ACA – Beyond 2015

Health Plan Automatic Enrollment

Effective Date TBD	

Auto-enrollment requirement for employers with more than 200 full-time employees	• Compliance is not required until regulations are issued and become applicable
	  • Not effective for 1/1/2015
	  • 2016?
	• Must automatically enroll new full-time employees in employer-sponsored health plan
	• Must automatically continue health plan enrollment for current employees
	• Required notice and opt-out opportunity

Non-discrimination Rules for Insured Health Plans

Effective Date TBD	
Insured plan nondiscrimination rule	• Apply only to new and non-grandfathered insured plans – Self-insured group health plans continue to be subject to nondiscrimination rules in Code Section 105(h) • Originally to be effective for new and non-grandfathered plans for plan years beginning on or after Sept. 23, 2010, it will not apply until regulations or other guidance is issued – Not effective for 1/1/2015 – 2016? – Guidance will take effect for plan years beginning a certain period after its publication

Excise Tax on High-Cost Employer-Sponsored Health Coverage

- Beginning in 2018, 40% excise tax (non-deductible) on "high cost employer-sponsored health coverage."
  - Excise tax is calculated on each employee's/retiree's "excess benefit" (i.e., the aggregate cost of applicable employer-sponsored health coverage over the applicable thresholds).
  - Employees include former employees, surviving spouses, and other primary insured individuals.
- For 2018, thresholds set at $10,200/self-only and $27,500 "coverage other than self-only" (family).
  - Higher thresholds ($11,850/$30,950) for retirees at least age 55 and who are not Medicare eligible, and actives in plan in which majority of covered employees repair or install electrical or telecommunication lines or are engaged in specified high-risk professions.
  - For multiemployer plans, the higher threshold ($27,500) applies for self-only coverage.
  - After 2018, thresholds are indexed to CPI (for 2019 only, CPI + 1%).
  - Complex cost indexing and adjustments may increase thresholds (e.g., age and gender demographics; higher-than-expected US health cost adjustment percentage prior to 2018).

Excise Tax on High-Cost Employer-Sponsored Health Coverage (cont.)

- Aggregate cost generally determined using a methodology similar to that used for determining COBRA applicable premium (minus 2% admin. fee).
  - Cost must be calculated separately for self-only tier of coverage and "other coverage" tiers.
  - For retiree coverage, employer may elect to value benefits of pre-65 retirees together with post-65 retirees….but how?
  - Aggregate cost does not include any costs attributable to the excise tax.
- Employers must determine aggregate cost; each "coverage provider" owes the tax on its applicable share of the excess benefit (insurers and benefit administrators will likely pass the cost of this tax on to employers).
- Coverage providers are:
  - Insurers for insured coverage.
  - "The person that administers the plan benefits" for self-insured coverage.
  - Employers for employer contributions to HSA.

Excise Tax on High-Cost Employer-Sponsored Health Coverage (cont.)

What Types of Coverages Are Included/Excluded From The Excise Tax?

Include

- ☑ Employee and employer share of major medical cost/premium (e.g., PPO, HMO, HDHP, Rx)
  - Including executive medical/physical benefits and possibly international benefits
- ☑ Health FSA
- ☑ HRA
- ☑ "Employer contributions" to an HSA
- ☑ On-site primary care medical clinics
- ☑ Employee Assistance Programs w/counseling
- ☑ Medigap, TRICARE supplemental insurance, and other "similar supplemental coverage"
- ? Employee pre-tax contributions to an HSA made through a cafeteria plan
- ? Stand-alone, *self-insured* dental and vision plans*

