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NFP Potomac Basin Group

HR News Alert

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September 2014 Issue

ACA Required Contribution Percentages Increased for 2015

The Internal Revenue Service (IRS) has increased required contribution percentages for 2015 that are used to determine whether individuals are eligible for a premium tax credit (which would trigger penalties under the Affordable Care Act's employer shared responsibility or "pay or play" provisions), and whether individuals are eligible for an affordability exemption from the individual shared responsibility provisions (the "individual mandate").

Individual Mandate Affordability Exemption

The individual mandate requires every individual to have minimum essential health coverage for each month, qualify for an exemption, or make a payment when filing his or her federal income tax return. One such exemption applies when the individual cannot afford coverage because the minimum amount he or she must pay for the premiums is more than 8% of the individual's household income. **This percentage is increased to 8.05% for plan years beginning in 2015.**

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Premium Tax Credit Eligibility

An individual may be eligible for a premium tax credit to purchase health coverage through the Health Insurance Marketplace (also known as an Exchange) if, among other things, he or she is not able to get affordable coverage through an eligible employer plan that provides minimum value. For this purpose, an employer-sponsored plan is affordable if the portion of the annual premium an employee must pay for self-only coverage does not exceed 9.5% of his or her household income. **This percentage is increased to 9.56% for plan years beginning in 2015.**

Pay or Play Penalties

References to 9.5% in the pay or play regulations regarding penalties for failing to offer health coverage and use of the affordability safe harbors **have not been updated**; however, employers subject to pay or play

will not be liable for a penalty under these regulations unless a full-time employee receives a premium tax credit (as stated above, 9.56% will be used to determine eligibility for the tax credit). **Employers intending to take advantage of one or more of the three affordability safe harbors should consult a knowledgeable benefits attorney or tax specialist for specific guidance on how to proceed.**

You may read the IRS guidance in its entirety for more information.

Visit our Health Care Reform section to stay on top of the latest Affordable Care Act updates.

IRS Responds to Conflicting Court Rulings Regarding ACA Tax Credits

The Internal Revenue Service (IRS) has released guidance for individuals receiving advance payments of the health insurance premium tax credit enacted by the Affordable Care Act. The information responds to conflicting federal appeals court opinions regarding the legality of such credits in federally-facilitated Health Insurance Exchanges (Marketplaces).

Conflicting Rulings

The District of Columbia Circuit Court of Appeals and the Fourth Circuit Court of Appeals reached conflicting outcomes after considering whether the premium tax credits are limited only to individuals who enroll in qualified health plans through state-based Health Insurance Exchanges. The DC Circuit ruled that the tax credits are limited to individuals who enroll in state-based Exchanges, while the Fourth Circuit upheld IRS rules that also include individuals enrolled in federally-facilitated Exchanges. **A final resolution of the issue has not yet been reached.**

IRS: Nothing Has Changed

According to the IRS, at this time, **nothing has changed regarding the tax credits and the credits remain available**. Whether enrolled in coverage through a federally-facilitated or state-based Health Insurance Exchange, individuals do not need to take any additional action or make any changes in response to the court rulings.

The IRS will provide any updates regarding this matter on IRS.gov/aca.

Visit our Premium Tax Credit for Individuals section for additional information.

Proposed Rule Requires Certain Federal Contractors to Submit Equal Pay Report

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has issued a proposed rule to require certain federal contractors and subcontractors with more than 100 employees to submit an annual Equal Pay Report.

The proposed rule generally requires covered entities to electronically submit the following information:

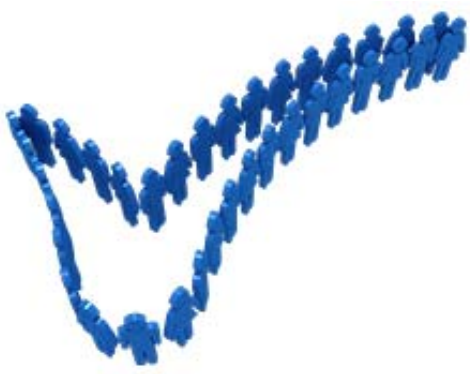
- The total number of workers within a specific EEO-1 job category by race, ethnicity and sex;
- Total W-2 wages, defined as the total individual W-2 wages for all workers in the job category by race, ethnicity and sex; and
- Total hours worked, defined as the number of hours worked by all employees in the job category by race, ethnicity and sex.

