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ACA Affordability Test Will Be More Difficult to Pass in 2024

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As employers are preparing for 2024 open enrollment, they should be aware that the Affordable Care Act (ACA) affordability safe harbors are going **DOWN** for 2024. The IRS has just released Revenue Procedure 2023-29, which provides that the ACA affordability threshold is decreased to 8.39 percent for 2024 from 9.12 percent for 2023. This change will most likely lower the amount of premiums an employee can be required to pay so employers avoid the possibility of a penalty.

The ACA provides that those applicable large employers (those averaging 50+ full-time equivalent employees in the prior year) must offer each full-time employee the opportunity to enroll in minimum essential coverage that satisfies a "minimum value" standard and is "affordable," or otherwise, the employers are exposed to penalties.

The ACA affordability is based on the lowest cost, self-only coverage option under a health plan. This requires analyzing the employee's required contribution to make sure it does not exceed a prescribed amount.

Under the ACA statute, the percentage is based on of the employee's household income (initially set at 9.5 percent in 2014, adjusted for inflation). The percentage for 2024 is 8.39 percent. In response to employers' concerns about having to obtain the household income of their employees, the IRS provided three safe harbors that are much more administratively workable for employers. These three safe harbors are based on the employee's share of the premium for the lowest cost and self-only coverage that provides minimum value, as follows:

1. **W-2 Safe Harbor.** An employer meets this safe harbor if the employee's share of the premium does not exceed the annual IRS-specified percentage of the employee's Form W-2 wages from the employer for the calendar year.
2. **Rate of Pay Safe Harbor.** Coverage will be deemed affordable if the employee's share of the premium is equal to or less than the IRS-specified percentage of monthly wages. For hourly employees, monthly wages are determined by multiplying the employee's hourly rate times 130. For salaried employees, the employee's monthly salary is used.
3. **Federal Poverty Line Safe Harbor.** An employer satisfies this safe harbor if the employee's share does not exceed the IRS-specified percentage of the federal poverty line (FPL) for a single individual for the year. For 2024, the employee's share cannot exceed 8.39 percent of the FPL for a particular area – \$14,580 for the mainland U.S. That comes out to \$101.94 per month, down from \$103.28 in 2023.

Penalties

If an applicable large employer fails to offer affordable coverage for one or more full-time employees, then the employer is subject to the Employer Shared Responsibility Payment for each full-time employee for which coverage is not affordable and the employee obtains subsidized marketplace coverage. Like the affordability threshold, this penalty amount is indexed for inflation. The initial penalty amount of \$3,000 (in 2015) is now \$4,460 for 2024 (note that while the penalty is stated as an annual amount, it is determined on a monthly basis).

Should questions or concerns arise about the ACA Affordability Test or employer payments, please contact [Andrea Powers](#), [Carl Hartley](#), or any member of our [Labor & Employment](#) team or [Tax](#) team.