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The IRS recently announced in Revenue Procedure 2018-34 that the Affordable Care Act (ACA) affordability indexed amount under the Employer Shared Responsibility Payment (ESRP) requirements will be **9.86%** for the 2019 plan year. The increase from the 2018 amount (9.56%) is the largest percentage increase to date for affordability under the ESRP requirements.

Background

Revenue Procedure 2018-34 specifically addresses the increase as it pertains to obtaining a subsidy through the Exchange under Section 36B (premium tax credit). However, in IRS Notice 2015-87, the IRS explained that a percentage change under Section 36B will correspond to a similar change for affordability under section 4980H ESRP requirements.

Determining Affordability in 2019

An employer will not be subject to a penalty with respect to an ACA FTE if that employee's required contribution for 2019 for the employer's lowest cost self-only coverage complies with 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 9.86% 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. This amount does not take into account any elective deferrals to a 401(k), 403(b), or 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 9.86% 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.

3. Federal Poverty Level (FPL) safe harbor.

Coverage is affordable if it does not exceed 9.86% of the FPL. Under this safe harbor, for plan years that begin before July 1, 2019, the employee monthly cost for self-only coverage under the lowest cost plan that provides a minimum value must be no more than \$99.75 (48 contiguous states), \$124.73 (Alaska), or \$114.70 (Hawaii).

Employer Action

Employers budgeting and preparing for the 2019 plan year should review these affordability safe harbors when analyzing the cost for the coming year.