OFCCP is proposing a reporting window of January 1 to March 31st. The data in this report would be based on W-2 earnings for the prior calendar year for all employees included in the contractor's EEO-1 report for that year. Subject to certain hardship exemptions, each contractor would be required to submit the Equal Pay Report electronically through a web-based filing system.

You may click here to read the proposed rule in its entirety. FAQs are also available.

Our Compliance Assistance for Federal Contractors page features the latest news updates affecting federal contractors and subcontractors.

Social Security Requirements for Employee Name Changes



It is critical for each employee's name and Social Security Number (SSN)--as shown on his or her Social Security card--to match employers' payroll records and year-end Forms W-2, as the earnings information from the Form W-2 is the basis for determining an employee's future eligibility and benefit amount for certain Social Security programs. But what should employers and employees do when an employee changes his or her name?

Employers

If an employee legally changes his or her name because of marriage, divorce, court order or any other reason, **employers should continue to use the old name and tell the employee to contact Social Security to obtain an updated card**. Employers should change their payroll records **only after** the employee obtains an updated Social Security card with the new name. Using a new name before the employee updates Social Security's records may prevent the posting of earnings to

the employee's earnings history.

Employers can use Social Security's free Social Security Number Verification Service (SSNVS) to match employees' names and SSNs at the time they are hired, or before the employer prepares and submits employees' Forms W-2.

Employees
Employees must take the following three steps in order to obtain a corrected Social Security card:

1. Show the required documents, including proof of identity. See Learn What Documents You Need for more information. (Under the heading "Type of Card," select "Corrected" for a list of the documents needed);
2. Fill out and print an *Application for a Social Security Card*; and
3. Take or mail the application and documents to a local Social Security office.

An employee cannot apply for a card online. There is no charge for a Social Security card--this service is free. For complete instructions, please click here.

Our section on Social Security features helpful information regarding benefits and other issues.

Proposed Rules to Expand ACA's Contraceptive Mandate Accommodation

Federal agencies have proposed rules soliciting comments on how to extend--to certain closely held for-profit entities--the same accommodation to the Affordable Care Act's (ACA) "contraceptive mandate" that is currently available to non-profit religious organizations. The contraceptive mandate generally requires non-grandfathered group health plans to provide coverage for contraceptive services without cost-sharing.

Guidance Issued in Response to Supreme Court Case
The rules come as a response to the June 2014 U.S. Supreme Court decision, which held that the contraceptive mandate violates the Religious Freedom Restoration Act as applied to closely held for-profit corporations with sincerely held religious beliefs against certain contraceptives.

Two Alternative Approaches Proposed
The proposed rules describe two alternative approaches for defining closely held for-profit entities:

- Under one approach, the entity could not be publicly traded, and ownership of the entity would be limited to a certain number of owners.
- Under an alternative approach, the entity could not be publicly traded, and a minimum percentage of ownership would be concentrated among a certain number of owners.

Under the proposal, these entities would not have to contract, arrange, pay or refer for contraceptive coverage to which they object on religious grounds. The rules solicit public comment on, among other

things, how to define a qualifying entity.

Additional Notification Option for Non-Profit Religious Organizations
Interim final rules were also released, which establish another option for certain non-profit religious organizations to avail themselves of the accommodation to the contraceptive mandate. The interim final rules are effective as of August 27, 2014.

A Fact Sheet, which includes information on the contraceptive mandate, the proposed rules, and the interim final rules, is also available.

Be sure to visit our section on Preventive Services for additional information.

Newsletter provided by:

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