



Health Care Reform **Bulletin**

New Guidance and Relief for Employer Payment of Individual Premiums

Provided by New England Employee Benefits Co., Inc.

Quick Facts

- IRS Notice 2015-17 reiterates that all employer payment plans are prohibited.
- These arrangements can trigger an excise tax of \$100 per day for each employee.
- Transition relief from the excise tax is provided for some employers.
- The notice clarifies tax treatment and other issues for employer payment plans.

Under Notice 2015-17, an excise tax will not be assessed for violations of the ACA's market reforms by certain employer payment plans.

In the past, many employers have helped employees pay for individual health insurance policies instead of offering an employer-sponsored plan. In recent months, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) have released several pieces of guidance addressing these arrangements.

The Departments' guidance specifically addresses "**employer payment plans**," under which an employer reimburses or pays premiums for an employee's individual health insurance policy.

According to this guidance, employer payment plans **do not comply with several ACA provisions that took effect beginning in 2014**. Violations of these rules can result in excise taxes of \$100 per day for each employee.

IRS Notice 2015-17

On Feb. 18, 2015, the Internal Revenue Service (IRS) issued [Notice 2015-17](#). This notice:

- Reiterates that **employer payment plans are group health plans that will fail to comply with the ACA's market reforms applicable to group health plans**;

- Clarifies that increases in employee compensation do not constitute an employer payment plan, as long as the increases are not conditioned on the purchase of individual health coverage;
- Provides transition relief from the excise tax for employer payment plans sponsored by small employers (those not subject to the ACA's employer shared responsibility rules) and to S corporation healthcare arrangements for 2-percent shareholder-employees;
- Addresses whether employers may reimburse employees for Medicare or TRICARE premiums for active employees under the ACA; and
- States that employer payments for individual premiums can be excludable from an employee's income under the tax code, but will still violate the ACA's market reforms.

The DOL and HHS have reviewed the notice and agree with the guidance provided. The Departments noted that they expect to issue further clarifications regarding other aspects of employer payment plans and HRAs in the near future.