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DON'T BE CONFUSED – 9.56% MAY STILL JUST BE 9.5% FOR YOU

Feb 13, 2015

In prior posts, we have described how coverage has to be “affordable” to avoid the **ACA** play or pay penalty. We’ve usually used the shorthand that the premium must be no more than 9.5% of an employee’s household income. However, that 9.5% is subject to periodic adjustments designed to approximate the difference between the growth in insurance premium costs and income. For 2015, that percentage has been **adjusted to 9.56%**.

However, there’s a catch here: the percentage applies to actual *household* income, which is something an employer is very unlikely to know. Recognizing this, the IRS has provided some safe harbors based on information more readily available to an employer. Those are the W-2, rate of pay, and Federal Poverty Line safe harbors. Without describing all the details, the general rule is that if the premium for an employer’s coverage is less than 9.5% of the employee’s W-2 income, rate of pay, or the Federal Poverty Line, it will be deemed to be affordable.

Here’s the subtle point: that 9.5% for the safe harbors is *not* adjusted. So even though “pure” affordability is increasing, the safe harbors do not. For now, the difference is a modest .06% of household income, but it will only grow in future years, unless the IRS revises the rules. Further, since all of the safe harbors are, in cases of two-earner families, almost assuredly going to be less than an employee’s household income, that makes the distinction between “pure” affordability and the safe harbors potentially even greater.

So if someone suggests to you that the safe harbor percentage is higher, you better double-check (or have someone double-check) the regulations to see if they have been revised. If they haven’t, then for you, 9.56% is still just 9.5%.