

## HRAs Approved For Qualified Small Employers

### Article Highlights:

- Health Reimbursement Plans and the ACA
- Noncompliance Penalties
- New Law and Qualified Small-Employer HRAs
- Qualifications
- Employees and the Premium Tax Credit

Under the Affordable Care Act (ACA or Obamacare), a health reimbursement arrangement (HRA) is treated as a group health plan, and as such, it has to meet all of the ACA's market-reform requirements, which is not possible for the typical HRA. Stand-alone HRAs do not meet two key requirements of the ACA in that they:

- Limit annual dollar benefits for the insured and
- Fail to provide certain preventive-care services without cost-sharing requirements.

Previously, under the IRS's interpretation of the ACA law, employers who offered stand-alone HRAs were subject to a draconian excise tax penalty of \$100 per day per employee (maximum: \$36,500 per year). That is a chilling penalty for any small employer, and it caused most of them to back away from offering any sort of health coverage for their employees.

To alleviate this problem, Congress passed the 21<sup>st</sup> Century Cures Act, which is generally effective beginning in 2017, and which created a "qualified small-employer HRA" that is not treated as a group health plan for income tax purposes. Thus, a qualified small-employer HRA will not face the \$100 per day excise tax that is levied on group health plans that don't meet the ACA's market reform requirements.

To qualify as a small-employer HRA, a plan must meet the following requirements:

1. An eligible employer maintains it. An eligible employer is one that employs fewer than 50 employees (in full-time equivalents) and that does not offer a group health plan to any of its employees.
2. The HRA is provided on the same terms to all eligible employees except:
  - Those who have not completed 90 days of service,
  - Those under the age of 25,
  - Part-time workers (generally those working an average of fewer than 30 hours per week),
  - Seasonal workers (generally those employed for 6 months or fewer during the year),
  - Employees covered by a collective bargaining unit, and
  - Certain nonresident aliens.
3. The HRA is funded solely by an eligible employer, with no salary-reduction contributions.
4. The HRA only reimburses the employees after being provided with proof of their medical expenses.
5. The HRA limits reimbursements to \$4,950 (or \$10,000 if the plan includes family members) per year. Amounts are subject to inflation adjustments for years after 2016. For employees who are covered for less than a full year, the dollar limits are prorated.

An employee's premium tax credit is reduced for any coverage month when the employee is provided with a qualifying HRA. To prevent "double dipping," if the employee purchases health insurance through the Marketplace, that employee is required to notify the Marketplace of his or her permitted benefit for the year under the HRA.

If you have questions related to how your business could use a qualified small-employer HRA, please give this office a call.