

Lyons Companies: Compliance Alert

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CADILLAC TAX – DELAYED EFFECTIVE DATE

Issue Date: January 2016

In December, the Consolidated Appropriations Act, 2016 was signed into law which, amongst other provisions, effectively delayed the excise tax on high-cost health coverage (also known as the “Cadillac tax”) until January 1, 2020. In addition, the law made the excise tax deductible and provides for a study to determine whether appropriate age and gender benchmarks are being used to determine the Cadillac tax threshold adjustments.

Background

The so-called “Cadillac tax” is a 40% non-deductible excise tax on a portion of the cost of high-cost health coverage. The tax applies to the amount by which the monthly cost of employer-sponsored coverage exceeds an annual threshold amount (\$10,200 for self-only coverage / \$27,500 for coverage other than self-only). The cost of applicable coverage refers to coverage in which the employee is actually enrolled.

The employer will be responsible for calculating the excess amount, if any, and reporting such amounts to the IRS and to applicable coverage providers. The coverage provider is then responsible for actually paying the tax. If the coverage is insured, the “coverage provider” responsible for paying the tax is the insurer. For other coverage, the “coverage provider” may be the employer or “the person that administers the plan benefits.” Either way, the tax will generally be passed back to employers. It is expected at this time that the taxes will be paid using Form 720, like the PCORI fees.

The IRS provided two separate notices during 2015 providing some insight into how various aspects of the administration are expected to be handled and also requesting comments. We are still waiting on formal regulations to better understand exactly how the tax will be administered in regards to which coverage will be subject to the tax, how the cost of coverage will be calculated, and how the threshold amounts may be adjusted.

Changes to the Cadillac Tax

- **Effective Date Delayed** - The effective date of the Cadillac Tax was delayed until at least January 1, 2020 (previously set to be effective in 2018).
- **Tax is Deductible** - The Cadillac Tax is now considered deductible. In other words, any amounts that employers end up paying toward the tax will be tax-deductible expenses, which may lessen the potential impact of the tax for employers.
- **Threshold Adjustments** - Regulations currently provide for a possible age and gender adjustment to the threshold amounts. A provision was made for the U.S. comptroller general and the National Association of Insurance Commissioners to study whether the “suitable” age and gender benchmarks to determine the “Cadillac” tax thresholds are in place.

Summary

Employers beginning to consider adjustments to benefit plan offerings such as implementing plans with higher deductibles and/or increasing cost-sharing, as well as reconsidering the offering of various account-based plans such as health FSAs, HRAs and HSAs to ultimately reduce the cost of coverage, may now delay any such changes for at least another couple years, during which time we will hopefully receive additional guidance in regards to methods of calculation and reporting the tax from the IRS.

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