

## ***VEHI Excise Tax Update***

***April 14, 2015***

VEHI has been fielding more questions of late about the details and projected impact of the ACA's excise tax, which is slated to begin 2018. This memorandum is an update on what we know at this time, which, regrettably, is still limited. This is because the federal government has not issued final regulations on the tax.

### **What we know about the Excise Tax's Base Amounts at this time**

1. There are two base or threshold amounts in the law – \$10,200 for self-only coverage; \$27,500 for family coverage – for **active employees**.
2. For **qualified retirees**, these thresholds are increased in 2018 by \$1,650 for self-only coverage and \$3,450 for other coverage.
3. These base amounts for both groups will not be lower in 2018, but they could be higher.
4. The base amounts will be adjusted upwards beginning in 2019 by the cost of living plus one percentage point. After that, they will increase by the cost of living, which is based on the Consumer Price Index.
5. There are five ways that the base amounts could vary in 2018 and beyond. Here are the two most relevant to Vermont schools and local unions:
  - a. The base thresholds will be higher in 2018 to the extent that health insurance premiums in 2018 increase more than expected from 2010. This is called the **“health cost adjustment percentage.”**
  - b. For any employer, the thresholds for any year can also be increased to the extent that the age and sex characteristics of the employer's workforce would lead to higher-cost coverage than coverage based on the age and sex characteristics of the national workforce. **This is called the “age and gender adjustment.”** This adjustment is potentially significant, because schools have a higher percentage of older and female workers than the national workforce. According to estimates by the National Education Association, if the age and gender adjustment were calculated based on the age and sex characteristics of all education employees around the country, the self-only threshold would increase by \$1,286 (to \$11,486) and the threshold for other coverage would increase by \$3,471 (to \$30,971). NEA's figures are only estimates, but they suggest that nationally schools could see thresholds in 2018 higher than the base amounts.

### **Who must pay the excise tax?**

The ACA refers to “coverage providers” as the prospective payers. Some interpret this to mean the entity which administers the benefits' plan must pay the tax – that would be the insurance company for a fully insured plan or a third-party administrator for a self-insured plan. Gallagher Benefits Services,

our ACA compliance partner, interprets the law to mean that the tax will ultimately be the responsibility of the employer participating in VEHI, as opposed to VEHI as a whole or any other entity. Final regulations will provide clarity on this issue.

### **Federal regulations**

The government has released two notices, one on Feb. 23 requesting comments into May on regulatory issues related to the excise tax, and Notice 2015-16 in early April. They told us, not surprisingly, that regulatory decisions in the future will have a major influence on the financial impact of the excise tax. This uncertainty makes it challenging for all parties.

### **VEHI is monitoring this issue**

VEHI is continuing to monitor this issue in collaboration with Gallagher Benefits, Inc., and the NEA. VEHI has also begun its own analysis to predict how the age and gender adjustment factor might change the current base amounts of the excise tax in 2018 for each member of the trust. When we have something reliable to share, we will do so.

For the reasons stated here and because our rates for FY 17 and FY 18 have yet to be determined, it is impossible to say conclusively which, if any, VEHI health plans will be subject to the excise tax in 2018. All are currently priced below the base thresholds in the ACA.