

From: Christy Allen <CAllen@nortonne.com>
Sent: Tuesday, May 12, 2015 1:52 PM
To: Notice Comments
Subject: IRS Code Section 4980I Cadillac Tax Notice 2015-16

RE: IRS Code Section 4980I Cadillac Tax Notice 2015-16

To Whom It May Concern:

In response to the request for comments on Notice 2015-16, Norton Financial Services has identified the below items as needing further consideration:

- Employee FSA and HSA contributions should not be included as applicable coverage in the statutory dollar limit. For years we have encouraged employees to save responsibly for medical expenses and this would be a major deterrent. In addition, these are funds the employee has made the choice to contribute on their own and are not funds provided by the insurance carrier or the employer.
- The statutory dollar limit (currently \$10,200 for self-coverage and \$27,500 for other-than-self-only coverage) should be tied to state indexed premium as opposed to federal. Employee plans in states with higher overall healthcare costs resulting in higher premiums will be unfairly punished, while states with lower healthcare costs and lower premiums will benefit.
- Several factors need to be taken into account when labeling a plan "Cadillac" or deciding upon the statutory dollar limit. These include plan design, premium, age (if client is subject to age-banded rates) and claims experience. For an experience rated plan, high premium levels do not necessarily indicate a rich benefit (Cadillac) plan design. Also a large self-funded plan is easily able to avoid the tax because of their ability to influence their COBRA premiums, while fully-funded groups receive rates from insurers and have no ability to adjust them.
- If HRAs are to be considered applicable coverage, then the premium for an HRA should be calculated using the COBRA calculation.
- The law needs to clarify who is responsible for payment of the Cadillac Tax if a plan includes medical insurance premium and any additional applicable employer-sponsored coverage (i.e. FSA, HRA or HSA contribution.) Is the medical insurer still responsible for the penalty?

Should you have any questions, please contact a member of the group benefits team at Norton Financial Services. We can be reached at 1-800-777-5244 or via our web site, www.nortonne.com.

Sincerely,

The Norton Financial Services Group Benefits Team

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