Cadillac Tax Delayed Until 2020 Under New Spending Bill

By Edward C. Hammond, Douglas J. Ellis / Dec 21, 2015

2016 Benefits Limits

	2015	2016		2015	2016
SECTION 401(K) PLAN and SECTION 403(b) PLAN LIMITS			SIMPLIFIED EMPLOYEE PENSIONS (SEP's)		
Aggregate Section 401(k) pre-tax and Roth salary deferrals by employees	$18,000	$18,000	Compensation at which plan participation is mandatory	$600	$600
Maximum Section 403(b) pre-tax and Roth contributions	$18,000	$18,000	SIMPLE PLANS		
Age 50 or older "catch-up" contribution dollar limit	$6,000	$6,000	Deferral limit	$12,500	$12,500
COMPENSATION LIMITS			Age 50 or older "catch-up" contributions	$3,000	$3,000
Maximum annual includible compensation limit	$265,000	$265,000	PENSION BENEFIT GUARANTY CORPORATION		
STATE/LOCAL AND TAX-EXEMPT SECTION			Maximum guaranteed monthly benefit at age 65 (single life)	$5,011.33	$5,011.33
457 PLAN LIMITS			SOCIAL SECURITY		
Maximum Section 457(e)(15) elective deferral dollar limit by employees	$18,000	$18,000	Maximum taxable earnings subject to FICA tax:		
Age 50 or older "catch-up" contribution dollar limit (governmental)	$6,000	$6,000	OASDI portion	$118,500	$118,500
ANNUAL SECTION 415 DOLLAR LIMITS			Medicare portion	No Limit	No Limit
Defined benefit maximum (Section 415(b))	$210,000	$210,000	HEALTH SAVINGS ACCOUNT ("HSA")		
Defined contribution maximum (Section 415(c))	$53,000	$53,000	Maximum Annual Contributions Limits:		
HIGHLY COMPENSATED EMPLOYEES			Single	$3,350	$3,350
Compensation Limit (for look-back year)	$120,000	$120,000	Family	$6,650	$6,750
EMPLOYEE STOCK OWNERSHIP PLANS			Catch-up (55 or older)	$1,000	$1,000
Threshold amount for exception to five-year distribution requirement	$1,070,000	$1,070,000	FLEXIBLE SPENDING ACCOUNTS ("FSA")		
Incremental amount for distribution beyond five years	$210,000	$210,000	Health FSA maximum annual employee contribution	$2,550	$2,550
KEY EMPLOYEE IN TOP HEAVY PLAN	$170,000	$170,000	Dependent Care FSA maximum (unless married filing separately)	$5,000	$5,000

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A two-year delay in the effective date of the "Cadillac tax" on high-cost employer-sponsored health plans is part of a massive $1.1 trillion omnibus spending bill passed by both houses of Congress and signed into law by President Obama on December 18, 2015. The legislation delays the start date of the Cadillac tax from 2018 to 2020, giving employers more time to evaluate and adopt compliant health plans, and giving Congress more time to evaluate repeal of the controversial tax.

As discussed in more detail in a previous alert, the Patient Protection and Affordable Care Act ("ACA") imposes a 40% excise tax on the cost of certain employer-provided health care plans (dubbed "Cadillac plans") that exceed a standard cap of $10,200 for annual individual coverage and $27,500 for all other categories of coverage, such as employee plus spouse, or family coverage. Prior to the delay, the Cadillac tax was scheduled to go into effect on January 1, 2018.

Almost since the passage of the ACA in 2010, opposition to the Cadillac tax has been growing in a bipartisan manner. Employers generally oppose the tax because it would impose a substantial excise tax on potentially broad-based employee health benefits and eliminate the tax advantage of providing such benefits. Unions and employee organizations generally oppose it because it is expected that employers will respond to the tax by reducing the level of employee health benefits provided to employees or shift more of the cost of such benefits to employees in the form of higher deductibles and co-pays.

The legislation also provides that any payments of the tax once it becomes effective will be tax-deductible, which reduces but does not eliminate the economic cost of offering a Cadillac health plan. In addition, the Comptroller General will consult with the National Association of Insurance Commissioners to study suitable benchmarks for adjusting the thresholds triggering the tax to reflect age and gender factors of an employer's workforce. Critics contend that the benchmark currently used - Blue Cross Blue Shield's standard benefit option under the Federal Employees Health Benefits Program - does not accurately represent national healthcare costs.

According to recent surveys of the impact of the Cadillac tax, nearly 50% of employers expect at least one of their benefit plans to be subject to the excise tax if they don't take measures to control rising health care costs. By 2020, that number increases to almost 75% of employers whose plans would be impacted by the tax.

While the delay may increase chances for ultimate repeal of the Cadillac tax, employers should still focus on evaluating and implementing better accountability, cost containment and employee education with respect to health benefits.

If you have any questions regarding planning for the Cadillac tax or employer-provided health care, please contact Doug Ellis at dellis@clarkhill.com | (412) 394-2367; Nancy Farnam at nfarnam@clarkhill.com | (248) 530-6222; Kristi Gauthier at kgauthier@clarkhill.com | (480) 684-1300; Ed Hammond at ehammond@clarkhill.com | (248) 988-1821; or another member of Clark Hill's Labor and Employment Practice Group.