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The Cadillac Tax Part I: Fight the Future

Reviewing What We Know So Far, and What the Future (Likely) Holds

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The Cadillac Tax: The Big Picture

What is It?

Official Name: “The Excise Tax on High Cost Employer-Sponsored Health Coverage”

Starting in 2018, health coverage provided to an employee that exceeds a statutory dollar limit will be considered an “excess benefit.” ***That “excess benefit” amount will be subject to a 40% nondeductible excise tax.***

What are the Baseline 2018 Dollar Limits?

- Employee-Only: $10,200
- Family: $27,500

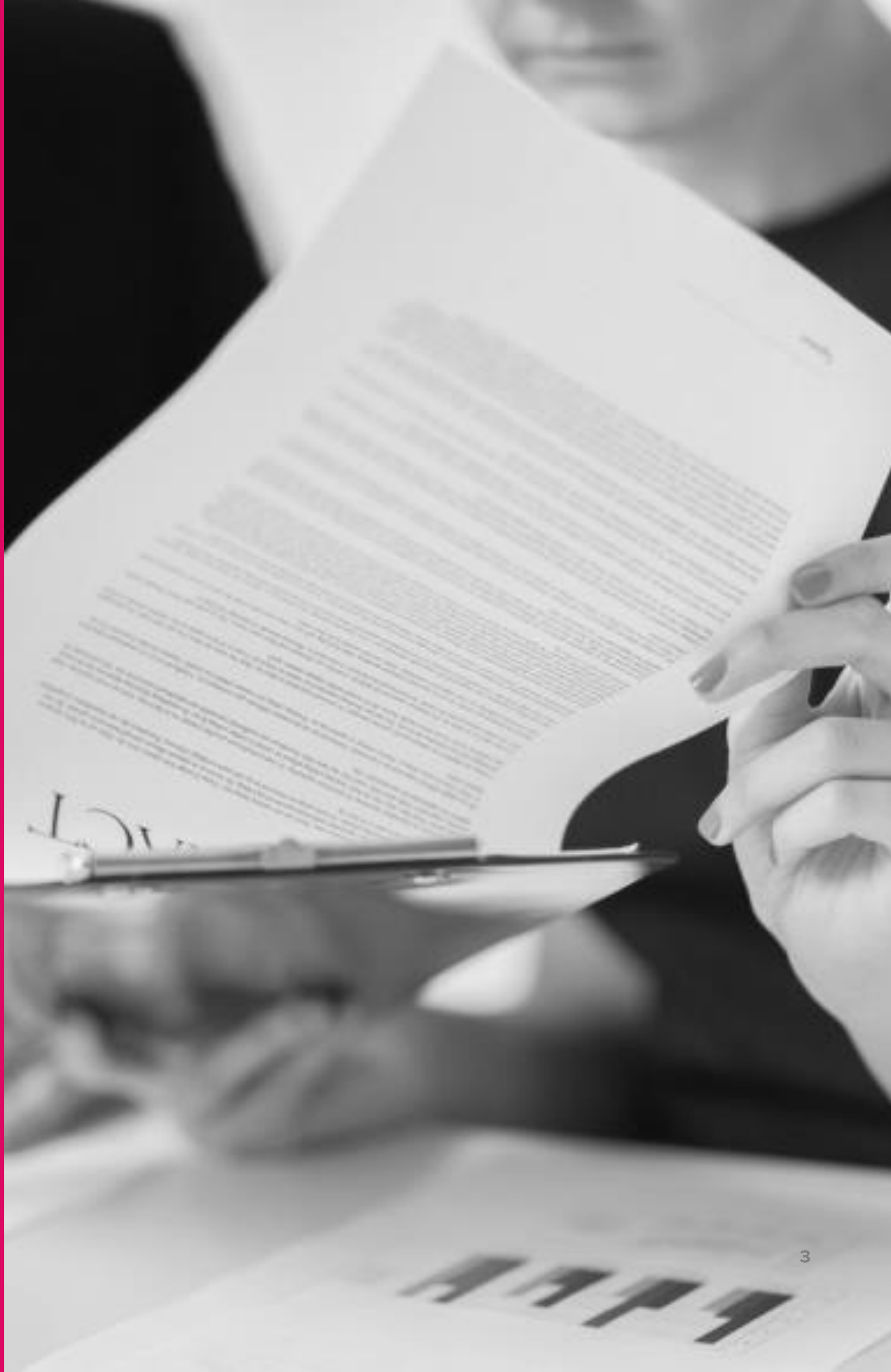
These amounts are subject to a cost-of-living adjustment after 2018

- Adjustment based on CPI--not tied to medical inflation!

What’s the Purpose?

- Raise revenue to offset costs of the ACA
  - Revenue from the Cadillac Tax itself
  - Revenue from increased taxable compensation to replace reduced health benefits
- Control overall cost of health coverage

Guidance Overview



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Guidance Overview

On March 23, 2010, the ACA added the Cadillac tax as Internal Revenue Code §4980I. The tax is effective as of January 1, 2018.

What We Have So Far:

- **IRS Notice 2015-16:**

  Issued February 23, 2015

  - Initiated the process of developing regulatory guidance
  - (1) Applicable Coverage
  - (2) Determining the Cost of Applicable Coverage
  - (3) Application of Annual Statutory Dollar Limit

- **IRS Notice 2015-52**

  Issued July 30, 2015

  - Supplemented 2015-16
  - (1) Identification of Liable Entity
  - (2) Employer Aggregation
  - (3) Allocation and Payment of Cadillac tax

What's Coming Soon…

- **Proposed Regulations:**
  - Expected from the IRS in late 2015 or early 2016

- **Final Regulations:**
  - Expected from the IRS in late 2016 or early 2017

- **Cadillac Tax Takes Effect!:**
  - January 1, 2018…
  - unless repealed before then!

