INSIDE the Beltway

Written by Dave Kirby

SIIA Formally Opposed ACA's Cadillac Tax; Congress Agreed to Delay 40% Levy to 2020

When Congress delayed implementation of the Affordable Care Act's (ACA) "Cadillac Tax" on high-value employee benefit plans from 2018 to 2020, it pushed further into the future the draconian tax's damaging effects on self-insured benefit plans and the nation's economy.

"This excise tax on some employee benefit plans would have a far-reaching effect on the U.S. economy," said **Ryan Work**, SIIA's Vice President of Government Relations. "The National Coalition on Benefits, to which SIIA belongs, estimates that the 40% tax would result in job losses totaling 2.6 million, reduce personal income by almost $3,800 per household and cut GDP by 1.7% by 2035."

A cross-section of America including Members of Congress from both sides of the aisle, major corporations, labor unions, local political jurisdictions and business organizations have joined in opposing the Cadillac Tax and many now predict its ultimate demise.

SIIA's Government Relations Committee (GRC) recommended support for efforts to repeal the Cadillac Tax at its meeting prior to Congressional action and the Board of Directors concurred. "While the delay may be a welcome reprieve, the tax still lurks on the horizon," said **Jerry Castelloe**, GRC chairman. "Without repeal or major restructuring the Cadillac Tax is an unfair burden on employers working diligently to provide quality benefits to their plan members."

Bob Shupe, a member of the GRC and CEO of ESP, LLC, a health plan management company in Brentwood, Tennessee, said that the tax on some employee health plans would be a disaster for employers sponsoring self-insured plans whenever it may be implemented.

> *"Whether you agree with the ACA or not, it has to be funded and the only way to do that is through some kind of tax,"* Shupe said.

In addition to providing revenue to fund the ACA, Shupe believes the Cadillac Tax was conceived to reduce the number of self-insured plans. "It would make it so expensive and complicated that employers may throw up their hands and let the government take over."

Shupe finds a particular problem in the way the tax would be structured over a period of years. "Annual increases of the cap on allowable health benefits would be pegged to the national consumer price index (CPI) while employers would likely face continued increases in health costs which are entirely different economic indicators. For example, this year the cap would have moved up only a fraction of one percent while health costs were going up seven or eight percent. Over years, this could push many more employer plans into the tax. Instead of a Cadillac Tax it would be a Chevrolet Tax because everyone could have one."

Shupe said SIIA and others must remain vigilant about this and other elements of the ACA, particularly this year. "Some big changes are likely because of the national election, no matter how it turns out," he said.

GRC member **Ron Peck**, senior vice president and general counsel of The Phia Group of Braintree, Massachusetts, which partners with self-insured employers on their operation of health plans including subrogation and claims recovery, recalls the meeting in Austin where

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SIIA's formal support of Cadillac Tax repeal was established. "Our discussion focused on who really wanted this tax," he recalled. "It is opposed by business and employee organizations across the political and economic spectrum.

> *"But one cause of concern is that if the government doesn't get money to support the ACA through this means, it will attempt to get it through another form of taxation,* he said. *We're going to have to keep an eye on this process to make sure the next repressive tax isn't even worse."*

IRS Reporting Delays Welcomed

A good number of SIIA members relayed the news of IRS delays for reporting health coverage information to their constituent clients and colleagues after receiving SIIA's bulletin on Dec. 28, 2015, which was the first notification they received of the changes.

To recap, the 2015 IRS form 1095-C must be provided to employees and dependents covered by self-insured plans by March 31, 2016, rather than January 31; electronic filing of the 2015 Form 1094-C with the IRS for employers with 250 or more forms must be done by June 30 rather than March 31; and paper or electronic filing of the 2015 Form 1094-C (for fewer than 250 forms) must be done by May 31 rather than February 28.

Further information of these and other issues of federal legislation or regulation remain available by contacting Ryan Work in SIIA's Washington office at rwork@siia.org or (202) 595-0642.