



LUMMI INDIAN BUSINESS COUNCIL

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30 September 2015

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

Room 5203

Internal Revenue Service

P.O. Box 7604

Ben Franklin Station

Washington, D.C. 20044

via electronic mail: notice.comments@irsounsel.treas.gov

Re: Notice 2015-52

Dear Sirs:

On behalf of the Lummi Nation, a federally recognized Indian tribe located in Washington State, I offer this letter in response to Notice 2015-52, "Excise Tax on High Cost Employer-Sponsored Health Coverage."

First, the Lummi Nation notes that identical bills entitled the "Tribal Jobs and Employment Protection Act" were introduced in both houses of Congress on July 15, 2015 that would exempt tribal employers from the employer mandates of the Affordable Care Act. The Lummi Nation strongly supports those bills and will be working with our Congressional delegation to see that they pass the Congress promptly.

Next, the Lummi Nation offers the following comments on the upcoming 40-percent excise tax on high-cost employer-sponsored health plans, which as currently conceived would apply to tribal governments and tribally owned businesses that provide health care insurance for their workers. Under the Affordable Care Act, the so-called "Cadillac tax" goes into effect in the beginning of 2018 for both fully insured and self-funded employer health plans. The tax will be assessed on the dollar amount of any premium that exceeds the annual limits of \$10,200 for individual coverage and \$27,500 for family coverage. The tax also includes several other costs such as contributions to flexible spending accounts or health savings plans.

Tribal governments often serve the neediest communities in terms of health care. Native communities have been found to have some of the largest health disparities in the country. With the greatest public health issues facing tribal communities, it is little wonder that health care costs are often among the highest in the nation. To impose a tax on a tribal employer for offering often costly quality health care coverage is to penalize an employer for attempting to handle a public health crisis that is endemic to Indian country.

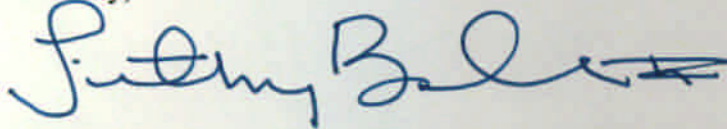
Further, offering high quality health insurance to their employees is one of a limited number of tools that tribal employers have to be more competitive with private employers in the labor marketplace. To impose the Cadillac tax on tribal employers would exacerbate the lack of competitiveness that tribal employers already face.

High quality health insurance for their largely tribal workforce is also one way in which Indian tribes attempt to meet the health care needs of their communities. To penalize tribal employers for attempting to ameliorate the generations of poor health care provided by the federal government would only further impair tribal members' treaty rights and would make a mockery of the federal government's treaty obligations to provide health care.

Tribal governments in high cost of living regions, such as Alaska, the Northeast, and the West Coast, including here in the Lummi Nation, will be hit the hardest by the Cadillac tax. There is no adjustment for regional cost of living or market differences in health care costs. In addition to the tax, there will be a significant administrative burden on tribal government finance and HR staff to complete the mandated reporting. The costs and burdens represented by the regulations will diminish already limited resources available to support tribal government operations, including health care.

We are grateful for the opportunity to offer these comments on Notice 2015-52 and look forward to the opportunity to comment on the draft regulations when issued. If you have questions or need additional information, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy Ballew II", with a stylized flourish at the end.

Timothy Ballew II, Chair
Lummi Indian Business Council

cc: Hon. Patty Murray, U.S. Senator for Washington
Hon. Maria Cantwell, U.S. Senator for Washington
Hon. Suzan Del Bene, U.S. Representative for First District of Washington