

**UUA Health Plan/Office of Church Staff Finances**  
25 Beacon Street, Boston, MA 02108

**Beginning January 1, 2014, the rules for determining the taxability of a congregation's contributions to a Health Reimbursement Arrangement (an HRA) and reimbursements made directly to employees for coverage they have secured elsewhere have changed. Please read this release carefully, and consult directly with your congregation's tax advisor.**

BACKGROUND

Buried in the details of the Affordable Care Act is a lot of language around the structure of health plans and specific prohibitions on annual dollar limits. Both the IRS and the Department of Labor (the DOL) have jurisdiction over implementation of annual dollar limit rules. Late in 2013, both the IRS and the DOL issued interpretations of the ACA requirements, and they took the time to say that their rulings are identical. Their rulings link HRAs and direct employee reimbursements to the ACA's language prohibiting annual dollar limits.

The IRS Notice 2013-54 and DOL Technical Release 2013-03 directly impact HRAs and the employer practice of reimbursing employees for some or all of the cost of health insurance they find on their own – through a spouse's plan, for example, or for a plan they have through a past employer, or for coverage purchased on the individual market. Beginning in 2014, the individual market includes ACA-mandated Insurance Exchanges in each of the states.

The IRS and DOL rulings are complex and have received a lot of attention from consultants, tax attorneys, and the Church Benefits Association, the trade group representing all of the major religious denominations, to which the UUA belongs. We believe that our expert reviewers and outside concurring sources have the correct current interpretation. However, we urge you to consult with your congregation's tax advisor if you sponsor an HRA or reimburse any of your employees directly for their health insurance. There is no concern about contributions that you make to your UUA group health insurance plan or any other qualified group plan you offer.

**Q.** How do DOL Technical Release 2013-3 and IRS Notice 2013-54 impact HRAs and direct reimbursement of employees?

**A.** We are collecting tax opinions on this issue, and it will be a while before the answers are completely clear. Richard Hammar ("Church & Clergy Tax Guide"), Guidestone Financial, the financial wing of the Southern Baptist Convention, by far the largest denomination in the Church Benefits Association, and our UUA Health Plan attorney agree ---- The 1961 ruling that supports the tax-free status of properly documented payments made to active employees to purchase individual health plans or group health insurance (under a spouse's plan, for example) appears to be partly set aside in IRS Notice 2013-54 / DOL Technical Release 2013-03. If you are offering an HRA as your substitute for, or supplement to, an insurance plan, have a tax expert review what you're doing.

The consensus so far is that 1) a standalone HRA will not qualify as an insurance plan, 2) paying for an active employee's *individual* insurance plan will be a taxable event, reversing the 1961 ruling, and 3) paying some or all of an active employee's premium when they are participating in

another qualified *group insurance* plan (a spouse's plan, for example) is still a tax free event. (See the March 2013 FAQ "Employer Reimbursement for Health Insurance Premiums" in the Finances/Taxes section of the OCSF website for specific recordkeeping requirements.) Keep in mind that the IRS/DOL guidance is limited to active employees; standalone HRAs may continue to be used to provide tax-free payment or reimbursement of the cost of individual insurance plans for retired employees (both pre-Medicare and Medicare-eligible retirees). But even for retirees, conditions apply – the HRA must be a separate plan offered to former employees only. Again, make sure you review your specific situation with a tax expert. More to follow as more challenges and requests for clarification emerge.

The above information is provided to assist congregational leaders, religious professionals, and other staff in their decision-making. However, the staff members of the UUA Office of Church Staff Finances are not attorneys or accounting professionals, and we encourage congregations to seek the services of their own advisers in dealing with unusual cases or individual circumstances.

For follow-up questions, email: [HealthInsurance@uaa.org](mailto:HealthInsurance@uaa.org), or phone:

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