



## 2015 Payroll Fact Sheet

### IRS Invites Comments on Cadillac Tax Implementation for 2018

For taxable years beginning in 2018, the Affordable Care Act imposes a 40% excise tax on high-cost group health coverage. This tax, also known as the "Cadillac tax," is intended to encourage companies to choose lower-cost health plans for their employees.

On Feb. 23, 2015, the IRS issued Notice 2015-16 to begin the process of developing guidance to implement the Cadillac tax. Proposed or final regulations have not yet been issued. This article provides an overview of Notice 2015-16, which describes potential approaches with regard to a number of issues under the Cadillac tax and invites comments on these approaches.

#### Some Quick Facts

- The IRS issued Notice 2015-16 to begin implementation of the Cadillac tax for 2018.
- Proposed or final regulations have not yet been issued on the Cadillac tax provision.
- Notice 2015-16 describes and invites comments on potential approaches for certain aspects of the Cadillac tax. **Public comments may be submitted to the IRS until May 15, 2015.**
- Taxpayers may not rely on this notice.

#### Overview of the Cadillac Tax

The Cadillac tax provision is found in Internal Revenue Code (Code) Section 4980I. This provision taxes the amount of an employee's "excess benefit." **The excess benefit is the amount by which the monthly cost of an employee's employer-sponsored health coverage exceeds the annual limitation.**

For 2018, the statutory dollar limits are:

- \$10,200 per employee for self-only coverage; and
- \$27,500 per employee for other-than-self-only coverage.

The cost of applicable coverage for purposes of the Cadillac tax is determined under rules similar to those used for determining the COBRA applicable premium. The tax amount for each employee's coverage will be calculated by the employer and paid by the coverage provider.

#### Applicable Employer-sponsored Coverage

The Cadillac tax applies to "applicable employer-sponsored coverage" (both insured and self-insured). Applicable employer-sponsored coverage is coverage under any group health plan made available to the employee by the employer, which is excludable from the employee's gross income under Code Section 106. The term "employee" includes any former employee, surviving spouse or other primary insured individual.

**Applicable coverage also includes health FSAs, HSAs, on-site medical clinics, retiree coverage, multiemployer plans** and coverage only for a specified disease or illness and hospital indemnity or other fixed indemnity insurance (if paid on a pre-tax basis or a Section 162(l) deduction is allowed).

Some types of coverage are generally excluded from applicable coverage, including coverage under which medical benefits are secondary or incidental to other insurance benefits, long-term care coverage, limited scope dental and vision coverage and coverage only for a specified disease or illness and hospital indemnity or other fixed indemnity insurance (if paid for exclusively with after-tax dollars or a Section 162(l) deduction is not allowed).

#### Overview of IRS Proposals

Notice 2015-16 describes a number of potential approaches on certain aspects of the ACA's Cadillac tax provision, which may be included in future proposed regulations. The IRS is requesting comments on the potential approaches, as well as any other approaches or guidance that might be helpful.

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