Exclude

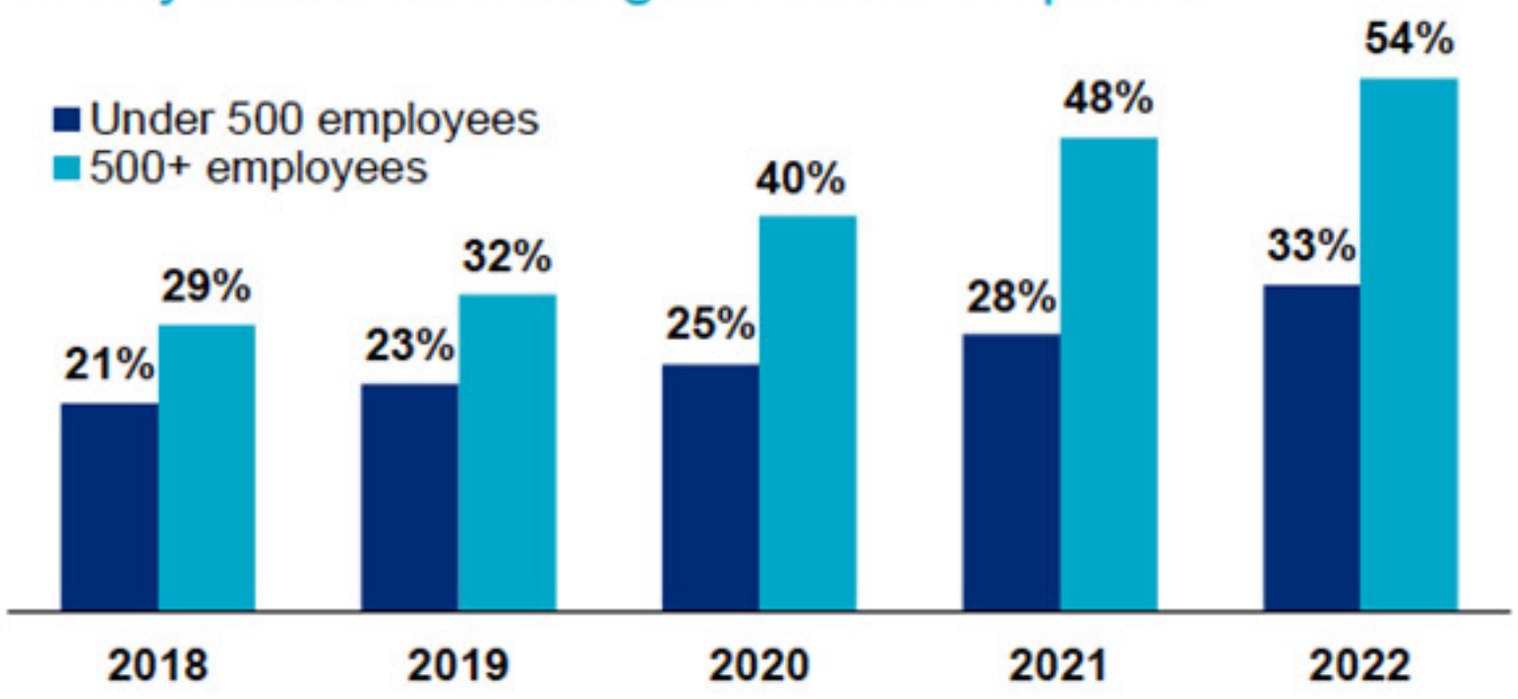
- ✘ Employee HSA contributions made on an after-tax basis
- ✘ Stand-alone, *insured* dental and vision plans
- ✘ Specified disease or illness coverage, or hospital or other fixed indemnity insurance, if employee-pay-all on an after-tax basis
- ✘ Long-term care
- ✘ Certain non-medical "excepted benefits" including:
  - Accident-only (including AD&D)
  - Disability income insurance
  - Liability insurance, including any automobile or supplemental liability insurance
  - Workers' compensation
  - Automobile medical payment insurance
  - Credit-only insurance

* Legislative language raises the possibility that *self-insured* vision and dental plans may be included.

Excise Tax on High-Cost Employer-Sponsored Health Coverage (cont.)

It's a Big Deal to Employers

Percent of employers projected to be subject to tax if they make no changes to current plans



Almost a third of employers said avoiding the tax influenced 2014 health plan decisions

