



**Association for Behavioral
Health and Wellness**

*Advancing benefits and services
in mental health, substance use
and behavior change.*

May 15, 2015

The Honorable Jacob Lew
Secretary of the U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable John Koskinen
Commissioner of the Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Notice 2015-16, Excise Tax on High Cost Employer-Sponsored Health Coverage

Dear Secretary Lew and Commissioner Koskinen:

The Association for Behavioral Health and Wellness (ABHW) appreciates this opportunity to provide comment on Notice 2015-16, Excise Tax on High Cost Employer-Sponsored Health Coverage.

ABHW is an association of the nation's leading behavioral health and wellness companies. These companies provide an array of services related to mental health, substance use, employee assistance, disease management, and other health and wellness programs to approximately 150 million people in both the public and private sectors. ABHW and its member companies use their behavioral health expertise to improve health care outcomes for individuals and families across the health care spectrum.

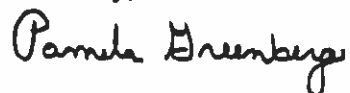
ABHW would like to comment specifically on Section III.G. of the notice, which discusses the Definition of Applicable Coverage as it relates to Employee Assistance Plans (EAPs). ABHW believes the IRS should exclude from this excise tax EAPs that qualify as excepted benefits and therefore supports your considered approach to propose that EAPs that qualify as an excepted benefit pursuant to the recently issued regulations under § 9831 would be excluded from applicable coverage for purposes of § 49801. As you note, this is important to ensure that employers are able to continue to offer certain EAPs as benefits that are supplemental to other coverage. As most excepted benefits are excluded from the tax, so too should EAPs.

It is harmful to include EAPs as part of the tax because employers may decide to reconfigure benefits as a result, and we would not want the employer to drop its EAP as a part of that reconfiguration. EAPs are a valued, no-cost benefit to employees, and ABHW does not want to see the application of this tax prevent this benefit from being provided. EAPs offer an essential opportunity to allow employees to access services related to their health and well-being, particularly, although not exclusively, in the realm of mental health and substance use issues, at a time when access to such resources is critical. The failure to treat EAPs as excepted benefits in the context of this excise tax will likely result in the reduction of availability of these benefits and a loss of access to much needed services. Additionally, in situations where high deductible health plans exist, we would not want mental health and substance use disorder benefits to become costlier for members.

Additionally, there are other services in an EAP that are not health care related, such as financial assistance, legal assistance, and elder and child care, so it is inappropriate to categorize an EAP in that way for the purposes of this tax. These services are not group health plan benefits and are sold as a service to employers.

ABHW appreciates the opportunity to comment on your request for feedback. Thank you for your consideration of this suggested change to Notice 2015-16, Excise Tax on High-Cost Employer-Sponsored Health Coverage. If you have any questions or would like to discuss any of these issues with ABHW, please contact Rebecca Murow Klein at (202) 449-7658 or klein@abhw.org.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Greenberg".

Pamela Greenberg
President and CEO, ABHW