Applicable Coverage

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Applicable Coverage

The term "applicable employer-sponsored coverage" generally means any group health plan that could be excludible from the employee's gross income under §106.

Covered Benefits Include:

- Major Medical Plans
  - Fully Insured
  - Self-Insured
  - Governmental
  - Multiemployer (Union)
- Health FSAs
- HSAs
- HRAs
- Certain On-Site Medical Clinics*
- Retiree Medical
- Retiree-Only Plans
- Pre-Tax Hospital, Specified Illness, and Fixed Indemnity Insurance
- Executive Physical Programs
- Expatriate Plans (for employees assigned to work in the U.S.)

*Anticipated to not include clinics that offer only "de minimis" medical care (e.g., first aid)

Excluded Coverage

Excluded Benefits Include:

- Most Dental Plans* (Excepted Benefits)
- Most Vision Plans* (Excepted Benefits)
- Most EAPs** (Excepted Benefits)
- Disability Plans
- AD&D Plans
- Supplemental Liability Insurance
- Liability Insurance (Including General Liability and Automobile)
- Workers' Compensation Insurance
- Automobile Medical Payment Insurance
- Credit-Only Insurance
- Long-Term Care Insurance

*Pending further guidance in regulations for self-insured plans

**Pending further guidance in regulations to confirm EAPs excluded

Cadillac Tax Amount

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2018 Statutory Thresholds

The 2018 baseline dollar limitations are subject to a one-time adjustment based on 2010-2018 cost increases under the Federal Employees Health Benefits Plan (FEHBP).

Standard Thresholds:

- **Employee-Only Coverage:**

  $10,200 per year

- **Family Coverage**

  $27,500 per year

  - Applies to any coverage other than employee-only coverage
    - Employee + Spouse/DP
    - Employee + Child(ren)
    - Employee + Family

Special Rules

- **High-Risk Professions:**

  Employee Only: $11,850

  Family: $30,950

  - Repairing or installing electrical or telecommunication lines
  - Law enforcement officers and firefighters
  - Emergency medical technicians, paramedics, first-responders
  - Longshoremen
  - Construction, mining, agriculture (other than food processing), forestry, and fishing industries

- **Pre-65 Retiree Plans:**

  Employee Only: $11,850

  Family: $30,950

  - For retirees at least age 55 and not yet eligible for Medicare

- **Multiemployer (Union) Plans:**

  Employee-Only or Family: $27,500

  - No employee-only limit for multiemployer plans!

Post-2018 Statutory Thresholds

2019 Adjustment: CPI-U + 1%

2020 and Beyond: CPI-U

The rate of cost-of-living adjustment to the Cadillac tax thresholds is based on overall inflation rates (CPI-U). This rate is not expected to keep up with medical inflation.

CBO/JCT Commentary: "In addition, CBO and JCT expect that premiums for health insurance will tend to increase more rapidly than the threshold for determining liability for the high-premium excise tax, so the tax will affect an increasing share of coverage offered through employers and thus generate rising revenues."

http://www.bls.gov/regions/southwest/data/consumerpriceindexcyhistorical_southwest_table.htm

Medical Inflation Increases Over CPI-U	2010	2011	2012	2013	2014
CPI-U (All Items)	1.5%	3.0%	1.7%	1.5%	0.8%
CPI-U Medical Care	3.3%	3.5%	3.2%	2.0%	3.0%
Difference	*+1.8%*	*+0.5%*	*+1.5%*	*+0.5%*	*+2.2%*

Determining the Cost of Coverage:
Major Medical

The 40% nondeductible excise tax applies to the excess of the aggregate cost of applicable coverage over the applicable dollar limit.

- **In General:**

  "The cost of applicable employer-sponsored coverage shall be determined under rules similar to the rules of [COBRA]...."

  - Fully Insured: The premium sets the COBRA rate.
  - Self-Insured: Actuarial or past-cost method.

- **The Details to be Worked Out:**

  1. Aggregation by Benefit Package *(Plan Options Treated Separately)*
     – Initial groups of "similarly situated" employees determined by aggregating all employees covered by each benefit package (i.e., plan option) offered by employer
  2. Mandatory Disaggregation *(Employee-Only vs. Family)*
     – Employer must then separate the employees covered in employee-only vs. family coverage
  3. Permissive Aggregation *(All Other-Than-Self-Only Coverage Combined)*
     – Likely option to treat all family coverage (other-than-self-only coverage) the same regardless of number enrolled (i.e., treat employee plus spouse, employee plus child, employee plus family the same)
  4. Permissive Disaggregation *(TBD)*
     – Potential option to separate group costs based on other factors (e.g., employees in different states)

Example 1: Employee-Only Coverage

2018 Baseline Dollar Limitation: $10,200

In 2018, Fox Mulder is enrolled in the HDHP employee-only medical coverage that costs $1,100 per month.

