



Joseph B. Bouchard  
Assistant Commissioner  
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*Notice 2015-16*  
**State of New Hampshire**  
**DEPARTMENT OF ADMINISTRATIVE SERVICES**  
**OFFICE OF THE COMMISSIONER**  
State House Annex - Room 120  
25 Capitol Street  
Concord, New Hampshire 03301

MAY - 6 2015

April 30, 2015

CC: PA: LPD: PR (Notice 2015-16)  
Room 5203  
Internal Revenue Service  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

RE: Cadillac Tax; Notice 2015-16

Dear Sir/Madam:

I am writing to provide comments regarding Notice 2015-16 and the excise tax on high cost employer-sponsored health coverage. The State of New Hampshire's health benefit plan has a number of questions and concerns about the excise tax.

Major Concerns with The Excise Tax

The State of New Hampshire (State) administers a self-insured Employee and Retiree Health Benefit Plan that serves approximately 40,000 people. The State's health benefit plan works diligently to control the program's costs to support long-term sustainability. Our state employees value their health benefits. Over the years, the unions representing state employees have foregone salary increases to protect their excellent health benefits. Our major concern is that, depending on how the final regulations calculate the Cadillac Tax, we believe that the State of New Hampshire will have to pay a significant Cadillac Tax that it cannot afford to pay.

Moreover, because our health benefits are collectively bargained, the State is fundamentally different from a private sector employer. The State cannot unilaterally decrease the cost of health benefits to bring the cost of its health plan within the thresholds. Changes to health benefits must be collectively bargained with our unions. Given the historical emphasis on preserving health benefits, it is extremely difficult to negotiate large changes in our health

benefit plan. We have significant concerns about the consequences that paying a Cadillac Tax will have on our workforce.

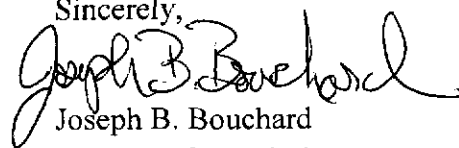
In addition, New Hampshire's location in the Northeast means that it has among the highest health care costs in the country. We believe that the Cadillac Tax should be regionally adjusted to take into account regional differences in medical costs. We note that the federal government already allows for regional adjustments with regard to Medicare reimbursements. The State would be happy to assist to find a solution that adjusts the Cadillac Tax for regional cost disparities similar to how regional adjustments are factored into Medicare rate setting.

### Questions

We also have a number of questions about how the excise tax will be calculated.

1. The State's health benefit plan has multiple tiers of coverage. If a state has multiple rating tiers, could the state use "self-only" and "other than self-only" as the two tiers for purposes of calculating the tax?
2. Is the tax measured based on actual costs or on projected costs? For our health benefit plan, it would be advantageous to measure the tax based on actual costs, and thus on a retrospective basis, because our actual costs have been lower than projected costs for the last several years.
3. Notice 2015-16 noted dollar limits may be increased for an employer with a workforce that is different than national age and gender characteristics. What are these gender and age adjustments? And what are the safe harbors, if any? The average age of the state's employee is 47 years old, older than the average age of the private sector workforce. We believe that the average age of a NH state employee is significant cost driver for our health plan.
4. Finally, the State health benefit plan has an employee wellness program. When employees complete specific wellness activities, they earn money that is deposited into an HRA so that they can pay for certain out-of-pocket costs associated with the health benefit plan. Generally, the HRA funds expire if not used within the calendar year; there was one year, however, where it was collectively bargained that the HRA dollars would roll forward and expire at the end of the following calendar year. How will HRA contributions and expenditures be calculated for purposes of the Cadillac Tax? Are the costs of administering wellness programs going to be included in the Cadillac Tax and if so, how?

I look forward to hearing your responses to our questions.

Sincerely,  
  
Joseph B. Bouchard  
Assistant Commissioner