

DISCUSSION

MEMORANDUM

TO: Government Operations and Fiscal Policy Committee
Health and Human Services Committee

FROM: Linda McMillan, Senior Legislative Analyst *Stokes*

SUBJECT: **Discussion:** Potential Impact of 2018 ACA Excise Tax on High Value Group Health Plans

Expected for this worksession:

Shawn Stokes, Director, Office of Human Resources (OHR)
Belinda Fulco, OHR Health and Employee Welfare Division Manager
Kathleen McAuliffe, Senior Vice President, AonHewitt
Jamie Roberts, Assistant Vice President, AonHewitt

Starting in 2018, a 40% excise tax on “high-cost” group insurance plans will be implemented as a part of the Affordable Care Act. This excise tax is referred to as the “Cadillac Tax.” The Cadillac Tax has three main purposes:

- Reduce the tax preferred treatment of employer provided health care. Unlike wages, an employee does not pay taxes on the value of this benefit. There is concern that this has driven an increase in health care benefits over increases in wages.
- Reduce excess or unnecessary health care spending that may be a result of the high benefits in these plans.
- Help to finance the other provisions of the Affordable Care Act. This excise tax is estimated to bring in about \$91 billion over 10 years.

There is currently great debate about whether to keep the Cadillac Tax provision as it was approved. Those arguing to reduce or eliminate the tax voice concern over the impact on employees and their families if employers move to reduce health benefits in order to reduce or eliminate tax liability or increase costs to employees to offset the tax. Those arguing to keep the tax cite the budget implications and the goal of reducing excess health care spending. Regardless, it is important for County Government (and all the County agencies) to be prepared

for the cost should the excise tax stay in place. In August 2015 the Kaiser Family Foundation estimated that 26% of employers offering health benefits could be subject to the tax if there are no changes to their plans. There are not final regulations at this time, but the current definition of high-cost in 2018 is:

- \$10,200 for individual coverage
- \$27,500 for family coverage

- \$11,850 for a pre-65 retiree
- \$30,960 for a pre-65 retiree plus spouse or family

- \$11,850 for an individual in a “high-risk” occupation
- \$30,950 for a family plan for individual in a “high-risk” occupation

(High risk occupations include law enforcement and fire and rescue personnel but may not be applicable for the County because they are not a majority of the employees.)

There are several components included in the cost calculation including in part: medical, behavioral health, and prescription coverage; group health wellness programs; Flexible Spending Accounts; Health Savings Account pre-tax contributions; Health Reimbursement Accounts; certain on-site medical clinics; and retiree coverage. There are exclusions including in part: stand-alone dental and vision coverage; accident only or disability income insurance; liability insurance; and long-term care.

In preparation for this session, Council staff asked OHR to address the following questions with the joint Committee.

1. Does the County have a working estimate of the potential fiscal impact in 2018? If so, please provide the joint Committee with any estimates and assumptions. If not, when will the estimates be developed?
2. Is the County analyzing options to reduce the cost of health plans in order to reduce the excise tax, such as increasing deductibles or reviewing pharmacy policies?
3. Is the County reviewing the impact of Flexible Spending Accounts on the excise tax liability? Are there alternatives to the current FSA that might assist employees with out-of-pocket expenses without counting in the formula that triggers the excise tax?
4. How is the County approaching this issue in collective bargaining? If the County is bargaining two or three year contracts, they will be effective when this tax comes due.
5. Has the County analyzed the cost of the excise tax from retiree health benefits? If so, what is the estimated cost? If not, is a cost being developed?

6. How has or will the County engage the Retiree Association so that information and impacts are discussed in a timely manner?

AonHewitt has provided a presentation of their analysis which is attached at ©1-10.

- AonHewitt estimates that the County Government’s liability for 2018 is expected to be about \$3 million. (©3)
- If the County makes no plan changes, the cost is projected to increase to \$9 million in 2020 and \$22 million by 2022. (©8 and ©10)
- An example is included at ©6 of the presentation, showing a projected 2018 cost for an individual in the CareFirst High Option Plan and the Caremark High5 Plan. The employee in the example does not participate in a Flexible Spending Account. It shows that the total cost is \$12,616, or \$2,416 above the threshold which results in a tax liability of \$966.

Information on Current Plan Costs

The following table shows 2016 total cost for health plans. In addition, County employees may have Flexible Spending Account contributions of \$2,550.