How to calculate:

- $1,100 Monthly HDHP Premium x 12 months

  $13,200 total annual cost

- $13,200 - $10,200 = $3,000 excess benefit
- $3,000 x 40% = $1,200 nondeductible excise tax

Example 2: Family Coverage

2018 Baseline Dollar Limitation: $27,500

In 2018, Dana Scully is enrolled in the PPO High family medical coverage that costs $2,750 per month.

How to calculate:

- $2,750 Monthly PPO Premium x 12 months

  $33,000 total annual cost
- $33,000 - $27,500 = $5,500 excess benefit
- $5,500 x 40% = $2,200 nondeductible excise tax

Determining the Cost of Coverage:
Account-Based Plans

The 40% nondeductible excise tax applies to the excess of the aggregate cost of applicable coverage over the applicable dollar limit.

- **Health Reimbursement Arrangements (HRAs)**
  - Potential approach is to base cost on new HRA amounts made newly available to a participant each year
  - This approach would disregard carryover amounts and be easy to calculate
- **Health Flexible Spending Arrangements (Health FSAs)**
  - Cost is determined by amount of employee salary reduction contributions
  - Also includes any employer flex credits, but only if actually reimbursed
  - $500 carryover amount likely will not apply to cost
- **Health Savings Accounts (HSAs)**
  - Includes employee salary reduction contributions and employer contributions
  - However, employee after-tax contributions are excluded from cost of coverage
    - More to come on after-tax HSA contributions!

Determining the Cost of Coverage:
Account-Based Plans

HSAs Likely to Stay for Cadillac Tax, Officials Say:

http://www.bna.com/hsas-likely-stay-n57982059678/

- **Kevin Knopf, Senior Technical Reviewer for the IRS's Office of Chief Counsel, Health and Welfare Branch of the Tax Exempt and Government Entities Division**
  - "'I personally continue to believe that HSA contributions that are excluded under tax code Section 106 are still going to be included in calculating the cost of coverage for the tax 'for the foreseeable future,' he said Oct. 19 during a conference hosted by the American Bar Association's Joint Committee on Employee Benefits."

- **Christa Bierma, Attorney Advisor with the Treasury Department's Office of Benefits Tax Counsel**
  - "'[W]hen she has discussed the possibility of excluding HSAs from the cost of coverage to Internal Revenue Service economists, their 'heads explode, because they think it would render the statute extremely ineffective.'"

Example 3: Employee-Only Coverage

2018 Baseline Dollar Limitation: $10,200

In 2018, Fox Mulder is enrolled in the HDHP employee-only medical coverage that costs $1,100 per month. Employer X contributes $125/month to his HSA. Mulder makes an employee pre-tax HSA contribution of $150/month.

Calculate cost of coverage:

Start with the Major Medical

- $1,100 Monthly HDHP Premium x 12 months

  $13,200 HDHP annual cost

Then add the Account-Based Coverage

- $125 Monthly Employer HSA Contribution x 12 months

  $1,500 ER HSA annual cost

- $150 Monthly Employee HSA Contribution x 12 months

  $1,800 EE HSA annual cost

Calculate Cadillac tax liability:

Add Major Medical and HSA

- $13,200 + $1,500 + $1,800

  $16,500 total annual cost

Determine Excess Benefit

- $16,500 - $10,200

  $6,300 excess benefit

Determine Cadillac Tax

- $6,300 x 40%

  $2,520 nondeductible excise tax

Example 4: Family Coverage

2018 Baseline Dollar Limitation: $27,500

In 2018, Dana Scully is enrolled in the PPO High family medical coverage that costs $2,750 per month. Scully also elected to contribute $212.50/month to the general purpose health FSA.

Calculate cost of coverage:

Start with the Major Medical

- $2,750 Monthly PPO High Premium x 12 months

  $33,000 HDHP annual cost

Then add the Account-Based Coverage

- $212.50 Monthly Employee FSA Contribution x 12 months

  $2,550 FSA annual cost

Calculate Cadillac tax liability:

Add Major Medical and HSA

- $33,000 + $2,550

  $35,550 total annual cost

Determine Excess Benefit

- $35,550 - $27,500

  $8,050 excess benefit

Determine Cadillac Tax

- $8,050 x 40%

  $3,220 nondeductible excise tax

One More Potential Adjustment:
Age and Gender Adjustment to Dollar Limit

The ACA provides for an increase in the dollar limits based on the age and gender characteristics of all employees of an employer. This provision is primarily to account for older workforces. It also accounts for higher maternity costs for employers with young women.

- The IRS has stated that it will formulate and publish adjustment tables to facilitate and simplify the calculation of the age and gender adjustment

Open Issues

- When will the employer determine the age and gender characteristics of its population?
  - IRS considering a snapshot date
  - One approach is the first date of the plan year
  - Another approach would allow employers to pick a fixed date that cannot vary each year
- How will the IRS create the adjustment tables?
  - Extremely complex seven-step process currently proposed
  - Generally based on average cost for the Federal Employee Health Benefit Plan (FEHPB)

Who Pays? And How?

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Who is Liable for the Cadillac Tax?

The ACA states that the "coverage provider" is subject to the Cadillac Tax. The "coverage provider" will vary depending on the type of coverage at issue.

