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Planning Ahead for the Cadillac Plan Tax

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Agenda

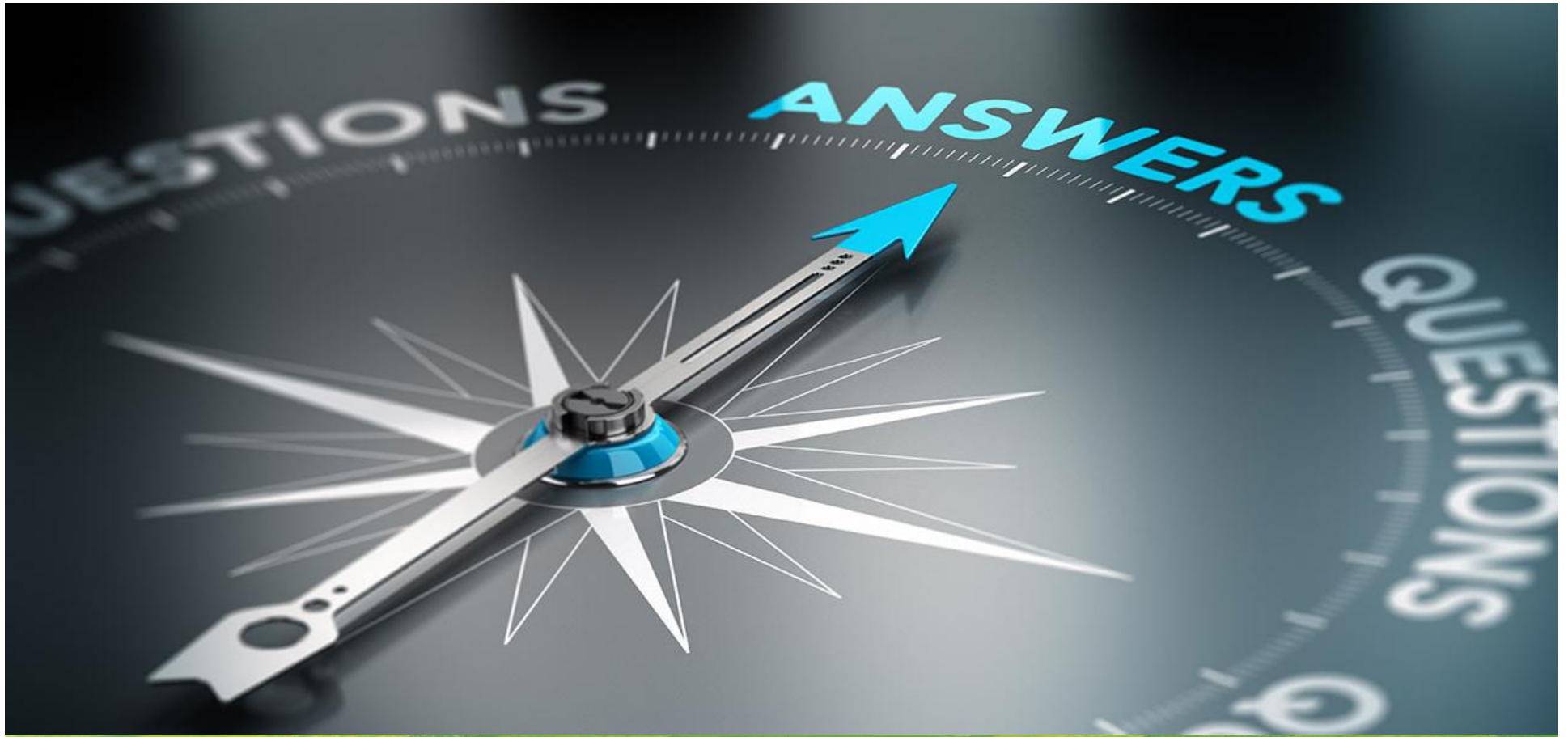
- **Introduction**
- **Current Guidance**
- **IRS Notice 2015-16**
- **Employer Response**
- **Action Items**
- **Thank You**



INTRODUCTION

Introduction

- **Starting on January 1, 2018, an excise tax will be imposed on certain benefits plans that exceed a specific dollar threshold**
 - **Excise tax will be 40% of the benefit amount exceeding the dollar threshold**
 - **Employers should start planning well in advance of 2018**



CURRENT GUIDANCE

Current Guidance

- **Tax applies to “applicable employer-sponsored coverage”**
 - **Includes group health plans sponsored by employers**
 - **Applies to self-insured, fully-insured, and grandfathered plans**
 - **Government plan coverage**
 - **There is no exclusion based on size**

Current Guidance

- **Examples of applicable employer-sponsored coverage**

Medical and prescription drugs

Dental and vision

Employee and employer contributions to FSA

Employer contributions to an HRA

Employer and pre-tax employee contributions to an HSA

On-site clinics

Fixed indemnity health coverage
(only if pre-tax basis)

The tax applies to applicable employer-sponsored coverage provided to employees, former employees, surviving spouses, and other “primary insured individuals.”

