IMPORTANT ACA DOLLAR AMOUNTS

This chart illustrates the Affordable Care Act's (ACA) indexed dollar limits for 2019 and prior years. Also included is a brief recap of how the ACA's Pay or Play penalties work, along with a discussion of how they've been adjusted in recent years. Notably, in 2019, the affordability contribution percentage under the Pay or Play rules will increase to 9.86% (from 9.56% in 2018).

ACA Indexed Dollar Amounts

Out-of-Pocket Maximums (A,E)						Pay or Play Annual Penalty Amounts (A,D,F,G,H)		
	Self-Only Coverage	Other Than Self-Only Coverage	PCORI Fee (B,E)	Transitional Reinsurance Fee (F)	Health FSA Salary Reduction Cap (C,E)	4980H(a) – Failure to Offer Coverage	4980H(b) – Failure to Offer Affordable, Minimum Value Coverage	Affordability Threshold Under 4980H(b)
2019	$7,900	$15,800	N/A	N/A	$2,700	$2,500	$3,750	9.89%
2018	$7,350	$14,700	$2.45	N/A	$2,650	$2,320	$3,480	9.56%
2017	$7,150	$14,300	$2.39	N/A	$2,600	$2,260	$3,390	9.69%
2016	$6,850	$13,700	$2.26	$27	$2,550	$2,160	$3,240	9.66%
2015	$6,600	$13,200	$2.17	$44	$2,550	$2,080	$3,120	9.56%
2014	$6,350	$12,700	$2.08	$63	$2,500	$2,000	$3,000	9.50%
2013	N/A	N/A	$2.00	N/A	$2,500	N/A	N/A	N/A
2012	N/A	N/A	$1.00	N/A	N/A	N/A	N/A	N/A

Notes from Chart

(A) Indexed to increase with the average per capita premium for U.S. health insurance coverage in the prior calendar year. The ACA out-of-pocket maximum does not apply to grandfathered or retiree-only health plans.

(B) Indexed to increase with national health expenditures.

(C) Indexed for the Consumer Price Index for All Urban Consumers (CPI-U).

(D) One-twelfth of annual amount assessed on a monthly basis. While penalty amounts were calculated for 2014, they were not assessed against employers.

(E) Applicable dollar amount affected by when plan year ends.

(F) Applies on a calendar year basis.

(G) 2019 amounts have not been released. The estimate is based on the increase in average per capita premium for U.S. health insurance coverage as determined by HHS.

(H) The affordability threshold is adjusted consistent with Code § 36B(b)(3)(A)(i).

N/A – Not applicable because the dollar amount, fee or % did not apply to the year at issue.

N/R – Not released yet.

(Est.) – Estimated.

Recap of the Pay or Play Penalties

Applicable large employers (ALEs), defined as employers with 50 or more full-time or full-time equivalent employees (working 30 or more hours a week or 130 hours a month), on business days during the preceding calendar year, are potentially subject to one of two nondeductible tax penalties under the Employer Shared Responsibility provisions of the ACA (commonly referred to as the "Pay or Play" provisions).

The Large Penalty—4980H(a)

The larger of the two Pay or Play tax penalties, under Code 4980H(a), commonly referred to as "the Large Penalty," applies if an ALE fails to offer minimum essential coverage (MEC) to at least 95% of its full-time employees and their dependent children, and at least one of the ALE's full-time employees receives a premium tax credit on an Exchange. If at least one employee receives the premium tax credit, then the total penalty amount assessed against the employer is determined by multiplying the penalty dollar amount (or $1,933.33/month in 2018) by the whole population of full-time employees (minus the first 30).

The Small Penalty—4980H(b)

The smaller of the two Pay or Play tax penalties, under Code § 4980H(b), commonly referred to as "the (b) Penalty," applies if an ALE offers MEC to at least 95% of its full-time employees and their dependent children, but a full-time employee receives a premium tax credit on an Exchange because: (i) the coverage offered is unaffordable; (ii) the coverage offered does not provide minimum value (MV); or (iii) the employee was not offered coverage from the employer. This penalty is assessed against the employer on a per-employee basis, that is, the penalty dollar amount (or $2,900.oo/month in 2018) is multiplied by each employee who received a premium tax credit on an Exchange, and not by the whole population of full-time employees.

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IMPORTANT ACA DOLLAR AMOUNTS

Recap of the Pay or Play Rules Regarding "Affordability"

In order to be deemed affordable, Code § 36B requires that the cost of coverage cannot exceed 9.5% of the employee's annual household income, with this percentage subject to annual adjustment beginning in 2015 and for later years. If an individual receives coverage from his employer that is MEC, meets the MV standard, and that is affordable under this standard, the individual is ineligible for a premium tax credit. In 2016, this affordability threshold was 9.66%, in 2017, it was 9.69%, in 2018 it was 9.56%, and in 2019 it is 9.86%

The IRS, recognizing that employers would not generally know an employee's household income, created three affordability safe harbors that allow an employer to avoid a penalty even if the coverage was considered unaffordable under Code § 36B. These safe harbors provide that coverage will be considered affordable for purposes of the Pay or Play penalties if the required employee contribution for the lowest-cost self-only level of coverage does not exceed 9.5% as indexed (9.69% in 2017; 9.56% in 2018) of one of the following: (i) the employee's wages for the calendar year as reported on the W-2 (W-2 Safe Harbor); (ii) an amount equal to 130 hours multiplied by the lower of an employee's hourly rate of pay as of the first day of the coverage period or lowest rate of pay during the calendar month (Rate of Pay Safe Harbor); or (iii) an amount equal to the federal poverty line (FPL) for a single individual, divided by 12 (the FPL Safe Harbor). Under the FPL Safe Harbor, employers can use the FPL that is in effect 6 months prior to the start of the plan year to allow for time to establish premium amounts in advance of open enrollment.

The FPL safe harbor is often the simplest to use as it is a fixed dollar amount and works well for employers with a large number of employees. The W-2 safe harbor allows an employer to estimate affordability with precision based on an employee's prior year's W-2 wages (as reported in Box 1 of the W-2), but may not be practical, for example, in a workforce where most of the employees' compensation is commission-based. The rate of pay safe harbor seems to work best for employers who have a significant number of hourly employees.

ALEs that are using the FPL Safe Harbor will benefit from an increase in the FPL in 2018. Specifically, the FPL increased from $11,880 in 2017 to $12,060 in 2018 and to $12,140 in 2019. When completing the calculation for this safe harbor, the new percentage allowed for a higher employee contribution in 2018. Specifically, the maximum monthly employee contribution that can be required under the FPL Safe Harbor, and that will still be considered "affordable," increased from $95.93 in 2017 to $96.08 in 2018 (9.56% x $12,060/12) and $99.75 (9.86% x 12140/12).

Note: The information in this publication is subject to change due to the ongoing release of laws and regulations. This information provides only general guidance and not all rules and requirements are reflected. Corporate Synergies is not a law firm, and

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