- **Fully Insured Coverage**

  The Health Insurance Carrier

  - This cost will almost certainly be passed on to the employer

- **Self-Insured Coverage (Including Major Medical, FSAs, and HRAs)**

  The "Person That Administers the Plan Benefits"

  - The ACA does not define this term
  - Two potential approaches:

  1. The person (entity) responsible for performing the day-to-day functions that constitute the administration of plan benefits (claims processing etc.)
     – This would generally be the third-party administrator (TPA)
  2. The person (entity) that has the ultimate authority or responsibility under the plan with respect to administration of the plan benefits
     – This would generally be the employer

- **Health Savings Accounts (HSAs)**

  The Employer

Notice and Payment

The ACA specifies that the employer is the central player is determining and paying Cadillac tax liability. But the details are still largely being worked out.

Computation

- **ACA Says…**

  "Each employer shall calculate for each taxable period the amount of the excess benefit subject to the [Cadillac] tax…and the applicable share of such excess benefit for each coverage provider."

Notice

- **ACA Says…**

  "Each employer shall notify, at such time and manner as the Secretary [of the Treasury] may prescribe, the Secretary and each coverage provider of the amount so determined for the provider.

Guidance So Far…

- **IRS Says…**

  "Treasury and the IRS are considering both the form in which that information must be provided to the various coverage providers and IRS, and the time at which that information must be provided."

Payment

- **ACA Says…**

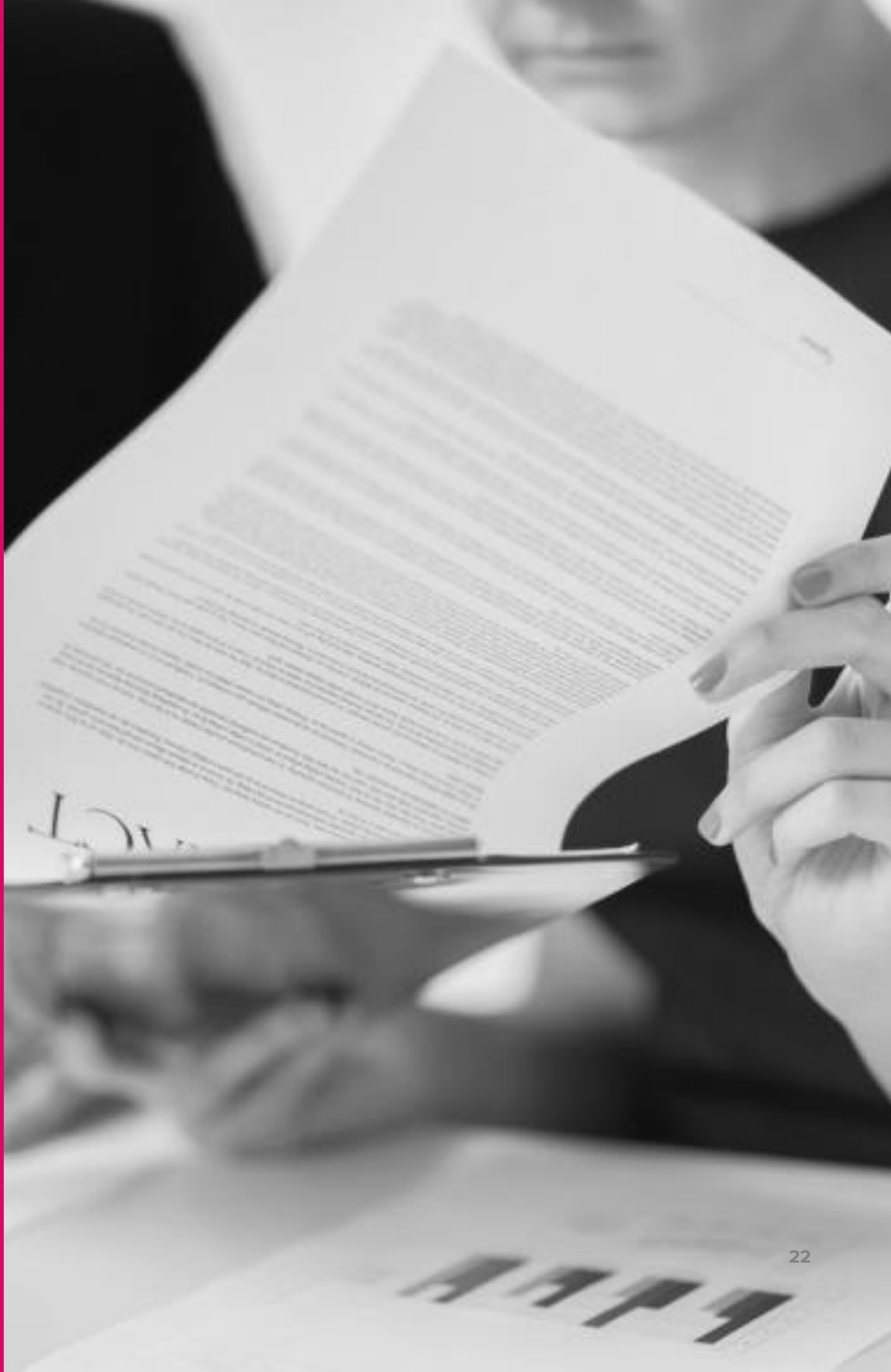
  "Each coverage provider shall pay the [Cadillac] tax…on its applicable share of the excess benefit with respect to an employee for any taxable period."

- **IRS Says…**

  "Treasury and IRS are considering designating the filing of Form 720, Quarterly Federal Excise Tax Return, as the appropriate method for the payment of the tax."

