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5 Employee Benefits Takeaways On The GOP Tax Bill

By **Kellie Mejdrich**

Law360 (July 10, 2025, 2:22 PM EDT) -- Congressional Republicans' sweeping tax and policy bill, which President Donald Trump sought and then signed, contains multiple provisions that caught the attention of employee benefits and executive compensation attorneys, including changes to high-deductible health plans and an employer-side deduction limit affecting highly compensated employees.

Here are five takeaways from employee benefits and executive compensation attorneys on what's in — and out of — the GOP megabill.

Major Retirement, Health Tax Provisions Untouched

Benefits attorneys took note of how the latest **budget reconciliation package** didn't affect certain individual and business tax provisions related to employer-sponsored health and retirement benefit plans, given that changes to those provisions could have raised significant revenue to pay for tax cuts in the bill.

Benefits advocacy groups were on alert for potential changes given that curtailing retirement tax benefits was **discussed in the lead-up** to the 2017 Tax Cuts and Jobs Act. Attorneys were also monitoring efforts to repeal the so-called carried interest loophole, which allows professional investors to pay long-term capital gains rates on what is effectively their earned income, given that Trump campaigned on its repeal.

Multiple benefits attorneys said the lack of sweeping changes to those tax policies was actually a major takeaway on the **recently enacted** legislative package.

"A key thing to note is what wasn't in there … I think that's notable. We didn't have Rothification, we didn't have the feared cap on the exclusion for employer-sponsored health coverage," said Brigen Winters, a principal at Groom Law Group who advises on employee benefits issues and is chair of the firm's policy practice group.

Rothification refers to a process of shifting retirement contributions from pretax to after tax as a way to raise federal revenue, something that was considered in the lead-up to the 2017 tax legislation. A Roth provision related to **individual catch-up contributions** also paid for part of Congress' retirement policy overhaul legislation from 2022 called Secure 2.0.

"I think that's a victory for the benefits community," Winters said, referring to major health and retirement tax provisions being left out of the bill.

Shalom Huber, an employer-side benefits and executive compensation attorney and partner at Skadden Arps Slate Meagher & Flom LLP, also took note of the lack of major health and retirement tax policy changes in the reconciliation legislation.

"I think the impression of many in the exec comp and benefits space is, perhaps the bill is more notable for some of the things it didn't do," Huber said.

Huber said that if the tax reconciliation package were to close the carried interest loophole, for example, "That would have been pretty significant, certainly in the exec comp space and other spaces as well, and that didn't happen"

Telehealth Access Expansion

Attorneys took note of a permanent expansion in predeductible telehealth access for individuals in high-deductible health plans, a tax benefit Congress had expanded during the COVID-19 pandemic, but that had lapsed at the end of 2024.

The permanently extended safe harbor in the bill specifies that a high-deductible health plan's tax treatment won't be affected by failing to have a deductible for telehealth and other remote care services. The provision applies to plan years beginning after Dec. 31, 2024.

Winters, at Groom, said expiration of the telehealth provision at the end of 2024 had caused problems for employer-provided health plans.

"So I think that's good news, that was extended permanently, and it went back and covered the beginning of this year as well," Winters said.

Direct Primary Care Expansion

Benefits attorneys also highlighted changes to the tax code to expand access to direct primary care arrangements, which provide individuals participating in high-deductible health plans access to a primary care physician through a membership fee paid to their provider.

One provision in the legislation ensures that individuals can use their health savings account funds to pay for direct primary care arrangements, by specifying that direct primary care service arrangement fees are medical expenses under the tax code. Another provision clarifies that an individual enrolled in a high deductible health plan would not be considered to be participating in another health plan by participating in a direct primary care arrangement, to prevent them from being disqualified from participating in an HSA.

Jake Mattinson, an employer-side partner at McDermott Will & Emery, pointed out the changes to expand direct primary care as an aspect of the legislation impacting employee health plans.

"There's been a lot of interest, but I haven't seen a lot of movement in that area," he said of direct primary care arrangements in employer health plans.

"So I think what this does is kind of open that up as another option for employers, and give them something else to look at, as they're trying to fill some of the coverage gaps for their employees," Mattinson added.

Mattinson also took note of how the provision includes a definition for direct primary care and sets a limit on the monthly fees involved.

Deduction Limitation on Highly Compensated Employees

Benefits attorneys highlighted a change to the limitation on public company tax deductions for compensation above $1 million to a potentially larger group of executive-level employees, which is located in Section 162(m) of the Internal Revenue Code.

Congress first enacted the deduction limitation in the Omnibus Budget Reconciliation Act of 1993, which had applied to a group of the top five highest paid public company employees. The provision was expanded in the TCJA, including to eliminate an exception to the limitation for performance-based compensation. The definition of employees covered by the limitation was also further expanded in the 2021 American Rescue Plan Act.

Attorneys said the provision in the GOP tax bill potentially expands the application of the deduction limitation on a public company and its affiliates.

Huber, at Skadden, said the changes "added a set of affiliated group rules directly to the code that are slightly broader than the affiliated group rules that already existed in the regulations."

"It's definitely a change, it's definitely an expansion of the affiliated group rules that will apply to public companies dealing with 162(m)," Huber said.

But he added that "because the changes are at the margins," the provision's impact would depend on individual company structures and plans around the current rules.

Marc Fosse, a partner at Seyfarth Shaw LLP and co-chair of the firm's executive compensation practice group, also listed the change to 162(m) as a major executive compensation-related takeaway from the legislation.

Fosse said prior to the 2017 tax law, "the performance-based compensation exemption was so big that 162(m) didn't have much teeth."

"It's going to be a bit of a change," Fosse said, noting how "trying to identify everyone is already a bit complex" when it comes to determining which companies and subsidiaries are subject to the deduction limitation.

Paid Leave Provisions

Another change that grabbed attorneys' attention permanently extends the paid family leave tax credit offered to employers.

The legislation permanently extended a general business tax credit for employers that voluntarily offer 12 weeks of paid family and medical leave to their workers. The credit was initially authorized as part of the 2017 tax bill for two years but had been periodically extended, and was set to expire Jan. 1, 2026.

Congress has shown a willingness to form alliances on paid family leave, with lawmakers sponsoring **bipartisan legislation in April** that was aimed at encouraging states to set up their own paid family leave programs. But the private employer provision in the reconciliation bill only passed with Republican support.

Huber, at Skadden, said the permanent extension to the paid family and medical leave tax credit was another benefits provision in the tax bill that caught his attention. He also took note of other changes in the legislation to make the credit "a little bit more accessible for employers," including by clarifying how the rule applied to part-time employees.

--Editing by Neil Cohen and Amy Rowe.
