

Benefits Buzz

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DID YOU KNOW

An employer's coverage is considered unaffordable if the employee's required contribution for self-only coverage exceeds 9.5 percent of the employee's household income.

Employers can determine affordability based on the employee's Form W-2 wages, even though his or her household may have other sources of income. Two additional safe harbors—the rate of pay safe harbor and the federal poverty level safe harbor—are now available for determining affordability.



Relief for Non-calendar Year Plans

On Jan. 2, the IRS published proposed regulations addressing numerous issues with the Affordable Care Act's (ACA's) shared responsibility requirements. These proposed regulations include a special transition rule that provides relief from penalties for non-calendar year plans, also known as fiscal year plans.

The transition relief is provided because it may be difficult for employers with fiscal year plans to comply with the ACA's shared responsibility rules on Jan. 1, 2014. Those plans would have had to make changes for the 2013 plan year, or make mid-year changes effective Jan. 1, 2014, to be compliant and avoid penalties.

The transition relief includes the following components:

- If employees who are eligible for employer-sponsored coverage under the terms of the plan in effect on Dec. 27, 2012, are offered affordable, minimum value coverage that starts no later than

the first day of the 2014 plan year, the employer will not be assessed a shared responsibility penalty for any of those employees before the 2014 plan year begins.

- If an employer has at least one quarter of its employees covered under a fiscal year plan (or if the employer offered coverage under the plan to at least one third of its employees during the most recent open enrollment period, before Dec. 27, 2012), the employer will not be subject to shared responsibility payments for any of its full-time employees until the first day of the 2014 plan year, provided that those employees are offered affordable, minimum value coverage no later than the first day of that plan year.

Although these regulations are proposed and not final, employers can rely on them until final guidance is issued.

Updated “Pay or Play” Rules and Penalties

The newly proposed regulations state that a large employer is liable for a “pay or play” penalty if:

- The employer does not offer health coverage or offers coverage to less than 95 percent of its full-time employees (and dependent children), and at least one full-time employee receives a premium tax credit to help pay for coverage through an Exchange, or
- The employer offers health coverage to at least 95 percent of its full-time employees (and dependent children), but at least one full-time employee receives a premium tax credit to help pay for coverage through an Exchange (because coverage was not offered, is not of minimum value or is unaffordable).