Current Guidance

- **Excepted benefits not subject to tax, such as:**

Limited scope dental and vision coverage

Fixed indemnity health coverage purchased by the employee with after-tax dollars

Long-term care under an accident or health plan

Coverage only for accident and/or disability income

Liability insurance (including general liability insurance and auto liability insurance)

Coverage issued as a supplement to liability insurance

Workers' compensation

Auto medical payment insurance

Credit-only insurance

Other similar coverage under which benefits for medical care are secondary or incidental to other insurance benefits

- **EAPs that qualify as excepted benefits**
- **After tax HSA employee contributions**

Current Guidance

- **Generally, the aggregate cost of the applicable employer-sponsored coverage is determined in a similar manner as COBRA**
 - **Excise tax applies if the cost of applicable coverage exceeds the threshold dollar amount**
 - **Actually calculated on a monthly basis**

Current Guidance

- **Special rules for:**
 - **Retirees**
 - **FSA**s
 - **HSA**s and **Archer MSA**s
 - **Self-insured plans**

Current Guidance

- **For 2018, excise tax applies to applicable employer-sponsored coverage that exceeds \$10,200 annually for self-only and \$27,500 annually for other-than-self-only**
- **Higher limits apply for qualified retirees and high-risk professionals**
 - **\$11,850 annually for self-only**
 - **\$30,950 annually for other-than-self-only**

Current Guidance

- **Adjustments to the dollar threshold**
 - **One-time health cost adjustment for 2018, but only if employee healthcare costs increase by more than 55% between 2010 and 2018**
 - **The amount of adjustment is equal to the percentage increase, minus 55% plus 100%**

Example: Assume that the cost of the Blue Cross/Blue Shield standard benefit option increased by 65% between 2010 and 2018. The health cost adjustment is equal to 110% $((65\% - 55\%) + 100\% = 110\%)$. The 2018 self-only dollar threshold would therefore increase from \$10,200 to \$11,220.

Current Guidance

- **Adjustments to the dollar threshold**
 - **Cost of Living Adjustments**
 - Beginning in 2019
 - Reflects cost of living according to Consumer Price Index for Urban Consumers
 - For 2019, additional 1% will be added
 - **Age and Gender Adjustments**
 - Dollar amount that is applied annually
 - Accounts for increased costs to insure individuals because of age and gender

Current Guidance

- **Calculating the amount of the excise tax owed**
 - First, calculate the annual dollar threshold applying all adjustments
 - Second, divide annual dollar threshold by 12
 - Third, aggregate the cost of all applicable coverage and determine monthly aggregate cost
 - Fourth, compare monthly dollar threshold to the monthly cost for the applicable employer-sponsored coverage
 - Fifth, aggregate all monthly excess amounts (cost of employee's applicable employer-sponsored coverage that exceeds the monthly threshold limit) to determine annual excess amount
 - Sixth, aggregate excess benefit amount is multiplied by 40%
 - Lastly, the excise amount is apportioned among the various types of applicable coverage

Current Guidance

- **Calculating the amount of the excise tax owed**

Example: Assume that the 2018 annual threshold limit for the tax is \$10,200 and the monthly threshold limit is \$850 per month ($\$10,200/12 = \850). For the first six months of 2018, the cost of Amy's applicable employer-sponsored coverage is \$850 per month. For the last six months of 2018, the aggregate cost of Amy's applicable employer-sponsored coverage is \$875 per month.

Conclusion: No excise tax is payable for the first six months because the monthly cost for Amy's coverage costs equals the monthly threshold limit. However, the last six months will be subject to the excise tax because Amy had an excess amount of \$25 per month ($\$875 - \$850 = \25). The amount subject to excise tax is \$150 ($\$25 \times 6 \text{ months} = \150). The total excise tax due for the year is \$60 ($\$150 \times 40\% = \60).