  - This is the same form used to pay the PCORI fee for self-insured medical plans

Revenue Estimates



CBO and JCT Revenue Estimates

https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/49973-UpdatedBudgetProjections_0.pdf
https://www.jct.gov/publications.html?func=startdown&id=4838

In the CBO's most recent September 2015 estimates, the Cadillac tax will raise **$91 billion** in revenue over the ten year period from 2016-2025. And the Cadillac tax is in effect for only eight of those years!

Revenue projections were reduced from prior estimate because "fewer workers are expected to be enrolled in employment-based insurance plans whose costs exceed the excise tax thresholds specified in the ACA."

16 UPDATED BUDGET PROJECTIONS: 2015 TO 2025 MARCH 2015

Table A-1.

Comparison of CBO and JCT's Current and Previous Estimates of the Effects of the Insurance Coverage Provisions of the Affordable Care Act

	January 2015 Baseline	March 2015 Baseline	Difference
	Change in Insurance Coverage Under the ACA in 2025 (Millions of nonelderly people, by calendar year)[a]		
Insurance Exchanges	24	22	-1
Medicaid and CHIP	16	14	-2
Employment-Based Coverage[b]	-9	-7	2
Nongroup and Other Coverage[c]	-4	-4	*
Uninsured[d]	-27	-25	2
	Effects on the Cumulative Federal Deficit, 2016 to 2025[e] (Billions of dollars)		
Exchange Subsidies and Related Spending and Revenues[f]	1,058	849	-209
Medicaid and CHIP Outlays	920	847	-73
Small-Employer Tax Credits[g]	15	11	-4
Gross Cost of Coverage Provisions	1,993	1,707	-286
Penalty Payments by Uninsured People	-47	-43	3
Penalty Payments by Employers[g]	-164	-167	-3
Excise Tax on High-Premium Insurance Plans[g]	-149	-87	62
Other Effects on Revenues and Outlays[h]	-284	-202	81
Net Cost of Coverage Provisions	**1,350**	**1,207**	**-142**
Memorandum:			
Increases in Mandatory Spending	2,026	1,747	-279
Increases in Revenues	677	540	-137

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.

JOINT COMMITTEE ON TAXATION
September 28, 2015
JCX-130-15

ESTIMATED REVENUE EFFECTS OF AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO REPEAL OF CERTAIN EXCISE TAXES ENACTED IN THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON SEPTEMBER 29, 2015

Fiscal Years 2016 - 2025

[Billions of Dollars]

Provision	Effective	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-20	2016-25
1. Repeal of individual and employer mandates enacted in the Affordable Care Act (the "ACA") [1] [2] [3].....	mba 12/31/14	-1.4	9.2	13.0	14.5	15.9	17.4	18.4	19.0	20.2	21.0	51.2	147.1
2. Repeal the excise tax on medical devices.....................	si cqba DOE	-1.4	-2.0	-2.1	-2.2	-2.3	-2.5	-2.6	-2.8	-2.9	-3.1	-10.0	-23.[illegible]
3. Repeal of the tax on employee health insurance premiums and health plan benefits..............................	tyba 12/31/17	---	---	-2.2	-7.2	-8.3	-9.9	-11.6	-14.0	-16.9	-20.9	-17.8	-91.1
4. Repeal W-2 reporting of value of health benefits..........	cyba 12/31/14	- - - - - - - - - - Negligible Revenue Effect - - - - - - - - - -											
5. Interaction between the repeal of the mandates and the repeal of the high premium excise tax.....................	---	---	---	[4]	2.1	2.0	1.7	1.7	1.6	1.6	1.4	4.1	12.1
NET TOTAL		**-2.8**	**7.2**	**8.7**	**7.2**	**7.3**	**6.7**	**5.9**	**3.8**	**2.0**	**-1.6**	**27.5**	**44.2**

Joint Committee on Taxation

CBO and JCT Revenue Estimates

https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/49892/49892-breakout-AppendixB.pdf

CBO and JCT anticipate that only 25% of the revenue from the Cadillac tax will come from the actual Cadillac tax. The bulk of the revenue is anticipated from increases in taxable compensation to address the benefit reductions.

Most commentators are very skeptical that employers will actually pass the plan cost cuts on to employees in the form of higher wages. They're more likely to jump at any savings for their books.

According to CBO and JCT's estimates, federal revenues stemming from the excise tax on high-premium insurance plans will be $149 billion over the 2016–2025 period. Roughly one-quarter of that amount will stem from excise tax receipts, and three-quarters will come from the effects on revenues of changes in employees' taxable compensation. In particular, CBO and JCT anticipate that many employers and workers will shift to health plans with premiums that are below the specified thresholds to avoid paying the tax, resulting generally in higher taxable wages for affected workers.

Survey Says...

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Survey 1: Kaiser Family Foundation

August 2015 Survey of 2,052 employers of all sizes, regions, and industries:
http://kff.org/health-costs/issue-brief/how-many-employers-could-be-affected-by-the-cadillac-plan-tax/

Survey is broken into a number of variables. For employers with a health plan and HSA/HRA/FSA contributions, and assumed 5% premium growth, estimate is that 26% of employers will trigger Cadillac tax in 2018, up to 42% in 2028.

