

WS&Co. Briefing

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IRS Decreases ACA “Affordability” Percentage

The IRS issued guidance in Revenue Procedure 2017-36 that decreases the percentage from 9.69% to 9.56% for purposes of determining the affordability of employer-sponsored group health coverage in 2018. This percentage affects which applicable large employers may face potential penalties under §4980H(b) for failure to provide affordable coverage, and which individuals may qualify for subsidized coverage through a public Exchange (Marketplace).

Background

Under §4980H employer-shared responsibility rules, the employer must offer coverage that is affordable to avoid potential §4980H(b) penalties. In addition, individuals enrolling for coverage through a public Exchange will not qualify for subsidized coverage if they are eligible for employer-sponsored group health coverage that is affordable.

Coverage is “affordable” if the employee contribution for employee-only (single) coverage does not exceed the required contribution percentage (9.56% in 2018) of household income. *Note – Coverage is considered affordable for dependents as well, regardless of the contribution amount, so long as the employee-only (single) coverage is affordable.*

Required Contribution Percentage

Originally, for 2014, the required contribution percentage for determining affordability was set at 9.5%. The percentage

is adjusted annually to reflect the excess of the rate of premium growth for the preceding calendar year over the rate of income growth for the preceding calendar year.

In each of the last three years, the percentage increased (9.56% in 2015, 9.66% in 2016, 9.69% in 2017). For the first time, the percentage is decreasing (back down to 9.56%) in 2018.

Application

Effective for plan years beginning on or after January 1, 2018, the percentage to be used in affordability calculations is 9.56%. This is true regardless of whether the affordability is determined based on household income or using one of the three affordability safe harbors (i.e., FPL, rate of pay, or Form W-2). This percentage is also used to determine whether an employer made a “qualifying offer” for employer reporting purposes on Forms 1094-C and 1095-C. Use of the same percentage for all affordability determinations was clarified in Notice 2015-87.

The small decrease in the affordability percentage (from 9.69% in 2017 to 9.56% for 2018) will make very little difference in which employer plans are considered affordable for most individuals. However, for those employers who closely tie employee contributions to the affordability percentage (e.g., currently setting employee contributions right at 9.69% of wages) or have many

employees right on the affordability threshold, it may be necessary to take this decrease into consideration when determining employee contributions toward medical coverage for the 2018 plan year.

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