GOVERNMENT FUNDING AGREEMENT TO FULLY REPEAL THREE TAXES ENACTED AS PART OF THE AFFORDABLE CARE ACT

On December 17, 2019, Congress reached a government funding agreement that includes language to fully repeal three taxes enacted as part of the Affordable Care Act (ACA): the Cadillac Tax, the Health Insurance Tax, and the Medical Device Tax. A review of the three taxes and the impact of this repeal on employer-provided health plans is set forth below.

- **Cadillac Tax.** This measure would have imposed a 40% excise tax on plans with annual premiums exceeding $10,800 for individuals or $29,500 for a family. Implementation of the tax was supposed to happen in 2018 and has currently been delayed to 2022. While the Cadillac tax has not been levied to date, its looming existence has made it very difficult for employers to plan future benefit levels and costs. Moreover, the way that the tax was structured would have led to many employer plans, not just the "gold-plated" ones, being subject to an excise tax in future years.

- **Health Insurance Tax (HIT).** This provision, which went into effect in 2014, imposed an annual tax on health insurers. Actuarial analyses have found that the tax adds to the cost of coverage purchased in all market segments, including individual, large and small employers. In 2018, Congress enacted a one-year suspension of the tax, but it is scheduled to go back into effect at the end of 2019. If it is not repealed, the HIT is statutorily set at $16 billion for 2020.

- **Medical Device Tax.** This is a 2.3% excise tax on the value of medical devices (x-ray machines, hospital beds, MRI machines) sold within the United States. Since it went into effect in 2013, it has been suspended twice with the current suspension due to end at the end of 2019. Critics of the tax cite research that shows that it has lowered the medical device industry's research and development spending.

The agreement now goes to both Houses of Congress for passage and the President for a signature or veto. We will update as this legislation progresses.