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September 30, 2015

CC:PA:LPD:PR (Notice 2015-52)

Room 5203

Internal Revenue Service

P.O. Box 7604

Ben Franklin Station

Washington, DC 20044

Re: Notice 2015-52

To Whom It May Concern:

Austin & Co., Inc. appreciates the work of the Department of Treasury (DOT) and the Internal Revenue Service (IRS) in issuing notice 2015-16 and notice 2015-52 in order to provide preliminary guidance. We are especially thankful for the opportunity to comment on the proposed approaches of the Excise Tax on High-Cost Employer-Sponsored Health Coverage ("Cadillac Tax") in advance of the final regulations.

Austin & Co. Inc. is an employee-owned insurance broker providing property and casualty insurance, employee benefits, HR consulting, and benefits/HR administration technology to more than 1,000 employer clients. The majority of which are not-for-profits as well as independent and charter schools located within New York City boroughs. The anticipated cost of the Cadillac Tax on our employer clients is significant, even to those currently providing lower cost health plans such as consumer driven health plans. Furthermore, most employers do not have abundant resources available to take on the additional administrative burden of calculating the Cadillac Tax.

We wish to provide an important perspective on the aspects of the Cadillac Tax mentioned in Notice 2015-52 and we encourage you to consider the huge impact the Cadillac Tax will have on the future of employer-sponsored health plans.

Adjustment to the Dollar Limit

There are many factors that impact the cost of coverage in addition to age and gender. We suggest that the DOT and IRS consider adjusting the dollar limits based on geographic regions since the cost of health care services and the actuarial determination of premiums vary greatly by location. Even employers with similar



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demographics, plan benefits, and size pay significantly different premium amounts based on their region. Please see the chart below as an example.

Region	Single Annual Premium	Family Annual Premium
Austin & Co. Client in New York, NY	\$11,244	\$33,960
Austin & Co. Client in Poughkeepsie, NY	\$8,388	\$29,676
Kaiser Survey Average		
Northeast	\$6,794	\$18,938
Midwest	\$6,516	\$17,066
West	\$6,171	\$17,188
South	\$5,599	\$16,420
Range of Annual Premiums	\$5,645	\$17,540

<https://kaiserfamilyfoundation.files.wordpress.com/2014/09/8625-employer-health-benefits-2014-annual-survey6.pdf>

Notice and Payment

Employers are currently adapting to the recently implemented employer mandate. Adding to that new burden is the Cadillac Tax. This tax will bring an additional strain on already tight budgets and administrative resources. Employers, large and small, will not be able to simply flip a switch in 2018 to compute excess amounts or cost of the Cadillac Tax by member. If final regulations cannot be issued with sufficient time for employers, third party administrators, and consultants to understand, adapt, and implement, then there should be a delay in the effective date of this provision.

Final regulations should be issued in mid to late 2016 in order to give employers, third party vendors, and consultants enough time to understand the requirements and develop solutions by mid to late 2017. This timing is important because it will provide employers with an opportunity to implement internal procedures and accurately track required information during the 2018 calendar year in order to calculate the first tax at the end of the year.

Moreover, the Cadillac Tax is expected to add to the cost of coverage for employers and employees. Fully-insured carriers and plan administrators will, like other taxes, pass the cost on to the employers who will, in turn pass it on to the employee members through higher payroll contributions. This will result in the opposite of this provision's desired effect – to lower the cost of health plans. Alternatively, employers may choose to (1) no longer offer any coverage or (2) offer the lowest costing coverage in order to avoid the Cadillac Tax. Both of these alternatives contradict the goals of other provisions within the ACA – to offer affordable and quality coverage. We hope that the DOT and IRS will take this into consideration when finalizing who and how the tax will be paid.



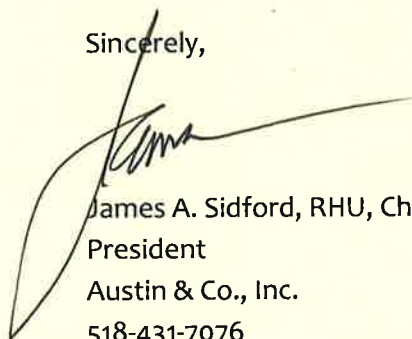
Allocations of Contributions to HSAs, Archer MSAs, FSAs, HRAs

The use of these accounts, along with a high deductible health plan, has put the consumer in charge of budgeting and spending their health care dollars wisely. The consumer is more likely to shop around for a solution that meets their value and price requirements; therefore, these accounts encourage the much needed price and value competition within the market. Allowing individuals to fund these accounts with pre-tax money incentivizes the desired consumer-driven behavior which aligns with the goals of ACA – affordable health care. Including pre-tax contributions to these accounts in the Cadillac Tax's excess benefit amount will cause employers and employees to decrease or end pre-tax contributions to these accounts making out-of-pocket health care costs even more expensive for the individual and decreasing a demand for competition (increased value and decreased price). This would have the opposite effect of the ACA goals and we hope the DOT and IRS will carefully consider not including the contribution to these accounts in the Cadillac Tax.

Austin & Co., Inc. strongly urges the DOT and IRS to take appropriate action in order to minimize the administrative burden on employers, lessen the negative impact of an employer's location, and eliminate the inclusion of tax advantage accounts such as HSAs. We believe the above has provided strong support of our recommendations and appreciate the opportunity to provide our opinions.

Should you have any questions or comments, please do not hesitate to contact me directly.

Sincerely,



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