IRS Previews Its Administration Of The Cadillac Plan Tax And Seeks Comments On Unresolved Issues

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03.31.2015

The “Cadillac Tax” of the Affordable Care Act (ACA) is effective for tax years beginning after December 31, 2017. It imposes a 40% excise tax on any “excess benefit” provided to an employee. An excess benefit is the excess, if any, of the total cost of the applicable coverage received by the employee over the applicable dollar limit for the employee. “Applicable coverage” refers to a group health plan, which is generally any employer plan that provides health care to employees such as, medical insurance, health flexible spending accounts (FSAs), health reimbursement arrangements (HRAs), health savings account (HSA) contributions, certain on-site medical clinics, retiree coverage, and certain indemnity coverage. Excepted benefits (including stand-alone dental and vision plans) are not considered applicable coverage. Regarding applicable dollar limits, there are two limits. For single employee coverage, the limit is $10,200 annually. For employees covering one or more family members, the limit is $27,500 annually. These limits are scheduled to be adjusted by a "health cost adjustment percentage" in the first year (i.e., 2018) and adjusted annually thereafter for cost-of-living adjustments. Since the ACA was passed in 2010, no guidance has been issued by the IRS relating to the Cadillac Tax until recently when the IRS issued **Notice 2015-16**, which previews how the IRS will likely administer the Cadillac Tax and requests comments by mid-May 2015 on certain outstanding issues. Although the Notice does not serve as formal guidance, it does preliminarily address key items of concern for employers, such as the definition of “applicable coverage” subject to the tax, the determination of the cost of applicable coverage, and the

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Employee Benefits and Executive Compensation applicable dollar limit. For example, the Notice provides that the cost of the applicable coverage will include any employer or employee pre-tax contributions for group health plan premiums, a health FSA, HRA, or a HSA. With the release of this Notice, plan sponsors may gain insight into how the IRS will address the Cadillac Tax and can proactively adjust their plan design strategies accordingly.