Subject: **1) Individual Minimum Essential Coverage and 2) Affordability Standard**
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The centerpiece of the ACA is health coverage expansion. One of the ways that this is to be achieved is through a mandate that virtually all people residing in this country maintain a minimum level of coverage or pay a tax. The Agencies have recently issued two sets of proposed regulations and one final regulation targeted at explaining how this coverage mandate will be accomplished.

INDIVIDUAL SHARED RESPONSIBILITY REQUIREMENT – MINIMUM ESSENTIAL COVERAGE

On January 30, 2013, the IRS issued proposed regulations and questions and answers relating to the Individual Shared Responsibility provision. Below is an overview of this guidance.

Who are the individuals required to maintain Minimum Essential Coverage?

As mentioned above, beginning in 2014, all individuals residing in the U.S. must maintain a minimum level of coverage, or risk a shared responsibility payment. A taxpayer would also be responsible for maintaining coverage for a child or other individual claimed as a dependent on the taxpayer's federal tax return. Spouses who file their taxes jointly are likewise generally responsible for maintaining this minimum level of coverage.

Following are the potential penalties for failure to maintain a minimum essential coverage:

Year	Penalty
2014	Greater of: ❒ $95 per adult and $47.50 per child (up to $285 for a family); or ❒ 1.0% of family income
2015	Greater of: ❒ $325 per adult and $162.50 per child (up to $975 for a family) or ❒ 2.0% of family income
2016 and beyond	Greater of: ❒ $695 per adult and $347.50 per child (up to $2,085 for a family) or ❒ 2.5% of family income

Who is exempt from maintaining minimum essential coverage?

The regulations provide for 9 categories of individuals exempt from the requirement to maintain minimum essential coverage; they are:

1. A member of a religious sect that is recognized as conscientiously opposed to accepting any insurance benefits.
2. A member of a recognized health care sharing ministry.
3. A member of a federally recognized Indian tribe.

4. An individual whose household income falls below the minimum threshold for filing a tax return.
5. An individual who experiences a short gap in coverage of less than three consecutive months during the year.
6. An individual who incurs a hardship, as certified by an Exchange, which makes him/her unable to obtain coverage.
7. An individual who cannot afford coverage because the premium cost exceeds 8% of the his/her household income.
8. An individual who is incarcerated (jail, prison, or similar penal institution or correctional facility)
9. An individual who is not a U.S. Citizen, a U. S. national, nor an alien lawfully present in the U.S.

For other individuals seeking an exemption, the HHS issued proposed regulations relating to the process to be used by Exchanges in conducting eligibility determinations and granting exemptions from the shared responsibility payment.

In an effort to facilitate the maintenance of minimum essential coverage, certain individuals whose income falls between 100 and 400% of the federal poverty level will be entitled to government assistance unless the individual is exempt.

What is Minimum Essential Coverage?
Minimum essential coverage generally includes coverage under:

- ❒ **Employer-sponsored group health plans**, whether insured or self-funded, and grandfathered plans, as well as COBRA coverage (if actually elected) and retiree coverage. It also includes group health coverage sponsored by non-profit and for-profit entities, and governmental entities, including local governments.

  It should be noted that HIPAA-excepted coverage alone will not qualify as minimum essential coverage; HIPAA-excepted coverage includes:
  - Limited-scope dental benefits, vision benefits, or long term care benefits provided under a separate policy or contract, and are otherwise not an integral part of a group health plan.
  - Other types of limited benefit plans, such as accident-only plans, disability income coverage, liability insurance, workers' compensation, credit-only insurance, and coverage for on-site medical clinics.
  - Non-coordinated benefits providing specified disease or illness coverage, hospital indemnity insurance, or fixed dollar indemnity insurance that meets certain criteria.
  - Supplemental benefits, such as Medicare supplemental coverage (Medigap or MedSupp).

- ❒ **Government-sponsored plans** such as Medicare, Medicaid, Children's Health Insurance Program (CHIP), TRICARE, and various Veteran's health programs

- ❒ **Individual health policies**, including a qualified health plan offered by an Exchange.

- ❒ **Other similar types of comprehensive health coverage** recognized by HHS as minimum essential coverage

When does the individual mandate become effective?
The individual shared responsibility provision becomes applicable on January 1, 2014.

EMPLOYER SHARED RESPONSIBILITY REQUIREMENT – DETERMINING AFFORDABLE COVERAGE
Beginning January 1, 2014, a large employer employing 50 or more employees must offer adequate coverage at an affordable rate to its employees, or risk being subject to an excise tax (see CBIZ Health Reform Bulletin, *Shared Responsibility Guidance*, 1/9/13).

On January 30, 2013, the IRS issued final regulations specifically relating to defining the "affordability" standard. These regulations affirm that affordability is based on the cost of single coverage in the employer's least expensive plan. While large employers must offer coverage to their full-time employees (those working 30 or more hours per week) and their dependents (children under age 26), the affordability, according to these regulations, is based only on single coverage. This should come as welcome news to employers.

CONCLUSION
While much of this guidance relating to the obligation to maintain a minimum level of coverage would not unduly impact employers, employers will be interested to know the types of plans that qualify as minimum essential coverage. Employers will also likely be pleased to know, at least for now, affordability is based on the cost of single coverage.

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