Government Finance Officers Association
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October 1, 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 -- Request for Comments Regarding the Excise Tax on High Cost Employer-Sponsored Health Coverage

Dear Secretary Lew and Commissioner Koskinen:

State and local governments continue to work resourcefully within constrained budgets to provide benefit plans that will attract and retain a quality workforce in order to compete against private sector wages and salaries. At the same time, state and local governments are also committed to working with federal policy makers to develop and support national health care reform initiatives that expand access to quality care and control the growth of health care costs. However, the 40% excise tax tied to the *Patient Protection and Affordable Care Act* has many state and local governments, as well as other major U.S. employers considering the costs of compliance as the 2018 implementation draws near. On behalf of the Government Finance Officers Association's 18,000 federal, state and local finance officials deeply involved in planning, financing and implementing thousands of operations in each of their jurisdictions throughout the U.S., we are pleased to have the opportunity to provide comments in response to Notice 2015-52.

The non-deductible excise tax on employer-sponsored health coverage that provides "high-cost benefits," also known as the Cadillac tax, is a 40% excise tax on health plan premiums that cost more than $10,200 for individual plans and $27,500 for family coverage annually. Although many local governments are presently attempting to mitigate its effects by plan changes, or otherwise bracing for the effects of the excise tax in 2018, our members are alarmed for the years

beyond 2018 as the increase in healthcare costs rise higher than inflation. To be clear, the GFOA is committed to working with federal policy makers to advocate for adequate and appropriate funding to ensure the expansion of healthcare envisioned by the *Patient Protection and Affordable Care Act*. The GFOA supports an approach that mitigates the effect of the excise tax on state and local governments while preserving the authority of state and local governments to design and maintain health insurance arrangements that are tailored to the specific needs of the employers.

The GFOA's specific comments in response to Notice 2015-52 are consistent with the objectives of the GFOA "Policy Statement on the 40% Excise Tax on Health Plan Premiums."

- Persons liable for the 40 percent tax – State and local government entities are the ultimate entity with over-arching control over the health plan's structure and choices for employees. In the case of self-funded or self-insured plans, there often are multiple day-to-day administrative entities who oversee various components of the plan. Coordinating the liability and declaring one or another administrator primary for liability purposes would be very complicated, an administrative burden, and costly to state and local governments. The plan sponsor should be designated as the "person that administers the plan benefits".
- Timing of the determination of the cost of applicable employer-sponsored coverage (applicable coverage) – State and local governments must make benefit design decisions and budget for their health care expense well in advance of the plan year. This means that employers will need to calculate and plan for any potential excise tax well in advance of the health care plan year. GFOA urges for clarification that all information to be provided by IRS and Treasury that is necessary for employers to determine whether the cost of their health plan options exceeds the thresholds – including the indexed threshold amounts and age and gender adjustment table – be provided well in advance of that taxable period in order to ease administrative burden to state and local governments.
- Beyond determination of age and gender adjustment –As an association of members across the United States, the GFOA is keenly aware that the cost of health care varies significantly from region to region. Members confirm that costs of coverage in Massachusetts are vastly different than those in Alabama. Administering the excise tax without accounting for geographic variation in the cost of coverage would unfairly increase the cost of plans in already high-cost areas. GFOA urges Treasury and IRS to provide regulatory guidance that would preserve the authority of state and local governments to design and maintain health insurance arrangements that are tailored to the specific needs of the employers.

GFOA sincerely appreciates the opportunity to provide comments on Notice 2015-52. We urge you to take careful consideration of the financial and administrative impact of the excise tax on state and local governments across the United States, and urge you to preserve the authority of

state and local governments in its design. We look forward to reviewing additional guidance on the excise tax in the near future and look forward to working together to address these concerns.

Sincerely,

Dustin McDonald
Director, Federal Liaison Center
Government Finance Officers Association