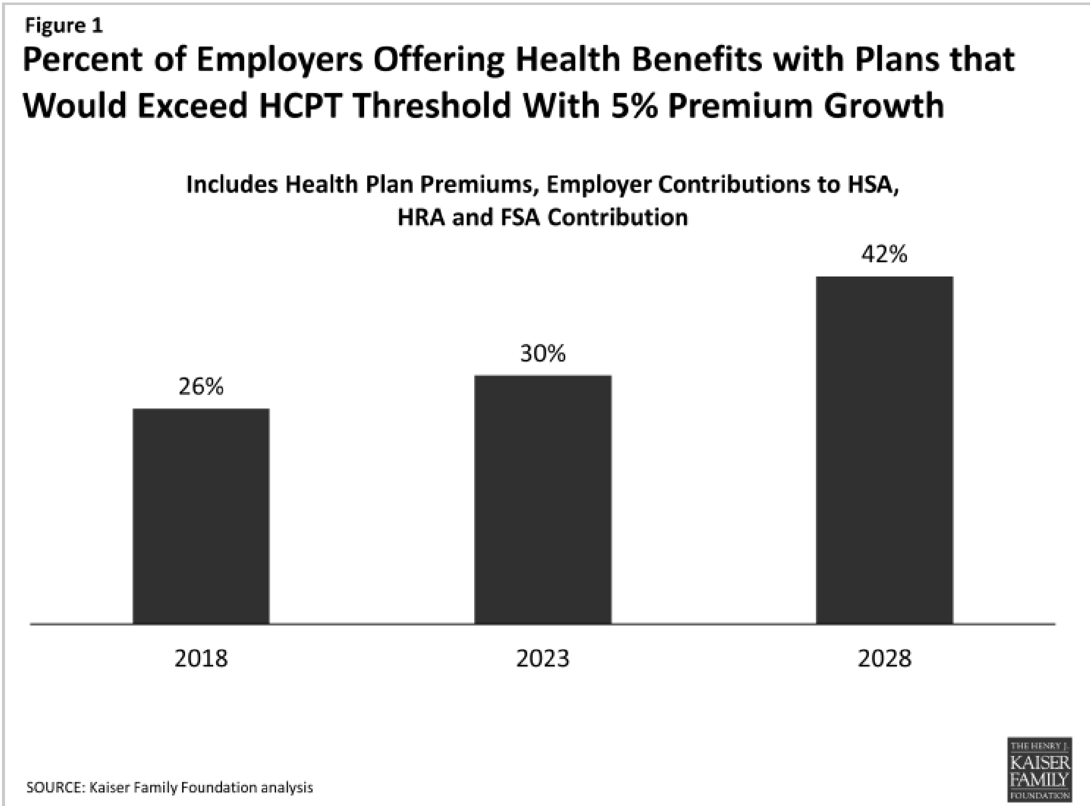

Figure 1: Percent of Employers Offering Health Benefits with Plans that Would Exceed HCPT Threshold With 5% Premium Growth

Survey 1: Kaiser Family Foundation

August 2015 Survey of 2,052 employers of all sizes, regions, and industries: http://kff.org/health-costs/issue-brief/how-many-employers-could-be-affected-by-the-cadillac-plan-tax/

The same survey shows that large employers (200 or more employees) are disproportionately likely to trigger the Cadillac tax, reaching a majority within five years of its inception (by 2023), and more than two-thirds within a decade (by 2028).

Table 2: Share of Employers with At Least One Plan Hitting Threshold By Firm Size			
Year	HCPT Self-Only Threshold	Premium, HSA, HRA & FSA	
		Small Firms (3-199 workers)	Large Firms (200 or more workers)
2018	$10,200	25%	46%
2023	$11,800	29%	56%
2028	$13,500	41%	68%

SOURCE: Kaiser Family Foundation analysis

Survey 2: International Foundation of Employee Benefit Plans (IFEBP)

October 2015 Survey of 422 employers. 48% of employers surveyed have 500 – 4,999 employees: http://www.ifebp.org/aboutus/pressroom/releases/Pages/ACAcadillactax.aspx

59.5% of employers surveyed that have calculated costs estimate that they will trigger the Cadillac tax.

ACA Excise ("Cadillac") Tax

Calculated to Determine if Cadillac Tax Will be Triggered in Future	Overall (n = 422)	Corporation (Corp) (n = 244)	Public Employer (PE) (n = 75)	Multiemployer (ME) (n = 103)
Yes, we've calculated it and, without any future changes, we will trigger the tax	59.5%	63.5%	77.3%	36.9%
Yes, we've calculated it, and we will not trigger the tax	27.0%	26.2%	14.7%	37.9%
No, we have not calculated it	9.5%	7.0%	4.0%	19.4%
Not sure	4.0%	3.3%	4.0%	5.8%

Survey 2: International Foundation of Employee Benefit Plans (IFEBP)

October 2015 Survey of 422 employers. 48% of employers surveyed have 500 – 4,999 employees: http://www.ifebp.org/aboutus/pressroom/releases/Pages/ACAcadillactax.aspx

Of those employers finding they will have Cadillac tax liability, 62% say it will hit in 2018. 89.4% estimate they will be subject to the tax no later than 2023.

ACA Excise ("Cadillac") Tax

When Organization Will Likely Trigger Cadillac Tax*

	Overall (n = 251)	Corp (n = 155)	PE (n = 58)	ME (n = 38)
2018	62.2%	60.6%	70.7%	55.3%
2019	9.6%	11.0%	8.6%	5.3%
2020	11.6%	12.9%	10.3%	7.9%
2021	3.2%	3.2%	5.2%	0.0%
2022	3.2%	3.2%	3.4%	2.6%
2023	2.8%	3.9%	0.0%	2.6%
2024	1.2%	0.6%	0.0%	5.3%
2025	0.0%	0.0%	0.0%	0.0%
2026 or later	0.8%	0.6%	0.0%	2.6%
Not sure	5.6%	3.9%	1.7%	18.4%

*Among organizations that have calculated and determined they will trigger the tax.

