ACA Update Memo

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To: All Participating Banks Date: September 14, 2016

Advantage Health Plans Trust has received several questions from Participating Banks regarding the payment of some ACA taxes. Listed below are the taxes paid by the Trust. These taxes are taken into account by AHPT's actuarial firm Milliman, when it establishes the rates each year.

AHPT RESPONSIBILITY

PCORI Tax. This tax was passed to fund the Patient Centered Outcomes Research Institute. It started at $2 per covered individual, and is currently $2.17 per covered individual. The tax applies to the "plan sponsor." However, recognizing some groups are not single employer plans, the IRS made accommodations for payment of the tax. In IRS Treasury regulations Section 46.4376-1(b)(1)(i)(F) specifically imposes the tax on multiple employer welfare arrangements (MEWAs), such as AHPT. It indicates that the tax is to be paid by the "committee." The Board of Trustees has been delegated authority by the Participating Employers to operate AHPT; therefore, The Board of Trustees has responsibility for collecting the amounts due from participating employers, including the PCORI fee, which is built into the amount charged to participating employers each year. AHPT files an annual return (Form 720) for AHPT and includes all participating banks. Payments were made by AHPT years ending June 30, 2014, 2015 and 2016, of $5,315, $7,282, and $8,179, respectively.

Transitional Reinsurance Tax. Under the ACA, AHPT is also required to pay a Transitional Reinsurance Tax on Plan years from 2014-2016. This is a tax imposed on the plan, and is designed to transfer funds from self-funded plans to insurance companies to help stabilize the premiums they charge on the Exchanges. The tax is imposed for each covered person. The tax per covered individual was $63, $44, and $27 for 2014, 2015 and 2016 respectively. This tax is paid by AHPT. The tax paid was $232,590, $162,851, $129,851, for 2014, 2015, and 2016, respectively.

Health Insurance Tax. The ACA also includes the Health Insurance Tax (HIT) which is a sales tax on health insurance starting in 2014. It was originally thought that all self-funded plans were excluded from the HIT tax. However, HHS has interpreted the tax to apply to some MEWAs. So starting in 2015, AHPT is included in the group that must fund insurance companies. The HIT Tax has no specific tax provision in the Internal Revenue Code, but it is collected by the IRS. The tax is determined by HHS based on a formula to raise a pre-determined amount.

2014	$8 billion
2015 and 2016	$11.3 billion
2017	$13.9 billion
2018	$14.3 billion

Thereafter, adjusted by rate of premium growth.

For 2015 and 2016, AHPT paid $25,694 and $36,402, respectively. There is a moratorium for 2017 passed by Congress in late 2015. Whether or not the tax will apply in 2018 will depend on the makeup of the new Congress and Executive office.

EMPLOYER RESPONSIBILITY

Starting with calendar year 2015, each Participating Bank is responsible for providing notices to employees indicating the coverage they had during the prior calendar year. The reporting was delayed so the initial reports for calendar year 2015 were due in January 2016 to employees, and by February 29, 2016, to the IRS. These dates were subsequently extended.

The total number of full-time and full-time equivalent employees determines the notice that employers were required to file. The employer is the "control group" of employers. The information to the employee is the same. The purpose is twofold:

- Give employee coverage information to avoid individual mandate
- Collect data from employers for the pay or play tax.

There are two forms that apply.

1. **Banks with less than 50 Full-Time Employees/Full-Time Equivalents**.
   2015 was the first year that required the reporting for employers on Form 1095B. This form is used to let the employees know what coverage they had during the year so the employee can check the box on his/her personal tax return. Some employers requested that The Kempton Group assist them with the filing for a separate fee, while some AHPT employers used their own solution.

2. **Banks with more than 50 Full-Time Employees/Full-Time Equivalents**.
   2015 was the first year that required the reporting for employers on Form 1095C. This form is used to let the employee know what coverage they had during the year, so the employee can check the box on his/her personal tax return.

   But the form is also used by the IRS to determine if the coverage offered by the employer to full-time employees met the "minimum value" required, and whether or not the coverage was affordable to the employee. This is for the PAY OR PLAY 4980H tax.

Some employers requested that Kempton assist them with the filing. A separate fee applies.

BE AWARE THAT THE REPORTING FOR CALENDAR YEAR 2016:

A. REQUIRES COVERAGE TO BE OFFERED TO AT LEAST 95% OF THE FULL-TIME EMPLOYEES
B. THE DUE DATES WILL LIKELY NOT BE EXTENDED

Democrats generally want to retain the ACA. Republicans generally want to repeal it and replace it with other requirements. The pay or play tax has a strong partisan divide. The November elections could change the requirements if there is a political change in Washington D.C.

If you have further questions and concerns specific to your bank, please call your account manager.