
IRS Issues Transitional Relief for Certain Employers Sponsoring Employer Payment Plans

By Kristi R. Gauthier / Feb 23, 2015

An "employer payment plan" occurs when an employer reimburses an employee's premiums for non-employer sponsored medical coverage, or directly pays the insurance carrier for such coverage, and such payments are excluded from the employee's gross income under Internal Revenue Code ("Code") section 106. Previous IRS guidance made it clear that employer payment plans do not comply with the market reform provisions of the Affordable Care Act ("ACA") and employers sponsoring such plans would be subject to excise taxes under Code section 4980D beginning in 2014.

Realizing that employers may need additional time to obtain group health coverage or adopt a suitable alternative to an existing employer payment plan, the IRS recently issued IRS Notice 2015-17 providing that excise taxes will not be assessed on employer payment plans sponsored by small employers (e.g. employers with less than 50 full-time and/or full-time equivalent employees) for the period of January 1, 2014 through June 30, 2015. After June 30, 2015, such employers are liable for the excise tax. This relief does not extend to stand-alone HRAs or other reimbursement arrangements used to reimburse employees for medical expenses other than insurance premiums.

The Notice also provides the following:

- Premium reimbursements for S Corporation owner-employees will not be subject to the excise taxes pending further guidance.
- Employers may increase the compensation of employees to assist in the purchase of individual health insurance **so long as the employer does not condition the compensation on obtaining health insurance and the employer does not otherwise endorse a particular policy or insurer.**
- Employers that reimburse Medicare premiums for its active employees may be able to comply with ACA market reform provisions if such arrangement is properly integrated with another group health plan offered by the employer.

You can obtain a copy of the Notice [here](#).

Employers sponsoring employer payment plans should work closely with their legal counsel to fully understand the impact of the ACA on these types of arrangements. If you have any questions about the subject matter of this e-alert please contact Ed Hammond at ehammond@clarkhill.com | (248) 988-1821; Kristi Gauthier at kgauthier@clarkhill.com | (480) 684-1300; Nancy Farnam at nfarnam@clarkhill.com | (248) 530-6333; or Doug Ellis at dellis@clarkhill.com | (412) 394-2367.