓ The Cadillac tax on high-cost group health coverage, beginning in 2020;
- ✓ The medical devices excise tax, beginning in 2020; and
- ✓ The health insurance providers fee, beginning in 2021.

The law also extends PCORI fees to fiscal years 2020-2029.

### ACTION STEPS

Employers should be aware of the evolving applicability of existing ACA taxes and fees so that they know how the ACA affects their bottom lines. McGohan Brabender will continue to keep you informed of changes.

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## Cadillac Tax

The ACA imposes a 40 percent excise tax on high-cost group health coverage, also known as the “Cadillac tax.” This provision taxes the amount, if any, by which the monthly cost of an employee's applicable employer-sponsored health coverage exceeds the annual limitation (called the employee’s excess benefit). The tax amount for each employee’s coverage will be calculated by the employer and paid by the coverage provider.

Although originally intended to take effect in 2013, the Cadillac tax was immediately delayed until 2018 following the ACA’s enactment. A [federal budget bill enacted for 2016](#) further delayed implementation of this tax until 2020, and also:

- ✓ Removed a provision prohibiting the Cadillac tax from being deducted as a business expense; and
- ✓ Required a study to be conducted on the age and gender adjustment to the annual limit.

*The 2019 continuing spending resolution has fully repealed the Cadillac tax, beginning with the 2020 taxable year.*

Then, a 2018 continuing spending resolution delayed implementation of the Cadillac tax for an additional two years, until 2022.

There was some indication that these delays would eventually lead to an eventual repeal of the Cadillac tax provision altogether. The Cadillac tax has been a largely unpopular provision since its enactment, and a number of bills have been introduced into Congress to repeal this tax over the past several years.

**The 2019 continuing spending resolution fully repeals the Cadillac tax, beginning with the 2020 taxable year.**

## Health Insurance Providers Fee

Beginning in 2014, the ACA imposed an annual, nondeductible fee on the health insurance sector, allocated across the industry according to market share. This health insurance providers fee, which is treated as an excise tax, is required to be paid by Sept. 30 of each calendar year. The first fees were due Sept. 30, 2014.

The 2016 federal budget suspended collection of the health insurance providers fee for the 2017 calendar year. Thus, health insurance issuers were not required to pay these fees for 2017. However, this moratorium expired at the end of 2017. A 2019 continuing resolution provided an additional one-year moratorium on the health insurance providers fee for the 2019 calendar year, although the fee continued to apply for the 2018 calendar year.

**The 2019 continuing spending resolution fully repeals the health insurance providers fee, beginning with the 2021 calendar year.** Employers are not directly subject to the health insurance providers fee. However, in many cases, providers of insured plans have been passing the cost of the fee on to the employers sponsoring the coverage. As a result, this repeal may result in significant savings for some employers on their health insurance rates.



## Medical Devices Excise Tax

The ACA also imposes a 2.3 percent excise tax on the sales price of certain medical devices, effective beginning in 2013. Generally, the manufacturer or importer of a taxable medical device is responsible for reporting and paying this tax to the IRS. The 2016 federal budget suspended collection of the medical devices tax for two years, in 2016 and 2017. As a result, this tax did not apply to sales made between Jan. 1, 2016, and Dec. 31, 2017. A 2018 continuing resolution extended this moratorium for an additional two years, through the 2019 calendar year. The moratorium is set to expire beginning in 2020.

**The 2019 continuing spending resolution fully repeals the medical devices tax, beginning in 2020.** Therefore, as a result of both moratoriums and the repeal, the medical devices tax does not apply to any sales made after Jan. 1, 2016.

## PCORI Fees

The ACA created the Patient-Centered Outcomes Research Institute (PCORI) to help patients, clinicians, payers and the public make informed health decisions by advancing comparative effectiveness research. The Institute's research is funded, in part, by fees paid by health insurance issuers and sponsors of self-insured health plans. Under the ACA, the PCORI fees were scheduled to apply to **policy or plan years ending on or after Oct. 1, 2012, and before Oct. 1, 2019.**

**The 2019 continuing spending resolution reinstates PCORI fees for the 2020-2029 fiscal years.** As a result, specified health insurance policies and applicable self-insured health plans must continue to pay these fees through 2029.