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The IRS issued an FAQ addressing the potential consequences of an arrangement where an employer reimburses employees for the purchase of individual health insurance premiums on a tax-favored basis (referred to as an “employer payment plan”). For this purpose, individual health insurance premiums includes individual coverage purchased either inside or outside of the Health Insurance Marketplace. The FAQ follows up on earlier guidance describing these types of arrangements (Notice 2013-54).

Employer payment plans include arrangements that reimburse some or all of an employee’s individual health insurance premiums on a tax-free basis (including reimbursement through a HRA or a direct payment by the employer to an insurance company).

Under the Affordable Care Act (“ACA”), an employer payment plan is considered a group health plan subject to the market reforms, including the prohibition on annual dollar limits for essential health benefits and the requirement to provide certain preventive care without cost sharing. These arrangements cannot be integrated with individual policies to satisfy the ACA’s requirements. Consequently, employer payment plans **will not satisfy the market reforms under the ACA** and employers offering such a program may be subject to a \$100/day excise tax per applicable employee (which is \$36,500 per year, per employee).

An employer payment plan generally does not include an arrangement under which an employee may have an after-tax amount applied toward health coverage or may take that amount in cash compensation.

For the FAQ, visit: <http://www.irs.gov/uac/Newsroom/Employer-Health-Care-Arrangements>

For Notice 2013-54, visit: <http://www.irs.gov/pub/irs-drop/n-13-54.pdf>