

ACA Premium Tax Credits Available in Both Federal and State-Based Exchanges

The U.S. Supreme Court has [ruled](#) that the Affordable Care Act's (ACA) premium tax credits are **available to eligible individuals who enroll in qualified health plans through any Health Insurance Exchange (Marketplace)**, regardless of whether it is a state-based Exchange or a federally-facilitated Exchange.

The [premium tax credit](#) is designed to help eligible individuals and families with low or moderate income afford health insurance purchased through the Marketplace. Large employers subject to the ACA's [employer shared responsibility provisions](#) (pay or play) may be liable for penalties if any of their full-time employees receive premium tax credits.

The U.S. Supreme Court decision comes in response to conflicting lower court rulings which considered whether the ACA's premium tax credits are limited under the law only to individuals who enroll in qualified health plans through state-based Health Insurance Exchanges. The opinion upholds the availability of premium tax credits in **every state**. Individuals **do not need to take any action or make any changes in response to the decision**, as nothing has changed and the tax credits remain available.

General information regarding the credit is available in our section on the [Premium Tax Credit for Individuals](#).

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Supreme Court Strikes Down State Laws Prohibiting Same-Sex Marriage

In a [separate decision](#), the U.S. Supreme Court has ruled that **same-sex couples may exercise the right to marry in all states**. According to the opinion, the United States Constitution requires states to **license a marriage** between two people of the same sex, and to **recognize** a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state.

Federal, state, and local agencies are expected to issue guidance on how to proceed. Employers with questions regarding the impact of the ruling on the administration of employee benefits for same-sex couples (or other applicable employment laws) are advised to **contact a knowledgeable employment law attorney** for specific guidance.

Stay tuned for more information regarding the impact of this decision, and be sure to check for updates in our [Employee Benefits](#) and [State Laws](#) sections.



PCORI Fees Due by July 31 for Employers Sponsoring HRAs and Other Self-Insured Plans

As a reminder, fees to fund the Patient-Centered Outcomes Research Institute (PCORI) are **due no later than July 31** from employers who sponsor [certain self-insured health plans](#), including health reimbursement arrangements (HRAs) that are not treated as [excepted benefits](#).



How to Calculate the Fee

For plan years ending on or after October 1, 2014 and before October 1, 2015, the fee for an employer sponsoring an applicable self-insured plan is **\$2.08** (two dollars for plan years ending on or after October 1, 2013 and before October 1, 2014) **multiplied by the average number of lives covered under the plan.**

Permissible methods for determining the average number of lives covered under a plan, as well as examples, are explained in [IRS guidance](#) and [final regulations](#).

Reporting and Payment Deadline

Plan sponsors of applicable self-insured health plans are required to report and pay the fee **no later than July 31 of the calendar year immediately following the last day of the plan year to which the fee applies.** Fees are reported and paid using [IRS Form 720](#), *Quarterly Federal Excise Tax Return*. The final regulations do not permit or include rules for third-party reporting or payment of the PCORI fee.

Our section on [PCORI Fees for Self-Insured Plans](#) provides additional details.

Final Rules Revise Summary of Benefits and Coverage (SBC) Requirements

New [final regulations](#) amend the existing rules on the summary of benefits and coverage (SBC) notice requirements under Health Care Reform for SBCs with respect to coverage that begins **on or after September 1, 2015.**



Among other things, the new regulations place **additional obligations on group health plans that enter into a binding contract with another party to provide the SBC (such as the insurer).** To satisfy the requirement to provide the SBC, such a plan must:

- **Monitor performance** under the contract;
- **Correct** noncompliance as soon as practicable, if the plan has knowledge that the SBC is not being provided in a manner that complies with the law and *has* all information necessary to correct the noncompliance; and
- **Communicate** with affected participants and beneficiaries and begin taking **significant steps** as soon as practicable to avoid future violations, if the plan has knowledge that the SBC is not being provided in a manner that complies with the law and *does not have* all information necessary to correct the noncompliance.

A new SBC template and associated documents are expected to be finalized, separately from the final regulations, by January 2016 and will apply to SBCs for coverage beginning on or after January 1, 2017. Until then, the [previously authorized templates](#) may be used without penalty (including the original template), provided the SBC is furnished with a cover letter or similar disclosure that includes additional language indicating whether the plan provides "[minimum essential coverage](#)" and "[minimum value](#)."

Be sure to visit our [Summary of Benefits and Coverage \(SBC\)](#) section for additional information.

2015 Draft Forms Available to Help Employers Prepare for ACA

Information Reporting

The IRS has released **draft forms for 2015** to help employers who are subject to the new information reporting requirements under the Affordable Care Act (ACA) prepare for compliance. **Affected employers are required to report for the first time in early 2016 for calendar year 2015.** In general:



- [Forms 1094-C](#) and [1095-C](#) will be used by **large employers** (generally those with at least 50 full-time employees, including full-time equivalents) to report information to the IRS and to their employees about their compliance with "pay or play" and the health care coverage they have offered.
- [Forms 1094-B](#) and [1095-B](#) will be used by insurers, **self-insuring employers** (regardless of size), and other parties that provide [minimum essential health coverage](#) to report information on this coverage to the IRS and to covered individuals.

Changes to 2015 Draft Form 1095-C

The new draft forms include certain changes from the 2014 forms (which were previously finalized for those employers that chose to voluntarily comply with the information reporting requirements for the 2014 calendar year). While the [2015 Draft Form 1095-C](#) is generally unchanged from the 2014 Form 1095-C, a new field has been added for "Plan Start Month," which is **optional** for 2015 (for 2016 and beyond, this field will be required). In addition, the 2015 Draft Form 1095-C includes a continuation sheet that filers use if they need to report coverage for more than six individuals.

Additional details on the information reporting requirements for providers of minimum essential coverage, including self-insured employers, are available in IRS [Questions and Answers](#). More guidance regarding the information reporting requirements for large employers subject to "pay or play" is available in separate IRS [Questions and Answers](#).

Visit our [Information Reporting](#) section for more on these requirements.

Newsletter provided by:
Kenneth Weinstein CEBS - Vice President
Brown & Brown of Garden City Inc.
595 Stewart Avenue, Garden City, NY, 11530

[516-745-1111](tel:516-745-1111)

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