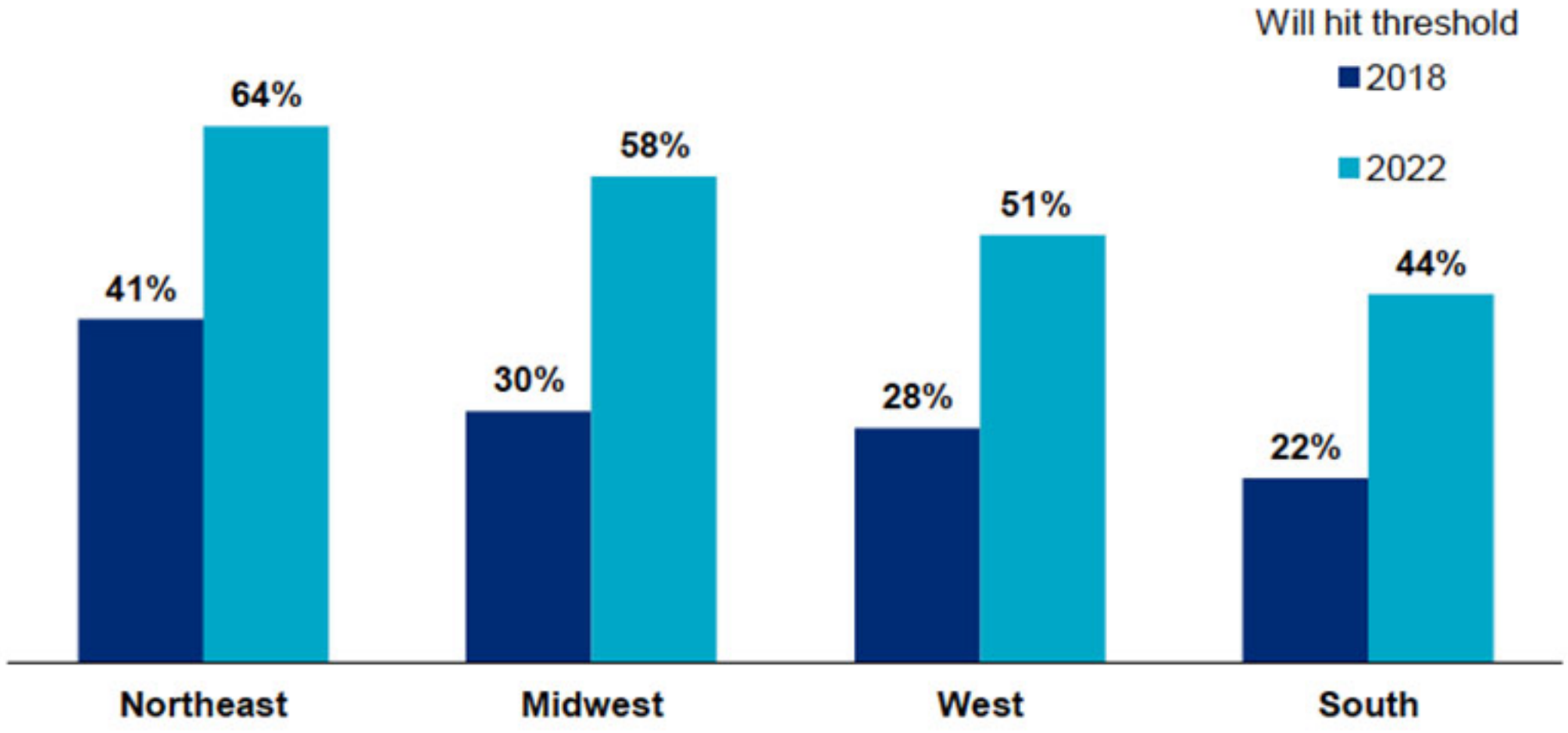
Estimates based on data from Mercer's National Survey of Employer-Sponsored Health Plans 2013; premium trended at 6%, tax threshold trended at 3% (CPI + 1%) in 2019 and 2% for future years

Source: Mercer's Survey on Health Care Reform, 2013

Excise Tax on High-Cost Employer-Sponsored Health Coverage (cont.)

Location, Location, Location

Whether you're subject to the tax depends on where you are
Percent of large employers projected to be subject to the tax…



Estimates based on data from Mercer's National Survey of Employer-Sponsored Health Plans 2013; premium trended at 6%, tax threshold trended at CPI + 1% in 2019 and CPI for future years

Excise Tax on High-Cost Employer-Sponsored Health Coverage (cont.)
Open Issues

- Will the excise tax provision be amended? Delayed? Repealed?
- When will the IRS issue guidance on the excise tax provision?
  - Zero guidance to date.
  - COBRA guidance?
- Will the thresholds be higher in 2018 due to a plan's age and gender demographics or due to higher-than-expected US "health cost adjustment percentage" as measured from 2010 to 2018?
- Will plans have flexibility in establishing (condensing?) their non-self-only tiers of coverage solely for purposes of the excise tax?
- When, how, and by who will the excise tax be paid?
- Which types of health plans, if any, will future IRS regulations exclude from the excise tax (e.g., EAPs, self-insured dental/vision, health FSAs, HSAs, etc.)?
- Will there be any special relief for non-calendar plan years?
- What type of recordkeeping and reporting will be required?