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Written by **Raven Clabough** on August 11, 2015

IRS Issues Notice in Preparation of ObamaCare “Cadillac” Tax

The IRS is requesting comments on a notice it issued on potential approaches to issues relating to the highly controversial ObamaCare Health Insurance Tax (HIT), of which most Americans with health insurance policies may not be aware, but which will cost them. The Health Insurance Tax, also known as the Cadillac Tax, is a 40-percent excise tax outlined in a section of the Affordable Care Act that targets overly generous employer-provided healthcare plans, placing pressure on employers to offer less-generous health plans. The tax marks the first-ever tax on healthcare benefits and is expected to cost individuals more than $500 in extra premiums, and families more than $700 this year.

According to *Politico*, the tax will hit insurance and related perks valued at more than $10,200 for singles and $27,500 for families. If an individual’s benefits are worth $15,000 for example, the tax would apply to the $4,800 above the threshold. In other words, employers are being discouraged from offering generous health plans.

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The Daily Caller reports, “The tax was buried by congressional authors in section 9010 of the law and was envisioned as a way to raise future funds to pay for Obamacare.” The fee, according to the Congressional Budget Office (CBO) is a “statutorily fixed” amount, rather than a percentage rate, that must be collected each year.

The ObamaCare fees were structured in such a way as to be delayed so that they would kick in starting in 2014 at $8 billion and continue to grow to $14.3 billion annual price tag on insurance policies by 2018.

Over the next decade, consumers will pay more than $145 billion for the tax, according to the CBO, which adds that the levy will continue to increase each and every year into the future. As noted by *Politico*, however, companies are already feeling the effects now as they plan employee benefits. *Politico* reports that some companies are evening negotiating with unions over benefits “that could spill into 2018.”

“Employers are coming to the table asking for cuts in benefits based on their preliminary projections around the tax,” said Shaun O’Brien, assistant policy director for health and retirement at the AFL-CIO, which supports a repeal of the tax.

An actuarial review of the Section 9010 by the management firm Oliver Wyman predicts that individual policyholders will pay $514 more this year due to the ObamaCare tax, while those who use small group policies will see a rise of $688, and family coverage would rise by $719.

According to the Daily Caller, virtually everyone who pays for health insurance, regardless of whether it was obtained through the marketplace, will be affected by the tax. This includes senior citizens on Medicare Part D and Medicare Advantage, as well as Medicaid recipients, the very same people who were supposed to benefit from ObamaCare. Citing the Oliver Wyman analysis, the Daily Caller reports that Medicare Advantage would cost seniors $360 more this year and Medicaid managed-care enrollees will be expected to face increases of $152.

The tax also applies to health savings and flexible spending accounts, including tax-exempt money that workers set aside for their medical expenses. The IRS indicates that supplemental insurance plans will also be included and, possibly on-site clinics companies set up for their workers and Employee Assistance Plans.

The tax is expected to hurt cash-strapped states notes Milliman, a national health actuarial firm, which reported in 2014 that states will lose 52 cents for every dollar they receive from Medicaid because of the fee. "The result is a transfer of $0.52 from state government to the federal government for every $1.00 of ACA health insurer fee," the accounting firm said.

Milliman continued the ObamaCare tax will cost states 1.8 percent to 2.8 percent more for Medicaid managed care, under which half of the nation's Medicaid recipients are signed up. Overall, Milliman estimated the ObamaCare tax will cause the states that use Medicaid-managed care losses of up to $13.9 billion.

The HIT is sure to have a detrimental impact on jobs, according to the National Federation of Independent Business Research Foundation, which finds that the HIT will cost between 152,000 and 286,000 lost jobs by 2023, with 57 percent of those lost jobs represented in small businesses, and between $20 billion and $33 billion in lost economic activity.

Ironically, while the tax hurts the very people ObamaCare was allegedly created to help, the only group exempted from Cadillac tax are people who work in large corporations that "self-insure" their workforce, since under that system, no insurance company is used.

Former ObamaCare advisor Jonathan Gruber indicates that the Cadillac tax is intended to end the tax breaks companies get for providing health coverage to its employees, a practice that has been in place for more than 50 years. Gruber was captured on video admitting that rising medical costs would ensure that the Cadillac tax would all but eliminate the break companies get for providing health insurance.

Other proponents of the tax, such as David Wessel at the Brookings Institution, favor the tax precisely because it will cause employers to put less money toward healthcare policies. It is well known that the less patients pay out-of-pocket for healthcare, the more healthcare services they use — because the additional services are so low cost. If employees are forced to get higher-deductible insurance and pay higher co-pays, they'll go to the doctor less, lowering total healthcare costs. The idea is to make employers pay less in insurance, hoping that employers will instead give more in wages, which the employees can then use to purchase what they want, including, if needed, medical care. In a vibrant, booming economy, the theory would likely work to some extent since employers would be competing for good employees — in this economy, not so much. Ironically, this tax goes against the whole premise of ObamaCare, which is pre-supposed on the idea that some socio-economic groups should get healthcare essentially for free at the expense of everyone else.

An economic rule is that when you subsidize something, you get more of it, including more underemployed people relying on subsidies for healthcare.

Critics also say that the HIT will hurt what ObamaCare advocates set out to achieve. "It's going to undermine the employer-sponsored system, and it's going to do the exact opposite of what anyone's vision of health reform would have done, which is to provide greater access to health care coverage," said Katie Mahoney, director of healthcare policy at the U.S. Chamber of Commerce. "This is something that we are really trying to educate folks about."

The IRS notice states that the tax has long been opposed by labor unions as well as business opponents, but that no serious legislation has passed to stop the tax from taking effect.

Republican Senators Orrin Hatch and John Barrasso introduced legislation to repeal the excise tax earlier this year, and though it has garnered 38 Republican cosponsors, no Democrats have thrown their support behind the bill.

Senator Barrasso called the tax "another example of how the president's health care law was designed so the most painful parts of the law kick in years later."

Hatch described the tax as "yet another hidden health care tax arbitrarily created to pay for Obamacare."

Unfortunately, their bill was referred to the Committee on Finance in January and has seen no action since January 16.

Likewise, Republican Representative Charles W. Boustany introduced legislation in the House to repeal Section 9010. He has claimed bipartisan support among the 218 cosponsors, a majority of the House, but the bill was referred to the Subcommittee on Health in February and has remained there since then.