CAMPBELL DURRANT, P.C.
PUBLIC SECTOR, LABOR AND EMPLOYMENT LAW

535 Smithfield Street, Suite 700
Pittsburgh, PA 15222
412-395-1280

One Belmont Avenue, Suite 300
Bala Cynwyd, PA 19004
610-227-2591

Year-End Legislation Repeals High-Cost Health Insurance "Cadillac" Tax

By: Hobart J. Webster and David E. Mitchell

The President recently signed the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE Act"), funding the government through September 30, 2020 and averting a government shutdown. Among many other retirement and health care provisions, this year-end spending package contained a full repeal of the Affordable Care Act's ("ACA") tax on high-cost health plans known as the "Cadillac Tax."

The Cadillac Tax was intended to curb the tax preferred treatment of employer-sponsored health plans, reduce excess health spending, and raise revenue to cover the costs of the ACA. The Cadillac Tax was originally scheduled to go into effect in 2018, but was delayed until 2020 and then again until 2022. According to the Congressional Budget Office ("CBO"), the Cadillac Tax was expected to generate revenues ranging from $8 billion in 2022 to $39 billion in 2028. The CBO estimates that the repeal of the Cadillac Tax is expected to increase the national debt by about $197 billion through 2029.

Cadillac Tax implementation was repeatedly delayed because it was widely unpopular and criticized by both employers and unions. The Cadillac Tax was an excise tax on high-cost employer medical plans that would have imposed a 40 percent tax on the cost of employer-provided health benefits exceeding the statutory thresholds. The thresholds were originally set at $27,500 for family coverage and $10,200 for individual coverage. The CBO estimated that the thresholds would have increased to $11,200 for individual coverage and $30,100 for family coverage by the time the tax would have taken effect in 2022. The tax would have applied to both employer and employee shares of the cost of health insurance coverage, as well as to contributions to health reimbursement arrangements, flexible spending accounts, and health saving accounts. Because increases in the thresholds would have been linked to general inflation and health care costs have historically increased at a much higher rate, it was expected that a majority of plans would have been subject to the tax within a decade.

The Cadillac Tax repeal is good news for employers, but the underlying dynamic remains the same. Health care costs continue to rise at a faster rate than general inflation. Employers should continue to work with labor counsel to identify health care plan design or benefit changes that reduce the overall cost of their group health care benefits and to increase employee involvement in containing costs through increased employee premium contributions, higher deductibles and co-payments, and other strategies.

In the wake of the Cadillac Tax repeal, existing language in collective bargaining agreements addressing the Cadillac Tax will generally have no effect, but there is no need to immediately delete it.