

Analysis of the latest IRS release regarding the treatment of reimbursements made to employees when they purchase individual insurance plans is an ongoing effort by a lot of very knowledgeable, dedicated attorneys and tax experts with some of the largest religious denominations in the country. The UUA is fortunate to participate in the Church Benefits Association and the Church Alliance, giving us access to some of the best legal and tax thinking. This ACA update focuses on the latest emerging consensus on two critical issues.

The IRS release regarding the treatment of payments made toward an employee's premium for Medicare Part B, Part D, and Medigap policies is the latest in the regulatory maze created by the Affordable Care Act. The new Medicare regulations are covered in **points 1 -4**.

The IRS has also strongly restated their opposition to the reimbursement of premiums for individual policies. Their statements are summarized in **point 5**.

1) First, we will clarify/confirm that the details of the recently issued IRS ruling (IRS Notice 15-17) regarding employer reimbursement of employee Medicare premiums. This practice is allowed for small employers (those employing fewer than 20 employees). The new regulation clarifies that the practice of reimbursing employees for their Medicare Part B, D, and Medigap premiums, tax-free, is still permissible, if ALL of the following conditions (a) – (d) have been met:

a) The employer must offer *group* insurance (not the option to buy an individual policy on the Exchange or elsewhere) to their employees. The *group* insurance must be, at a minimum, at the Bronze level (e.g. paying at least 60% of expected health care expenses). Note: the amount of employer premium payment can vary from employee to employee, and can range from 0% to 100%. The UUA Fair Compensation expectation is 80% for individuals and 50% of the incremental cost for family coverage.

b) The employee is actually enrolled in Medicare Part A and Part B.

c) Premium reimbursement is available only to employees enrolled in Medicare Part A and Part B or Part D.

d) The Employer Payment Plan is limited to reimbursement for Medicare Part B, Part D, and/or Medigap premiums.

2) If the employer doesn't offer group insurance, then reimbursement of Medicare premiums is NOT allowed and the employer is subject to the \$100/day per employee excise tax beginning July 1, 2015. Again, the congregation only needs to offer group insurance (e.g. the UUA Health Plan or another group plan; contribution arrangements are a separate consideration).

3) If there is only 1 employee (e.g. the minister) actually enrolled in the employer's plan as of January 1, then the cost of insurance may be reimbursed during the calendar year. But again, there can be NO other employee participating in an employer plan.

4) A congregation can require a Medicare eligible employee to enroll in Medicare under most circumstances. Because the multi-employer UUA Plan is treated as having 20+ employees for Medicare rules, if the congregation is enrolled in the UUA Health Plan, a waiver must be obtained from Medicare for this enrollment. The UUA Health Plan staff routinely assists congregations in doing so. If insurance is provided through another group plan, the congregation should confirm with the insurer that a waiver is not required.

5) IRS Notice 2015-17 also makes it clear that employer reimbursement of an employee's individually obtained health insurance is no longer permitted. Period. Violations are subject to the \$100/day per employee excise tax beginning July 1. This prohibition applies to individual (non-group) health insurance policies purchased from commercial insurers and to policies obtained through the Affordable Care Act exchanges. Congregations CANNOT reimburse employees the cost of health insurance obtained through the ACA exchanges.

Congregations who find themselves in violation of this rule and needing an insurance solution for July 1, 2015 to avoid penalties, can enroll their employees in the UUA Health Plan without waiting for the next open enrollment period. Contact Rachael Brennan for more information (RBrennan@uua.org).

As an alternative to enrolling employees in a group plan, congregations can increase the salary of employees who they were previously reimbursing, but they CANNOT tie such a pay increase to the purchase of health insurance. This pay increase is a pay increase period, and subject to taxation and, of course, increased retirement plan contributions.

Employers are still allowed, at least for now, with documentation of the expense, to reimburse employees tax free for coverage obtained through another *group* plan, either from a second job or through a spouse/partner's plan. That is the only longstanding provision of the Code as it applies to reimbursement that has not been changed

6) For more information, contact Jim Sargent (JSargent@uua.org)