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## Impact of the Mid-Term Elections on the PPACA

The Republicans picking up further gains in the House and taking control of the Senate will certainly have an impact on the Patient Protection and Affordable Care Act (PPACA). While President Obama, House Speaker Boehner and Majority Leader-Elect Senator McConnell may be speaking of bi-partisanship, the reality is the PPACA is the President's signature domestic policy and part of his long-term legacy. He's unlikely to agree to major changes no matter the consequences. And, while the Republicans may control the House and Senate, the President can still veto any major overhauls to his signature healthcare law without worry of an override. So where does this leave the PPACA? Is there a chance things may change? If so, what?

Here is Conner Strong & Buckelew's perspective:

- **Expect Votes to Repeal and Change** - expect the newly seated House and Senate to begin to pass repeal bills next year; perhaps to fulfill a campaign pledge or build enough momentum to get the President to consider more piece-meal changes over time. One thing is for sure – a wholesale repeal is not happening anytime soon.
- **The 30 Hour Rule Could Be on the Table** - there has been bi-partisan support to move the definition of a full-time employee required to have access to benefits from 30 to 40 hours. For generations, the norm has been 35 or 40 hours, and the move down to 30 has caused many employers substantial financial pain. The 30 hour rule is often cited as one of many reasons employers are moving to large part-time workforces. With the insurance marketplaces firmly in place as a solution for consumers, (notwithstanding any new or ongoing technical “glitches”), a compromise could be reached that would be roundly applauded by business, industry and labor.
- **Impact of Bi-Partisanship** - if the President and Congressional Leaders begin to work together and secure policy wins on issues like immigration, tax reform and the like, expect perhaps a modest “slow-down” around the pace of the yet to be finalized PPACA regulations. If gridlock prevails, expect the administration to further accelerate the pace of issuing interim, final regulations around major pieces of the law. For example, the administration could speed up finalizing the rules around automatic enrollment of participants with 200 or more employees. Similarly, they would likely work hard to speed up finalizing non-discrimination rules for insured plans.
- **Funding Controls** - with control of Congress, Republicans may not have a veto-proof majority, but they will control the purse strings. If bi-partisanship fails, expect the Republicans to de-fund pieces of the law in an effort to slow down its continued roll out. They could also use de-funding tactics to force the President to agree to other changes.
- **The Cadillac Tax** - in politics, 2018 is a lifetime away so it is unlikely we'll see major

efforts to change the 40% excise tax that looms large. None the less, expect to hear more about it from organized labor, public employee unions and employers who are very worried over the impact of this aspect of the law. This is clearly a 2016 presidential issue which is not that far off.

- **The Court** - while not impacted by the mid-terms, the impact of the Supreme Court still looms large. In fact, shortly after the election, the Supreme Court announced they'll hear a monumental case as to whether subsidies apply in states that don't have their own local run exchange. If the court ruled that premium subsidies are only available in states that operate their own exchange, millions of Americans would effectively lose their subsidies sending premiums through the roof. Such a ruling could make the PPACA inoperable. The Court will not render a decision until June 2015, so until then, it's all speculation. The conservative court upheld the PPACA, so it's difficult to suggest that they'd rule in favor of eliminating subsidies for millions of consumers across the nation.

Two things are clear; one, employers must continue to implement plans to comply with the PPACA, and two, the PPACA will likely continue to dominate the domestic policy agenda in Washington and in state capitols across the nation. We continue to monitor these issues and other matters related to the PPACA. For further information on what employers and plan sponsors need to do in a post-PPACA world, please [click here](#) to read an article we published in *Employee Benefit News*. We hope you'll consider these tactics as you develop your short-term and long-term plans.



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