The Answer?
HDHP
+ After-Tax HSA
- FSA
- HRA

The HDHP-Only Horizon

Current Examples	2018 Suggested Approach to Avoid Tax
Offers various HMO, PPO, and HDHP plan options	**Prepare to Move to HDHP-Only If Other Options Trigger Tax** • These plans generally have the lowest premium cost and therefore are least likely to trigger to the Cadillac tax • EY estimates that even 70% AV plans will trigger tax soon after 2018 • http://www.bna.com/acas-cadillac-excise-b17179896944/ • *2017 Action Item: If you don't offer an HDHP, add one in 2017! This will make the potential 2018 HDHP-only transition easier*
Offers General Purpose Health FSA	**Prepare to terminate the general purpose health FSA in 2018 if needed to avoid Cadillac tax** • Can still (probably) offer limited-scope health FSA without any Cadillac tax implications. Limited-scope FSAs reimburse only dental/vision expenses • *2017 Action Item: If you don't offer a limited-scope health FSA option, consider adding one in 2017. This will make the potential 2018 limited-scope-only transition easier*
Offers General Purpose HRA	**Prepare to terminate the general purpose health HRA in 2018 if needed to avoid Cadillac tax** • Can still (probably) offer limited-scope health HRA without any Cadillac tax implications. Limited-scope HRAs reimburse only dental/vision expenses

The HDHP-Only Horizon

Current Examples	2018 Suggested Approach to Avoid Tax

Offers Pre-Tax HSA Contributions and/or Employer HSA Contributions	**Prepare to terminate all employer HSA contributions and shift all employee pre-tax contributions to after-tax in 2018**
	• After-tax employee contributions do not count toward the Cadillac threshold
	• HSA contributions will still receive an above-the-line deduction on the employee's individual tax return
	    • However, both employer and employee will suffer from the additional FICA payroll taxes
	• Employer contributions will count toward the Cadillac tax even if after-tax
	    • Plus, comparability rules will make employer contributions difficult

Offers Broad Networks of Providers and No Special Cost Limitations	**Prepare to Limit Provider Costs Where Possible** • Narrow Networks: This is not popular, but it is a common price cut tool used to reduce cost of coverage on the Exchange • Reference-Based Pricing: Establish fixed limit on plan reimbursement for certain common and expensive procedures
Offers Coverage to Spouses Without Limitation	**Prepare to Initiate a Spousal Surcharge…or Terminate Spousal Coverage Altogether(!)** • Spousal surcharges generally require employees to pay more to cover spouses who have access to their own employer's group health plan • There are no potential pay or play penalties for excluding spouse's from an offer of coverage—so it's anticipated that some plans may exclude all spouses from eligibility

Proposed Legislation

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Cadillac Tax Legislative Repeal Efforts:
A Bipartisan Cause Developing

There are at least four repeal bills underway in Congress. From Bernie Sanders to Paul Ryan, the Cadillac tax has few fans. But can they agree on revenue replacements?

American Worker Health Care Tax Relief Act of 2015 (S. 2075)

- **Sen. Sherrod Brown (D-OH)**
- 13 Cosponsors, including Bernie Sanders (I-VT)
  - Sanders: "Some have said that this tax only falls on 'Cadillac' health care plans, but the reality is that the plans this bill will tax are more like Chevrolets. Workers have fought hard to negotiate decent healthcare benefits, often in exchange for lower pay. This excise tax unfairly punishes them. It has got to be replaced."
- No revenue replacement proposal, but includes acknowledgment of intent to offset

Middle Class Health Benefits Tax Repeal Act (S. 2045)

- **Sen. Dean Heller (R-NV)**
- 16 Cosponsors, including Senate Finance Committee Chairman Orrin Hatch (R-UT)
  - Hatch believes revenue replacement not required

Middle Class Health Benefits Tax Repeal Act of 2015 (H.R. 2050)

- **Rep. Joe Courtney (D-CT)**
- 165 Cosponsors (146 Democrats, 16 Republicans)
  - Does not address revenue loss

Ax the Tax on Middle Class Americans' Health Plans Act (H.R. 879)

- **Rep. Frank Guinta (R-NH)**
- 106 Cosponsors (all Republican)
  - Does not address revenue loss
  - Also eliminates the Form W-2 cost of coverage reporting requirements (Box 12, Code DD)

Where Does the President Stand?
And What About His Successor?

President Obama appears to be a strong supporter of the Cadillac tax, although he has very few direct quotes. Hillary Clinton supports repeal. Jeb Bush has a replacement proposal.

