

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 Obama Administration released the president's annual budget proposal. It included 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.

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

Effect on Higher-Cost Geographic Areas

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 complex proposal would change the threshold so it would not exceed the average cost similar to 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. The proposal provides:

"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 threshold by an average relationship between single and family plan premiums. The

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 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 “Cadillac Tax” is fundamentally flawed and should be repealed rather than amended with token changes. As evident from the above language, the proposal adds enormously to the complexity of calculating the tax without addressing the real concern of geographic impact. Among its shortcomings, the proposal offers one state standard, but the cost of coverage varies within states by regions.

The Administration’s proposal is flawed in other respects, as well. For example, the threshold that would apply is based solely on marketplace health plan premiums, whereas the employer thresholds also include other benefits such as wellness plans, FSA, HRA, HSA contributions, employee assistance plans and on-site medical clinics.

Consequently, to avail itself of the purported relief that the Administration proposes, an employer would be compelled to offer a health plan far below the value of Marketplace coverage and forego features, noted above, that promote better health for workers and families, and enable them to more cost-effectively pay the portion of health costs they are required to bear.

Finally, while high-value gold and platinum plans that are sold in the individual public Marketplaces would continue to avoid the “Cadillac Tax,” the proposal would still tax plans of lesser value that are offered by employers.

Effect on Flexible Spending Accounts

Responding to concerns from employers that including Flexible Spending Arrangement (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 will already 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.

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.