TOTAL ANNUAL COST OF PLANS - 2016			
(employer and employee share based on 26 bi-weekly charges)			
MEDICAL PLANS:	Self	Self+1	Family
Carefirst High Option POS	6,505.20	11,253.32	18,948.54
Carefirst Standard Option POS	6,049.94	10,465.52	17,622.28
UnitedHealthcare Select HMO	5,690.36	10,939.24	17,390.36
Kaiser HMO (includes Rx)	6,408.48	12,048.14	18,969.34

Prescription:	Self	Self+1	Family
Caremark High Option \$4/\$8	4,322.76	7,997.08	12,392.90
Caremark High Option \$5/\$10	4,266.86	7,894.12	12,233.26
Caremark Standard \$10/\$20/\$35	2,089.88	3,866.20	5,991.44

Under 2016 costs, most plan combinations do not exceed the 2018 threshold. The following are two examples:

Kaiser Family Plan (includes Rx)	\$18,969
Maximum FSA	2,550
Total	\$21,519
2018 Threshold	\$27,500

CareFirst High Option	\$18,948
Caremark Standard	5,991
<u>Maximum FSA</u>	<u>2,550</u>
Total	\$27,489
2018 Threshold	\$27,500

However, assuming a 10% increase in plan costs from 2016 to 2018, this will change.

Kaiser Family Plan (includes Rx)	\$20,866
<u>Maximum FSA</u>	<u>2,550</u>
Total	\$21,416
2018 Threshold	\$27,500

NO TAX LIABILITY

CareFirst High Option	\$20,842
Caremark Standard	6,590
<u>Maximum FSA</u>	<u>2,550</u>
Total	\$29,982

2018 Threshold	\$27,500
Amount Above Threshold	\$ 2,482
Excise Tax Liability	\$ 993

Excise or “Cadillac” Tax

Affordable Care Act

October 15th, 2015

Presented by **AON**



Excise Tax: The Basics

What is the Excise Tax?

In 2018, a 40% excise tax begins to apply on every dollar spent on benefit plans over \$10,200 for individuals and \$27,500 for coverage of more than one individual. The thresholds are slightly higher for pre-65 retirees: \$11,850 for individuals and \$30,960 for plus spouse or family plans. Regulations have yet to be issued on who will qualify for the higher thresholds.

To date, the IRS has only issued requests for comment; **no formal guidance has been issued.**

Who is liable for the Excise Tax?

Insurers and/or sponsors of self-funded health plans will be liable ; **no formal guidance has been issued.**



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Impact of the Excise Tax

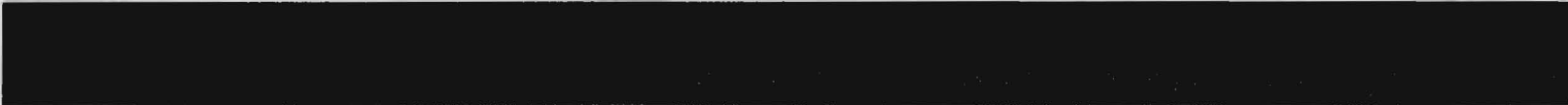
The projections for the County show that the tax threshold will be reached in 2018 for some plans – **about \$3 million in 2018.**

Currently the law has stipulations where the tax may be adjusted for high risk occupations, which include **fire protection and law enforcement.**

While the County has employees in these occupations, the law currently requires that the majority of employees be in these occupations in order to take advantage of the adjusted limits. The County's **public safety employees represent about a quarter** of the County population so calculations of the excise tax do not include any of the adjustments.



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Preparing for the Excise Tax

What has the IRS communicated to employers?

In February and August 2015, the Internal Revenue Service (IRS) issued notices and requested comments covering a number of issues concerning the Cadillac Tax, and approaches that could ultimately be incorporated into proposed regulations; **no regulations have been issued to date.**



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Preparing for the Excise Tax (cont.)

What has the County done to prepare of the Excise Tax?

The County has been modeling the expected excise tax for the last three years and has continually been working on cost containment initiatives including:

- Specialty Drug management
- Management of compound drugs
- Wellness initiatives
- Competitive bidding with the other Montgomery County Agencies
- Implementation of Medicare Part D (EGWP) plan for Medicare eligible retirees
- Introducing a Consumer Driven Health Plan (CDHP) in the future – bargained with FOP and MCGEO



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How is the Excise Tax Calculated?

The aggregate cost of coverage:

- Equals premium equivalents (100% COBRA rate)
- Includes the contribution paid by the employer and the employee/retiree
- Includes employer and employee contributions to spending accounts (FSA, HSA, HRA)



Active Employees & 65 or Older Retirees	Pre-65 Retirees
• \$10,200 (Self-only coverage)	• \$11,850 (Self-only coverage)
• \$27,500 (Self plus others)	• \$30,960 (Self plus others)

Example - Illustration of Tax Calculation

• 2018 Plan Cost (active CareFirst High and High5 Rx, no FSA)	\$12,616
• 2018 Threshold (self only)	\$10,200
• Excess Plan Cost (\$12,616 - \$10,200)	\$ 2,416
• Excise tax (40% of \$2,416)	\$ 966

493 employees have enrolled in the plan combination illustrated above, including both FSA and non-FSA participants
 Most prevalent plan combination (CareFirst High and Standard Rx) has enrollment of 2,921 and is estimated to first exceed thresholds in 2019



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Reactions to the Excise Tax

How are employers reacting to the Excise Tax?

Employers are calculating the anticipated impact to their plans and evaluating steps to mitigate that impact.

