

COMPLIANCE NOTICE: Individual Health Plans as Employee Benefits Under the Affordable Care Act (ACA)

Released on September 13, 2013, [IRS Notice 2013-54](#) addresses the viability of individual health insurance plans as a tax-advantaged employee benefit under the Affordable Care Act (ACA). Unfortunately, the news was not good for employers wanting to offer such plans to their employees: the IRS determined that such plans are prohibited under the ACA.

While AmeriFlex is disappointed in the ultimate outcome of the Notice, keeping our brokers, clients, and partners in compliance with evolving regulations remains our top priority. As our team has received multiple inquiries requesting clarification of this issue, we would like to take this opportunity to provide some additional information that will hopefully help set the record straight.

The following arrangements and/or plans are now prohibited under the Notice:

- Arrangements whereby an employer reimburses employees for individual health insurance premium payments (sometimes called "premium reimbursement arrangements").
- Premium-only (or "POP") plans through which employees can pay for their individual health insurance on a pre-tax basis.
- Any other arrangement or plan through which an employee's individual health insurance premium is reimbursed or subsidized by the employer in a tax-free (or otherwise "tax-favored") manner.

AmeriFlex has deemed the Notice unambiguous when it comes to its language on this subject. Our stance was confirmed by an IRS official who declared it "very clear" at the 2014 Annual Conference of the Employers Council on Flexible Compensation (ECFC). While we acknowledge that some regulations do leave room for more "aggressive" interpretations, this is not the case here. **These sorts of arrangements and plans are strictly and explicitly prohibited under the ACA.**

A few other misconceptions with regard to this issue have been brought to our attention since the release of the Notice, which we would also like to address:

- The prohibition is NOT limited to individual health insurance plans sold on the "exchanges" or "marketplaces." It applies to ALL individual health insurance plans.
- For the purposes of the ACA, these sorts of arrangements and/or plans are considered (pursuant to the Notice) to be "group health plans," even though they are comprised of individual health plans.
- For the reason stated above, the ACA's prohibition on annual limits DOES apply to these arrangements and/or plans (which the Notice refers to collectively as "Employer Payment Plans").

AmeriFlex hopes this information is helpful to our clients and partners with regard to this critical issue. If you have any additional questions, or would like further clarification, you are welcome to contact our compliance team at compliance@flex125.com.

AmeriFlex Business Solutions

888.868.FLEX (3539)

www.flex125.com

NEW! Connect with us Online

