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The IRS recently announced in Revenue Procedure 2023-29 that the Affordable Care Act (“ACA”) affordability indexed amount under the Employer Shared Responsibility Payment (“ESRP”) requirements will be 8.39% for plan years that begin in 2024. This is a significant decrease from the 2023 percentage amount (9.12%), and again below the original 9.5% threshold. It will be important to evaluate contribution tiers for 2024 plan years for affordability because of this decrease in the required contribution percentage.

## Background

Rev. Proc. 2023-29 establishes the indexed “required contribution percentage” used to determine whether an individual is eligible for “affordable” employer-sponsored health coverage under Section 36B (related to qualification for premium tax credits when buying ACA Marketplace coverage). However, the IRS explained in IRS Notice 2015-87 that a percentage change under Section 36B will correspond to a similar change for affordability under section 4980H ESRP requirements.

## Determining Affordability in 2024

An employer will not be subject to a penalty with respect to an ACA full-time employee (“FTE”) if that employee’s required contribution for 2024 meets one of the following safe harbors.

- 1. The W-2 safe harbor.** The employee’s monthly contribution amount for the self-only premium of the employer’s lowest cost coverage that provides minimum value is affordable if it is equal to or lower than **8.39% of the employee’s W-2 wages** (as reported on Box 1 of Form W-2). Application is determined after the end of the calendar year and on an employee-by-employee basis. Box 1 reflects compensation subject for federal income taxes, which would exclude amounts such as employee contributions to a 401(k) or 403(b) plan, and towards other benefits through a cafeteria plan.

- 2. Rate of pay safe harbor.** The employee's monthly contribution amount for the self-only premium of the employer's lowest cost coverage that provides minimum value is affordable if it is equal to or lower than **8.39% of the employee's computed monthly wages**.  
For hourly employees, monthly wages are equal to 130 hours multiplied by their rate of pay. For salaried employees, monthly wages are equal to their monthly salary. For example, an hourly employee has a \$10/hour rate of pay. For a 2024 plan year, coverage is "affordable" for the employee if the employee's cost for self-only coverage does not exceed \$109.07/month ( $(\$10 \times 130 \text{ hours}) \times .0839$ ). This is measured based on the cost for self-only coverage in the lowest cost plan option that provides a minimum value offered to the employee.
- 3. Federal Poverty Level ("FPL") safe harbor.** Coverage is affordable if it does not exceed **8.39% of the FPL**. For a 2024 calendar year plan, coverage is affordable under the FPL safe harbor if the employee monthly cost for self-only coverage in the lowest cost plan that provides minimum value is not more than **\$101.93** (48 contiguous states), \$127.31 (Alaska), or \$117.25 (Hawaii). Note, this amount may increase (or decrease) when the 2024 FPL guidelines are issued (for a calendar year, generally in January of the applicable year).

## Employer Action

Employers budgeting and preparing for the 2024 plan year should review these affordability safe harbors when analyzing employee contribution amounts for the coming year.