It is believed that employers may include the tax in premium rates and share or pass on the cost of the tax through employee contributions; however, **no guidance has been issued.**



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Estimated Plan Cost Projections and the Excise Tax

Assumptions generally consistent with health plan budget projections and also assume:

2016 plans and employee elections continue with no changes

Thresholds and employee Flexible Spending Accounts (FSAs) grow at 2.2%

No adjustments were made for the age/gender characteristics of County employees

The County's self-insured dental plans were excluded

Note - Figures include current employee contributions to Flexible Spending Accounts (FSAs). Over the entire period FSA contributions add approximately \$12 million to the anticipated excise tax.

ACA Excise Tax Projection - All Plans

Year	Plan Costs	Excise Tax	% of Plan Costs	Per Enrollee
2018	\$251,091,148	\$2,972,064	1.2%	\$213
2019	\$274,510,116	\$4,936,055	1.8%	\$350
2020	\$299,487,507	\$8,658,222	2.9%	\$608
2021	\$326,852,746	\$14,622,374	4.5%	\$1,017
2022	\$357,516,554	\$22,450,298	6.3%	\$1,547
2023	\$390,426,439	\$31,249,101	8.0%	\$2,133
2024	\$426,510,866	\$41,500,346	9.7%	\$2,806
2025	\$466,783,961	\$54,591,828	11.7%	\$3,657
2026	\$510,178,061	\$70,055,836	13.7%	\$4,649
2027	\$557,779,124	\$87,752,815	15.7%	\$5,769
2028	\$609,832,125	\$107,581,571	17.6%	\$7,007
2029	\$666,753,860	\$129,677,966	19.4%	\$8,368
2030	<u>\$729,000,168</u>	<u>\$154,236,092</u>		
Total	\$5,866,722,674	\$730,284,566		



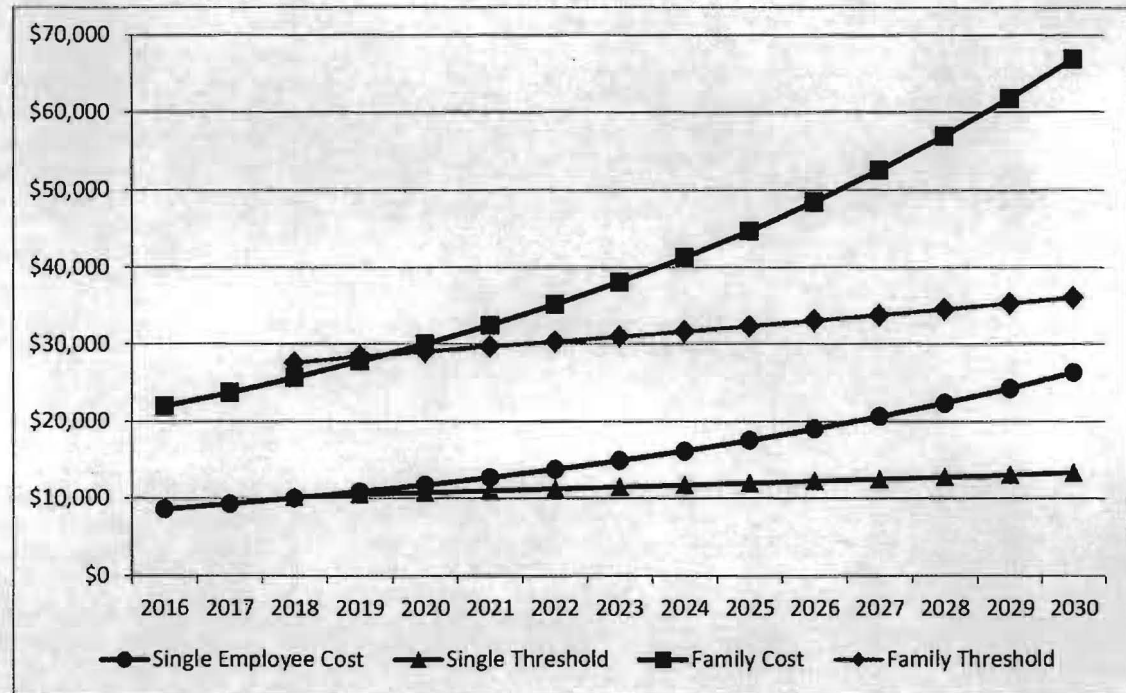
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Estimate Annual Thresholds and Projected Plan Costs for Active Employees

Highest enrollment plan combination illustrated:
CareFirst POS High and Standard Rx

Illustration does not include value of FSA contributions



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The Excise Tax: Next Steps

While there currently are **no regulations regarding the excise tax**, the law can't be ignored.

Public sector plans with rich negotiated benefits will exceed the thresholds along with many private sector plans starting in 2018.

The tax is complex and **regulations are not expected until some time in 2016**, which will leave employers with limited time to adjust strategy.

If the County makes no plan changes, the tax is expected to be approximately:

- \$3 million in 2018;
- \$9 million in 2020; and
- \$22 million in 2022.



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