



September 30, 2015

CC:PA:LPD:PR (Notice 2015-52)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: IRS Notice 2015-52 – Excise Tax on High Cost Employer-Sponsored Health Coverage

The California State Association of Counties (CSAC) appreciates the opportunity to share our comments and concerns regarding Internal Revenue Service (IRS) 2015-52: Section 4980I – Excise Tax on High Cost Employer-Sponsored Health Coverage.

CSAC represents all 58 counties in California before the State Legislature, administrative agencies and the federal government. The following comments are based on the technical input provided by our member counties. While summary in nature, California counties share an overarching concern for the impending financial and administrative burdens associated with implementation of the Affordable Care Act (ACA) excise tax.

Excise Tax Pass-Through

The IRS has noted that, in some cases, it anticipates the amount of the excise tax to be passed through by the coverage provider to the employer. If this occurs, and the coverage provider then receives reimbursement for the tax, the reimbursement would be considered taxable income to the coverage provider. Accordingly, the amount that is passed through to the employer would include not only the excise tax reimbursement, but also the amount of the additional income tax. This would essentially result in double taxation for our counties, the public agencies that provide the majority of basic services to California's 38 million residents. CSAC believes that the intent of Section 4980I (f)(10) was to provide that any excise tax amount may not be taken into account when determining the cost of applicable coverage subject to the tax. CSAC recommends the IRS consider making the excise tax reimbursement non-taxable or tax-deductible, as well as excluding the excise tax reimbursement from the cost of applicable coverage.

Age and Gender Adjustment

Notice 2015-52 briefly discusses the necessity of and gender adjustment as a basis for increasing the annual dollar threshold for the excise tax. CSAC anticipates further guidance on this proposal as appropriate adjustments would reduce the ultimate impact of the excise tax on both plan sponsors and the participants. Public employees tend to have longer service periods than those of their private sector counterparts and, therefore, the ability to adjust the annual threshold on age and gender characteristics if the cost of providing coverage would be higher for an employer's workforce in comparison to the national workforce. CSAC would also strongly recommend the consideration of regional differences in healthcare costs in current dollar limit adjustments provided in Section 4980I.

Frequency of Reporting

CSAC recognizes that the IRS is in the process of considering how employers must notify coverage providers and the IRS of any excise tax due and the timing for when that information is provided. It is our understanding that the IRS is considering using the IRS form 720 (Quarterly Federal Excise Tax Return) to pay the excise tax. We would recommend the IRS consider requiring such filing once after the end of a calendar year rather than quarterly to allow employers and providers to reconcile any records before filing. This would ease potentially large administrative burdens on our counties.

While these are just a sample of the myriad issues surrounding the administration and calculation of the ACA excise tax and its effect on our 58 counties, CSAC looks forward to working further with the IRS and other stakeholders as further details are considered. Please contact Faith Conley (fconley@counties.org) at (916)650-8117 with any questions.

Sincerely,

A handwritten signature in black ink that reads "Faith Conley". The signature is written in a cursive, flowing style.

Faith Conley
Legislative Representative, CSAC