ALLIANCE TO FIGHT THE 40

Stop the 40% tax on health benefits

Understanding the Administration's Cadillac Tax Budget Proposal

On February 9, 2016, the Administration released the President's annual budget proposal, including a proposed change to the 40% excise tax on high cost employer sponsored health coverage also called the Cadillac Tax. The tax is applied to the cost of applicable health benefits above set thresholds, estimated to be approximately **$10,800** for single plans and **$29,100** for family plans when the tax takes effect in **2020**.[1]

The Administration's proposed changes are targeted at three of the key concerns about the tax: the disproportionate effect on sicker workers, the disparate effect on employers and individuals in higher cost geographic areas and the challenges of administering the application of the tax to flexible spending account (FSA) contributions.

Administration's Proposal

Effect on Sicker Workers

The Administration calls for a Government Accountability Office study to review the potential effects of the excise tax on firms with unusually sick employees. This study would be in addition to the Congressionally mandated study, expected by June 2017, on whether the tax is appropriately adjusted to reflect the pricing variations due to age and gender. The Administration's proposal notes that concerns have been raised that "some firms with unusually sick employees could be subject to the tax, even if their health coverage is not especially generous."[2]

Alliance response: The Alliance agrees that the structure of the tax places an unconscionable burden on employers that provide coverage for sick workers. The Alliance notes that studies are insufficient relief for women, retirees, families, older and sicker workers who are disproportionately targeted by the tax.

Effect on Higher Cost Geographic Area

The Administration's proposal notes that "too many enrollees will be subject to the tax in the decades to come, particularly in states where health care costs are higher than the national average."[3] To address the issue of geographic disparity the proposal would change the threshold so it would not exceed the average cost of a "gold" level Marketplace plan in the state.

The proposal would permit an employer to use the threshold that is the greater of the current law threshold or a threshold similar to the "gold plan average premium" that would be published for each state. According to the proposal,

> "the state average gold plan would be a weighted average of the premiums for the lowest-cost silver self-only Marketplace plans offered for each age and county in the state, multiplied by 8/7 to simulate the cost of an actuarially –equivalent gold plan. The thresholds for family coverage would be constructed by multiplying the single plan

[1] Congressional Budget Office, "Private Health Insurance Premiums and Federal Policy," February 2016, accessed via: https://www.cbo.gov/publication/51130

[2] U.S. Department of Treasury, General Explanations of the Administration's Fiscal Year 2017 Revenue Proposals, February 2016, accessed via https://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2017.pdf

[3] Ibid.

threshold by an average relationship between single and family plan premiums. The threshold applicable to coverage provided by an employer would be based on the state of residency of its employees enrolled in coverage as of the beginning of the prior plan year (or a weighted average, for employers with employees in multiple States.)

The adjustments available for age, gender, occupation, and retirees would be applied in the same manner as under current law."[4]

Alliance response: The Alliance believes the Cadillac tax is fundamentally flawed and should be repealed rather than amended with token changes. This proposal adds to the complexity of calculating the tax without addressing the real concern of geographic impact. The cost of coverage varies within states by regions, but the proposal offers one state standard.

The Alliance also raises questions about the suitability of the proposal. For example, the proposal is based on marketplace health plan premiums-only, whereas the employer Cadillac tax thresholds are based on health plan premiums, but also include other benefits such as wellness plans, FSA, HRA, HSA contributions, employee assistance plans and on-site medical clinics. To meet the thresholds employer plans would require a plan to offer a health plan below the value of Marketplace coverage and no additional applicable benefits. The proposal is based on the lowest cost silver plan for single coverage reflecting a restricted benefit design and in many cases a limited provider network distinct from typical employer coverage. Even when adjusted for gold-level coverage, which is about an 80 %actuarial value- most employer coverage is already at or below an 80 % actuarial value- raising the questions about the utility of applying this complex tax. This proposal would permit Exchanges to offer much higher value gold and platinum plans to individuals, but tax employers for offering even skimpier benefits.

Effect on Flexible Spending Accounts

Responding to concerns from employers that including FSA contributions in the threshold calculations makes it "difficult to accurately predict and control their exposure to the tax,"[5] the Administration proposed a standardized FSA contribution that employers could apply across their workforce. The standardized contribution would be based on the "average salary reduction"[6] plus any employer contribution. The employer contribution is the amount remaining after the employee's salary reduction and any carry over amounts from previous years.

Alliance response: The impact on FSAs, HRAs, and HSAs is a real concern for Americans who expect to see higher deductibles and out-of-pocket costs as a result of the tax. While this proposal creates a more standardized approach, it does not begin to address the long list of administrative concerns raised by employers and employees. Consequently, the members of the Alliance remain convinced that the tax must be repealed.

The Administration's proposal is estimated to cost $1.26 billion over ten years.

If we wait, it will be too late.
Repeal the Cadillac Tax.

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[4] Ibid.
[5] Ibid.
[6] Ibid.

The Alliance to Fight the 40 is a broad based coalition comprised of public and private sector employer organizations, unions, patient advocates, health care companies, businesses and other stakeholders that support employer-sponsored health coverage. This coverage is the backbone of our health care system and protects over 175 million Americans across the United States. The Alliance seeks to repeal the 40% tax on employee health benefits to ensure that employer-sponsored coverage remains an effective and affordable option for working Americans and their families.