President Obama

- President Obama believes the Cadillac tax will discourage **"fancy plans that end up driving up costs."**
- Seems likely to veto without revenue replacement

Jason Furman, Chairman, White House Council of Economic Advisors

- "There is broad consensus among economists across the political spectrum that, by counteracting long-standing distortions in our tax code, the excise tax will reduce health care costs, boost workers' wages, and improve our fiscal outlook."
- "[R]epealing the tax or delaying its scheduled implementation in 2018 would have serious negative consequences…**which is why the Administration opposes legislation that would repeal or delay this provision.**"

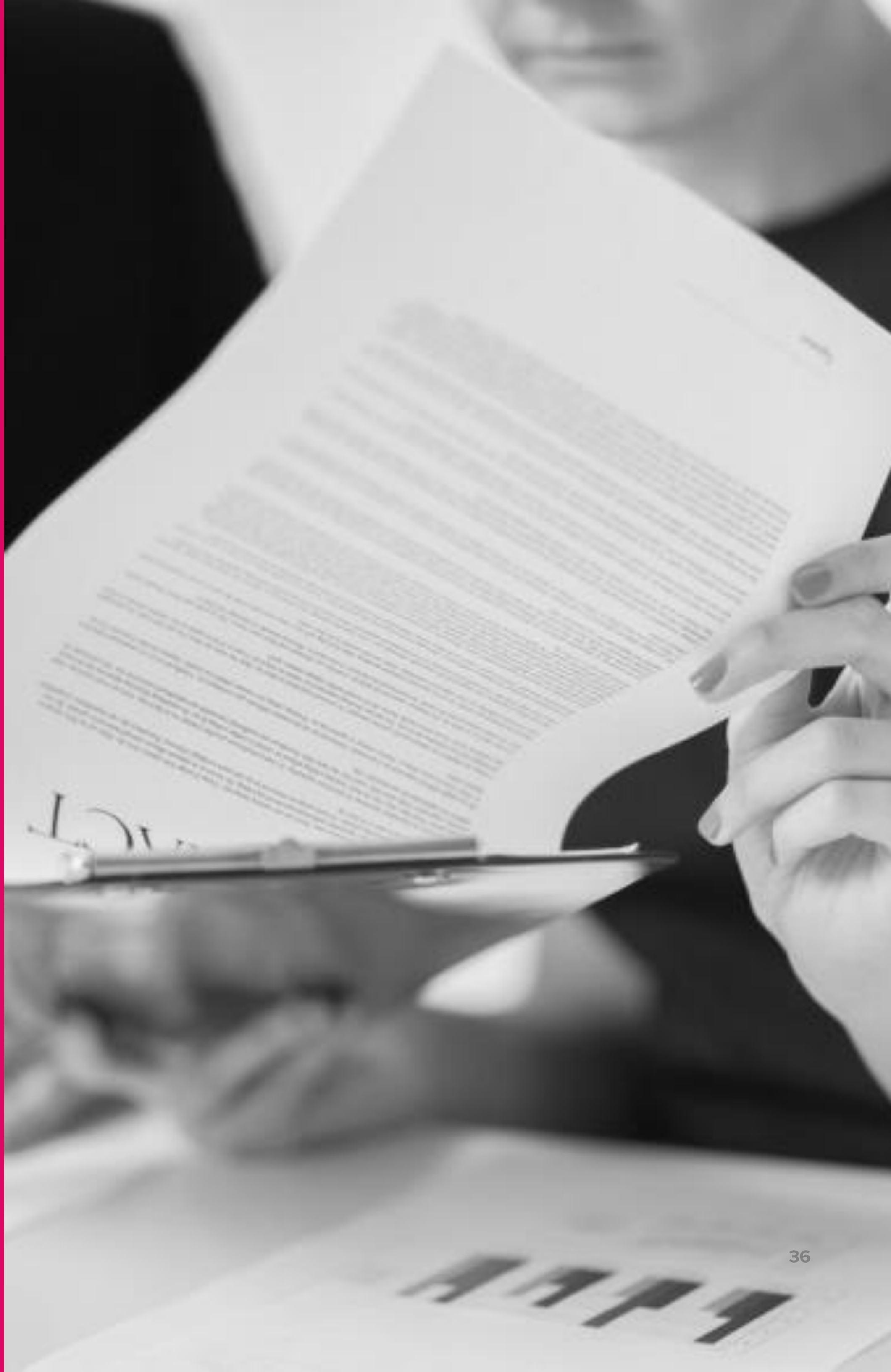
Hillary Clinton

- "**I encourage Congress to repeal the so-called Cadillac tax**, which applies to some employer-based health plans, and to fully pay for the cost of the repeal."
- "As currently structured, I worry that it may create an incentive to substantially lower the value of the benefits package and shift more and more costs to consumers."

Jeb Bush (Campaign Website)

- "Governor Bush would allow individuals a $12,000 ($30,000 for family plans) tax break on the value of their health insurance obtained through their employers (the value of the cap would grow with inflation each year)."
- "This would **replace ObamaCare's complex and onerous '40% tax,'** which forces employers to arbitrarily reduce benefits to avoid the tax and thus limit the benefits employees may want and need."

Wrap:
Key Points



Insurance &
Financial Services

Cadillac Tax Takeaways

The ABCs of the Cadillac Tax

Three Key Points to Remember:

A The Cadillac tax doesn't take effect until 2018, but it's important to start planning now! Employers may need to radically change their plan design approach to avoid the tax. A few key steps in that direction (e.g., adding an HDHP if not currently offered) could greatly ease the transition.

B Account-based health plans (FSA/HRA/HSA) are a particularly thorny issue under the Cadillac tax. Start preparing for a future without these options, other than after-tax contributions to an HSA and limited-scope FSAs and HRAs.

C Get an estimate in 2016 of where your plan is trending. Beware that even if your plan is not expected to trigger the Cadillac tax in 2018, there is a very high likelihood that it will reach the threshold within five years. The Cadillac tax may be modified or repealed, but prepare for the worst!

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Questions? Contact Us!

let's talk next steps

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Thank You!

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