

REPEAL AND REPLACE THE ACA

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THE PROPOSITION

We have been told that the Republican administration is considering the removal of the ACA's Employer Excise Tax (aka the Cadillac Tax), replacing it with a removal of the employer tax deduction for employment based insurance. Further, that the current system of premium subsidies for individuals be replaced by advance, refundable tax credits for individuals to use to pay for their own coverage.

PREFACE

It has been suggested by many that the current model of employer based health insurance, which covers over 90 percent of working Americans, and their families, should be replaced. There are many accounts of employers reporting frustrations with their inability to control the ever escalating cost of coverage. This is compounded by the fact that employee understanding and appreciation of these plans is limited.

Given that, why not replace the current, employer based system with a wide sweeping reform using the approach of giving individuals advance, refundable tax credits that they can use to buy what they need for themselves and their families, on the open market?

BACKGROUND

The employer based system in America is an outgrowth of the wage controls that were imposed during World War II. At that time employers needed a way to attract and retain their workforce and since wages were frozen, health insurance was the method chosen to accomplish this goal.

Many economists have argued that the current tax system encourages employers to provide too extensive a benefit plan offering because the tax deductibility of premiums. Furthermore, the fact that the benefits provided are tax free adds a significant cost burden to the efforts to reduce the federal debt. Finally, it is suggested the result of this is employees over utilizing health care, which increases the cost to the system.

DISCUSSION

While we welcome changes to the ACA, especially the move from today's highly regulated, government controlled approach to a more market based system, we have concerns about any actions that weaken the employer based system.

Our surveys of Lockton clients indicate that the original motivation to offer health insurance as a way to reward and retain employees continues to exist and may even be stronger today. The reader is reminded that before providing health coverage became a mandate, virtually all employers with over 50 employees provided coverage. Even threats of the "Cadillac Tax" did little to encourage employers to discontinue coverage.

This fact is proven in the small employer market (i.e., those under 50 employees). In this segment the employer mandate of the ACA did not apply, small businesses were exempt from the mandate, and the businesses in question had small operating margins so they would be most likely to benefit from discontinuing coverage. Yet, studies indicate that most of these employers elected to retain their employees' coverage despite these factors.

Maybe the most compelling argument to retain the current system is that despite its hassles and cost, it is an efficient way to enroll and distribute coverage to workers. In order to replace the services and processes that employers provide, the government would need to reconstruct and redesign the failed "exchange market" which has cost hundreds of millions of dollars, with continued consumer dissatisfaction and frustration.

Finally, anyone that suggests that employers decide to spend resources on services just because they are tax deductible has never run a business. Of course the ability to reduce the total final cost through a tax deduction is enticing. However, tax deductibility only lessens the cost, it does not remove it.

Let's remember that employers offered health insurance before it was mandated, and virtually all continue to do so today for reasons well beyond the requirements of the ACA. We do not think this will change in the future unless the government forces such change.

WHAT MIGHT BE BETTER?

Employers would be more accepting of a cap on the deductibility of premiums as an alternative to the current Cadillac Tax. This should be accompanied with a repeal of the "employer mandate." Such a repeal will eliminate the onerous current reporting requirements driven by the ACA, thus reducing administrative costs.

With the removal of the employer mandate the artificial definition of who is a full-time employee, based upon hours worked, would also go away. We will also jettison the requirement that an employer's coverage meet certain minimum standards which adds a significant compliance cost to the system.

We do not expect employers drop coverage once the mandate is removed. In fact, more will offer coverage than do today, for the same reason that health insurance evolved in the past; to enable them to compete for employees, and retain those they hire.

The notion of replacing the current subsidies for coverage with advance, refundable tax credits raises two questions. First, the exchanges created by the ACA were the preferred mechanism to distribute subsidies to those who were low income and needed insurance. If subsidies go away, will the exchanges cease to exist? If so, then how will individuals seeking coverage efficiently shop for coverage options? Second, presumably the advance, refundable tax credits will be distributed by the IRS. Is that the most efficient method? It would seem that this new role would be expensive to implement.

Lockton welcomes the opportunity to discuss these matters, as well as others related to the ACA, with the Trump Administration. We believe our years of experience can provide valuable insights into this complex area.

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