

Employee Benefit Plans Alert

Affordable Care Act of 2010: Compliance Matters

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We have prepared this newsletter to update our readers on forthcoming compliance matters with respect to the Affordable Care Act (ACA) of 2010, as well as inform them of certain increased penalties relative to ACA.

IRS Releases Draft Version of Revised ACA Tax Forms: 1094-C/1095-C

In July, the Internal Revenue Service released a draft version of the Forms 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and 1095-C, Employer-Provided Health Insurance Offer and Coverage. These tax filings became mandatory for applicable employers beginning with the 2015 tax year. The reporting requirements are a provision of the Affordable Care Act (ACA) signed by President Barack Obama in 2010.

The Form 1094-C remains unchanged from last year. The Form 1095-C, however, will see some significant changes, including the addition of several new codes on Line 14 (codes 1L through 1S). The new codes are a result of Executive Order 13813, signed by President Trump in August 2019 that became effective for self-insured health plans in January 2020. Pursuant to the Order, the U.S. Departments of Treasury, Labor and Health and Human Services issued a final rule that allows employers to use individual coverage health reimbursement accounts (ICHRA) to reimburse employees for the cost of health insurance coverage purchased through the health insurance exchanges created after passage of the ACA.

Another change to the Form 1095-C is the addition of a new line item 17 to provide zip code information for employees who were offered coverage through an ICHRA. Either the employee's home zip code or the zip code of the employer will be entered here, based on which location the affordability of coverage was determined.

Increased Penalties: Employer Shared ACA Provisions

In other ACA news, the IRS is increasing certain penalties applicable to the employer shared responsibility provisions of the ACA, effective for the 2021 calendar year. The annual per-employee penalties under Code §4980H, which may apply when an applicable large employer (ALE) fails to offer minimum essential coverage to at least 95% of its full-time employees, will increase to \$2,700 (up from \$2,570 for 2020). A second penalty, which may apply when an ALE offers minimum essential coverage to the required percentage of full-time employees but the offered coverage either is unaffordable or does not provide minimum value, will increase to \$4,060 (up from \$3,860 for 2020).

IRS Announces 2021 ACA Affordability Indexed Amount

The IRS has released Revenue Procedure 2020-36, announcing that the indexed affordability amount or required contribution percentage under the Employer Shared Responsibility Payment (ESRP) requirements will be **9.83%** for plan years beginning in 2021, up from 9.78% for plan years beginning in 2020. What this means for employers is that they will not be assessed penalties with respect to a full-time employee (FTE) if that employee's required contribution for 2021 for the employer's lowest cost self-only coverage does not exceed 9.83% of at least one of the following safe harbors:

1. The employee's 2020 Box 1 W-2 wages.
2. The employee's computed monthly wages. (For hourly employees, monthly wages are equal to 130 hours multiplied by their rate of pay. For salaried employees, monthly wages are equal to their monthly salary.)
3. The Federal Poverty Level. For this safe harbor, the employee's monthly health coverage contribution cannot be more than \$104.53. If the employee lives in Alaska or Hawaii, the monthly cost cannot be more than \$130.66 or \$120.25, respectively.

Contact Us

The Employee Benefit Services Group at PKF O'Connor Davies is available to assist employers with the preparation and filing of the ACA tax forms, as well as responding to any IRS penalty notices for noncompliance. We also provide a full spectrum of compliance services for qualified and non-qualified benefit plans. For more information, please email Tim Desmond at tdesmond@pkfod.com or Louis F. LiBrandi at lilibrandi@pkfod.com.

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