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IRS ISSUES INFLATIONARY ADJUSTMENTS TO THE INDIVIDUAL MANDATE PENALTY FOR 2017

In August of 2017, the Internal Revenue Service released Revenue Procedure 2017-48, which increased the national average premium for a bronze plan offered in the public Marketplace/Exchange. Under the Individual Shared Responsibility Payment rules (i.e., Individual Mandate), an individual (or family) that fails to have Minimum Essential Coverage (MEC) would be subject to a penalty. In 2017, that penalty is either the greater of:

- $695 per adult and $347.50 per child, per year, in the tax household (up to a flat dollar amount of $2,085 for the entire household); or
- 2.5% of a family's income in excess of the 2016 income tax filing thresholds

However, the above penalties are limited to the national average premium cost for a bronze plan. As a reminder, the national average premium cost for a bronze plan is the **maximum amount** an individual may be penalized for failing to have MEC under the Individual Mandate.

The adjustments to the 2017 national average premium cost for a bronze plan (and therefore the maximum penalty an individual could be exposed to) are the following:

- An adjusted cost of $272 per month (increased from $223 in 2016), per individual ($3,264 annually); and
- An adjusted cost of $1,360 (increased from $1,115 in 2016) per month, for a family of five (5) or more members ($16,320 annually)

Individuals who may be subject to the Individual Mandate should be aware of these new increased thresholds for potential penalty payments to the IRS for failing to have Minimum Essential Coverage.

No Action Required

Employers should be aware that employees may be exposed to greater penalties for failing to be enrolled in Minimum Essential Coverage, in 2017.

For the complete details, see IRS Revenue Procedure 2017-48:

https://www.irs.gov/pub/irs-drop/rp-17-48.pdf

MASSACHUSETTS GOVERNOR SIGNS BILL INCREASING EMPLOYER MEDICAL ASSISTANCE CONTRIBUTIONS

In August of 2017, the Governor of Massachusetts, Charlie Baker, signed into law a new $200 million health care assessment that affects Massachusetts' employers. The $200 million dollar assessment is to be funded through two mechanisms; (1) an increase to the Employer Medical Assistance Contributions (EMAC) that employers currently make, and (2) employer contributions to the State for workers who are enrolled in MassHealth (i.e., Massachusetts Medicaid program). These changes are set begin on January 1, 2018. Highlights of the legislation are contained below.

Increase in EMAC and Fee for Workers on MassHealth

Employers in Massachusetts with six (6) or more employees have been paying the EMAC since 2014. The new Bill increases (for the next two years) the previous statutory contribution of .34% of an employee's wages (up to $15,000), to .51% of wages (up to $15,000). An employer could be assessed up to an additional $750 for any non-disabled employees who receive health coverage through MassHealth or the MA Health Connector (i.e., the Massachusetts Marketplace/Exchange).

Slowing of Rate Increases for Unemployment Compensation

The Bill also slows down the rate of increase for employer contributions toward unemployment insurance, which may help to reduce the overall impact on employers from the increased EMAC.

Action Required

Employers with six (6) or more employees should ensure that they implement the increased EMAC by January 1, 2018.

For the Bill, see: https://malegislature.gov/Bills/190/H3822/BillHistory

QUESTION OF THE MONTH

What Happens to Employees' HSAs If They Drop or Lose Their HDHP Coverage?

QUESTION: Our company is planning to add a high-deductible health plan (HDHP) option. The company would make HSA contributions for employees who choose the HDHP and establish HSAs. What will happen to those HSAs if employees later lose their HSA eligibility, for example, because they switch to our non-HDHP option or to non-HDHP coverage under a spouse's plan?

ANSWER: Employees who establish HSAs always have a nonforfeitable right to their HSA account balances, including their own contributions and any contributions made on their behalf by employers or family members. So, if your employees cease to be HSA-eligible because they drop or lose their HDHP coverage, their existing HSA balances will be unaffected: Earnings on those balances will continue to accrue on a tax-free basis, and distributions to pay or reimburse qualified medical expenses will continue to be tax-free. HSA distributions made for other reasons will remain taxable and may be subject to a 20% excise tax.

The primary consequence of losing HSA eligibility is its effect on HSA contributions. The annual limit on HSA contributions is based on the account holder's months of actual or deemed HSA eligibility. An individual who is not HSA-eligible for a taxable year cannot exclude any employer contributions from income and cannot deduct any other contributions for that year. An individual who ceases to be HSA-eligible midyear may make or receive contributions only for months of eligibility. If an employee's HSA has not already received the maximum contribution for those months when HSA eligibility ends, additional contributions could be made up to the applicable limit, provided that those contributions are made no later than the federal tax return deadline (without extensions) for the year of partial eligibility. Contributions in excess of the maximum or made after the deadline are considered excess contributions that are neither excludable nor deductible. Excess contributions also may be subject to a 6% excise tax if they are not timely withdrawn.

One other potential consequence of losing HSA eligibility is that certain special tax rules that are contingent on maintaining HSA eligibility for a 13-month "testing period" will not be available. The testing period requirement applies to employees who use the "full-contribution rule" (which can increase the contribution limit for individuals who become HSA-eligible or switch to family HDHP coverage midyear, by allowing the annual contribution to be determined by the coverage in effect on December 1). It also applies to employees who make qualified HSA funding distributions (rollovers from an IRA to an HSA). If HSA eligibility is lost before the applicable testing period ends, funds that were contributed or rolled over to the individual's HSA will become taxable and may also be subject to a 10% additional tax.

Source: EBIA

CONTACTS

Christopher K. Bao, Esq.
Manager, Employee Benefits Compliance
& Regulatory Affairs, MMA West
Chris.Bao@MarshMMA.com
+1 415 230 7224

Brittany D. Botterill, Esq.
Manager, Employee Benefits Compliance
& Regulatory Affairs, MMA West
Brittany.Botterill@MarshMMA.com
+1 858 587 7511