

## EMPLOYEE BENEFITS

## Affordability Alert

### Indexed Contribution Percentage for an Employer's Plan Under the ACA

August 2022

On August 2, 2022, the IRS issued [Revenue Procedure 2022-34](#), which announces the indexed contribution percentage applicable in 2023 for determining the affordability of an employer's plan under the Affordable Care Act (ACA).

For plan years beginning in 2023, employer-sponsored coverage will be considered affordable for purposes of the employer shared responsibility penalties if the employee's required contribution for self-only coverage under the lowest cost option that provides minimum value does not exceed:

- 9.12% of the employee's household income for the year—this is a significant decrease from 9.61% in 2022.

The updated affordability percentages are effective for taxable and plan years beginning January 1, 2023.

Because employers will not know each employee's household income to determine whether the offer of coverage is affordable, optional safe harbors may be adopted. The applicable safe harbors include:

- **The W-2 safe harbor:** Under this safe harbor, the offer is affordable if the employee's contribution for the lowest-cost employee-only coverage option does not exceed the applicable percentage of the employee's Box 1 W-2 earnings.
- **The rate of pay safe harbor:** This applies the percentage to the employee's base hourly rate of pay at 130 hours in a month.

- **The federal poverty level (FPL) safe harbor:** This applies the percentage to the applicable federal poverty line.
  - » For plan years beginning between July 1, 2022, and December 31, 2022, an employer-sponsored medical plan is considered affordable under the FPL safe harbor if an employee residing within the contiguous U.S. contributes no more than \$108.83 per month ( $\$13,590 \div 12 \times 9.61\% = \$108.83$ ) towards the lowest cost medical plan option.

*Note: A different calculation applies with respect to employees residing in Alaska or Hawaii.*

- » For plan years beginning on or after January 1, 2023, an employer-sponsored medical plan is considered affordable under the FPL safe harbor if an employee residing within the contiguous U.S. contributes no more than \$103.28 per month ( $\$13,590 \div 12 \times 9.12\% = \$103.28$ ) towards the lowest cost medical plan option.

*Note: A different calculation applies with respect to employees residing in Alaska or Hawaii.*



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