

Affordable Care Act: Tribal Governments & the “Cadillac Tax”

Affiliated Tribes of Northwest Indians
Jim Roberts, NPAIHB Policy Analyst
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What is the Cadillac Tax?

- The Affordable Care Act, Section 9001, “Excise Tax on High Cost Employer-Sponsored Health Coverage”
- The ACA amends the IRS Tax Code at § 49801 to charge a new excise tax on high-cost health plans
- This provision is often referred to as the "Cadillac" tax because it targets so-called Cadillac health plans that provide workers with generous levels of health benefits—and if any—low deductibles and cost sharing for employees
- Rationale for the tax is that the generous benefits and low costs to employees encourages over-utilization of health care, which contributes to higher health care costs
- Opponents argue that revenues generated by the Cadillac Tax are to fund subsidies for the uninsured through insurance exchanges
- The Cadillac Tax will be assessed beginning in 2018

Tribal government ACA requirements

- Tribal governments, tribal organizations, and businesses are not exempt from the Affordable Care Act requirements:
 - Cadillac Tax
 - Employer Mandate penalties
 - Reporting requirements

Who will be effected by the Cadillac Tax?

- Begin in 2018, imposed on high cost employer sponsored health plans meeting the definition of “applicable coverage”
- Self-funded employer plans owe the tax; For fully insured employer plans, the carrier pays the excise tax, but will likely charge it back to the Plan.
- Employers may pass these costs back to employees or reduce benefits to avoid the tax all together
- Health plans valued over \$10,200/year for individual, or; \$27,500/family will be taxed at a 40% rate for the value above these limits
- There are two tiers recognized:
 - Employees + 1, Husband & Wife; and Employee +2 and family will be judged by the \$27,500 standard
 - For retirees & people in pre-specified “high-risk” fields \$11,850 and \$27,500

What is the definition of “applicable coverage”

- Section 49801(d)(1) – Excise Tax on High Cost Employer-Sponsored Health Coverage (IRS Notice 2015-16) defines applicable coverage:

“applicable coverage means with respect to any employee, coverage under any group health plan made available to the employee by an employer which is excludable from the employee’s gross income under section 106, or would be so excludable if it were employer-provided coverage (within the meaning of such section 106).”

- Section 49801(f)(4) provides that the term “group health plan” for purposes of § 49801 has the meaning given:

Under § 5000(b)(1), “[t]he term ‘group health plan’ means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.”

Several types of applicable coverage*

1. Health Flexible Spending Accounts *
2. Archer MSAs *
3. Health Saving Accounts *
4. Governmental plans *
5. Coverage for on-site medical clinics *
6. Retiree coverage *
7. Multiemployer plans *
8. Coverage for a specified disease or illness and hospital indemnity or other fixed indemnity insurance *

* With limitations explained by § 49801

How is the Cadillac Tax calculated?

- **Cadillac Tax** = \$10,200/year for individual, or; \$27,500/family @ a 40% rate for the value above the limits
- **Self-only coverage:**
A \$12,000 individual plan would pay an excise tax of \$720 per covered employee:
 $\$12,000 - \$10,200 = \$1,800$ above the \$10,200 threshold
 $\$1,800 \times 40\% = \720 Tax Penalty
- **Family coverage**
A \$32,000 family plan would pay an excise tax of \$1,800 per covered employee:
 $\$32,000 - \$27,500 = \$4,500$ above the \$27,500 threshold
 $\$4,500 \times 40\% = \$1,800$



Thank you!

Jim Roberts, Policy Analyst
NW Portland Area Indian Health Board

jroberts@npaihb.org

(503) 228-4185