Current Guidance

- **Party responsible for calculating the amount of excise tax owed**
 - **Employer responsible for calculating excess benefit subject to the tax and notifying the entity responsible for paying the tax and to the Treasury**
 - **For multiemployer plans, the responsibility falls upon the plan sponsor**

Current Guidance

- **Who is responsible for paying the excise tax**

Coverage Type	Coverage Provider
Health insurance	Insurer
HSA or Archer MSA contributions	Employer
Self-insured group health plan	Plan administrator
Health FSA	Plan administrator
HRA	Plan administrator

Current Guidance

- **Penalties**
 - **Employers subject to penalties for incorrectly calculating the excess benefit that causes the coverage provider to pay less tax**
 - **Penalty is equal to underpayment plus interest**
 - **Penalty can be waived if failure due to reasonable cause and not willful neglect and is corrected within 30 days**



IRS NOTICE 2015-16

IRS Notice 2015-16

- **Notable included coverage**
 - **HSA/Archer MSAs**
 - **Anticipated guidance**
 - **Employer contributions to HSAs and Archer MSAs, including HSA salary reduction contributions to HSAs, to be included in “applicable coverage”**
 - **Employee after-tax contributions to HSAs and Archer MSAs to be excluded from “applicable coverage”**

IRS Notice 2015-16

- **On-Site Medical Clinics**
 - Anticipated that future guidance will exclude on-site medical clinics that offer only *de minimus* care
 - Under COBRA, providing health care to an employee on the premises of the employer is not a group health plan if:
 - (1) The health care consists primarily of first aid and is provided during the employer's working hours for treatment of a health condition, illness, or injury that occurs during working hours; and
 - (2) The health care is available only to current employees
 - IRS seeking comments on whether other services in addition to first aid might be acceptable too
 - For example, providing immunizations, antigen injections, aspirin or other nonprescription pain relievers, or treatment of injuries at work beyond first aid

IRS Notice 2015-16

- **Limited Scope Dental and Vision**
 - **Current statutory exemption only extends to “any coverage under a separate policy, certificate, or contract of insurance which provides benefits substantially all of which are for the treatment of the mouth (including any organ or structure within the mouth) or for treatment of the eye”**
 - **Technically, this would mean that self-insured dental and vision coverage would be included as “applicable coverage”**
 - **Future guidance anticipated to exclude both fully insured and self-insured dental and vision coverage**

IRS Notice 2015-16

- **Cost of Applicable Coverage**
 - The 40% excise tax is based upon the excess of the aggregate cost of applicable coverage over the applicable dollar threshold
 - Calculated on a monthly basis
 - Determination made under “rules similar to” the rules for calculating the applicable COBRA premium
 - May not be exactly the same
 - Comments requested on a number of approach issues

IRS Notice 2015-16

- **Cost of Applicable Coverage (cont'd)**
 - **Proposed process based upon groups of similarly situated individuals**
 - **Group according to benefit package first (e.g., PPO I, PPO II, and HDHP)**
 - **Then, sub-divide based upon mandatory disaggregation rules**
 - **Perhaps sub-divide further based upon permissive disaggregation rules**

IRS Notice 2015-16

- **Aggregation by benefit package**
 - All employees enrolled in a single benefit package should be grouped together
 - **Example**
 - Low option
 - High option
 - **Excise tax is calculated based upon the amount that the coverage value for the **month** exceeds 1/12 of the annual dollar threshold**

For example, if an employer has a May 1 plan year and an employee is enrolled in the PPO option with the \$500 deductible for the months of January through April, but moves to the \$1000 deductible PPO option at the beginning of the new plan year, then the employee will be grouped with the \$500 deductible option group for January through April and the \$1000 deductible option group for May through December. Coverage provided for each month will be compared to 1/12 of the annual dollar threshold.

IRS Notice 2015-16

- **Reminder: Different applicable coverage must be aggregated to determine if the total value exceeds the applicable threshold**
 - **The current guidance leaves open the question over how to handle which threshold should apply when an individual is enrolled in self-only coverage for one type of applicable coverage and other-than-self-only coverage for another type of applicable coverage**
 - **Example**
 - **Employee enrolled in self-only primary medical coverage and an HRA that reimburses expenses for all family members**

IRS Notice 2015-16

- **Proposed permissive disaggregation**
 - Employers may be permitted to disaggregate based on broad standards such as *bona fide* employment-related criteria (e.g., different division or geographic location) or more specific standard
 - If more specific standard permitted, list will be provided by IRS

IRS Notice 2015-16

- **Determining applicable cost for self-insured coverage**
 - **The IRS anticipates making the past cost method and the actuarial cost method available for self-insured health plans similar to the rules under COBRA**
 - **Actuarial basis method**
 - **Under COBRA rules, must take into account factors listed in regulations**
 - **Under excise tax rules, IRS may require employers to use estimated cost, not minimum or maximum exposure for determining cost under actuarial basis method**
 - **Past cost method**
 - **The IRS is contemplating a rule for COBRA purposes that permits plans to use any 12-month period ending not more than 13 months before the beginning of the current determination period as a measurement period**

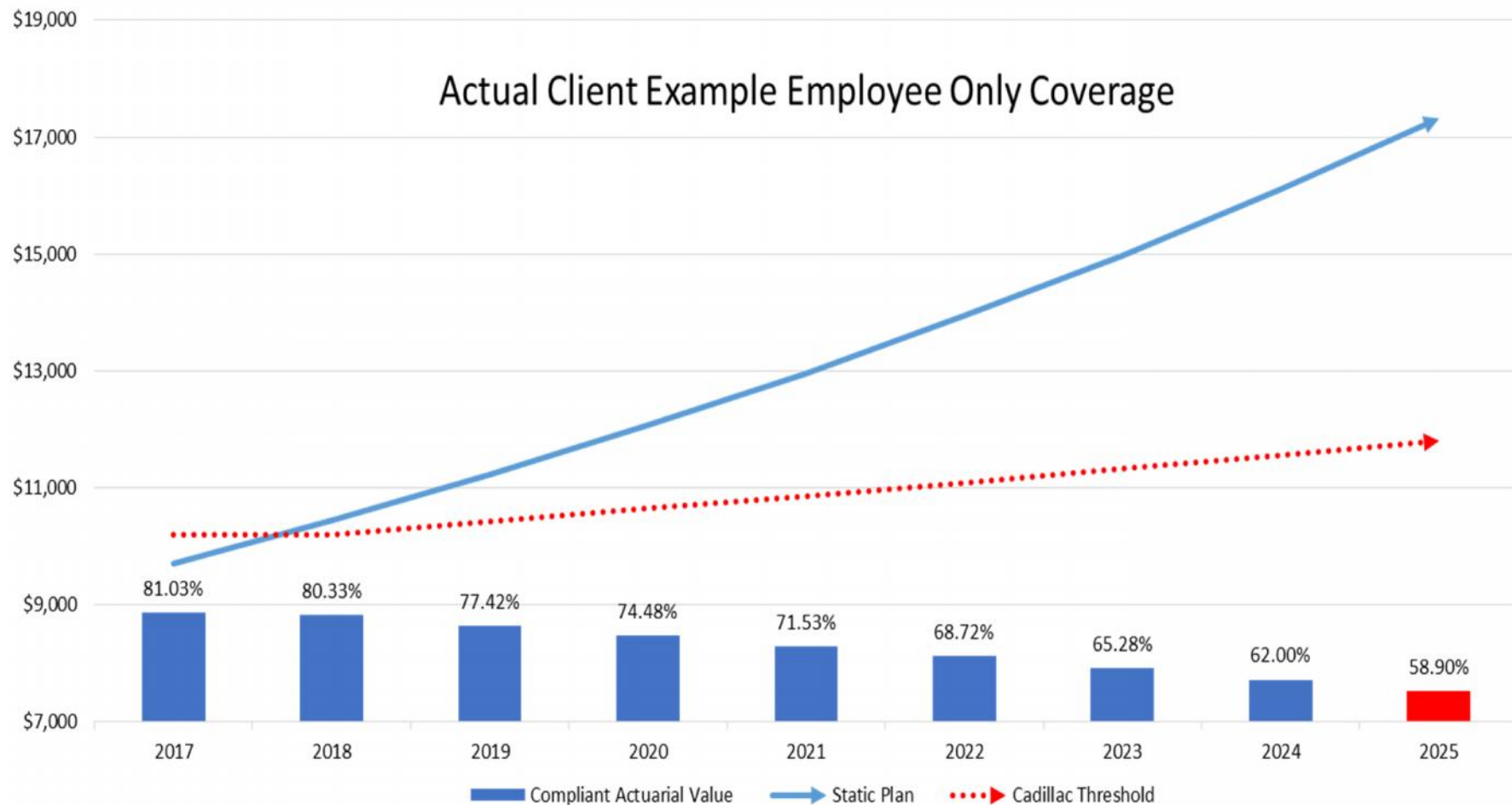


EMPLOYER RESPONSE

Consultant Perspective

- **Hope is NOT a strategy!**
- **Employer Impact :**
 - **“How Much & When” NOT “If”**
- **The Problem:**
 - **Medical Trend vs. CPI**

Consultant Perspective





ACTION STEPS

Action Steps

- **Determine which of your benefits will be part of the applicable coverage for purposes of the Cadillac Plan Tax**
- **Determine if any of the increased thresholds will apply to your coverage**
- **Perform 2018 cost projection for current benefit offerings**
- **Determine whether action available to curb cost trend**
- **Stay tuned for more**



THANK YOU