ACA COMPLIANCE BULLETIN

AFFORDABILITY PERCENTAGES WILL DECREASE FOR 2020

HIGHLIGHTS

For plan years beginning in 2020, the ACA's affordability contribution percentages are decreased to:

- **9.78%** under the pay or play rules
- **9.78%** under the premium tax credit eligibility rules
- **8.24%** under an exemption from the individual mandate

IMPORTANT DATES

July 23, 2019

Rev. Proc. 19-29 decreased the ACA's affordability contribution percentages for 2020.

January 1, 2020

The updated percentages are effective for taxable plan years beginning Jan. 1, 2020.

Provided By:

National Insurance Services, Inc.

OVERVIEW

On July 23, 2019, the Internal Revenue Service (IRS) issued Revenue Procedure 2019-29 to index the contribution percentages in 2020 for purposes of determining affordability of an employer's plan under the Affordable Care Act (ACA). For plan years beginning in 2020, employer-sponsored coverage will be considered affordable if the employee's required contribution for self-only coverage does not exceed:

- ✓ **9.78%** of the employee's household income for the year, for purposes of both the pay or play rules and premium tax credit eligibility; and
- ✓ **8.24%** of the employee's household income for the year, for purposes of an individual mandate exemption (adjusted under separate guidance).

ACTION STEPS

These updated affordability percentages are effective for taxable years and plan years beginning Jan. 1, 2020. **This is a decrease from the affordability contribution percentages for 2019**. As a result, some employers may have to lower their employee contributions for 2020 to meet the adjusted percentage.

Overview of the Affordability Requirement

Under the ACA, the affordability of an employer's plan may be assessed in the following three contexts:

- The **employer shared responsibility penalty** for applicable large employers (also known as the pay or play rules or employer mandate);
- An exemption from the **individual mandate** tax penalty for individuals who fail to obtain health coverage; and
- The **premium tax credit** for low-income individuals to purchase health coverage through an Exchange.

Although all of these provisions involve an affordability determination, the test for determining a plan's affordability varies for each provision.

Under the ACA, the affordability of an employer's plan may be assessed for the pay or play penalty, the individual mandate and the premium tax credit. The affordability test that is used varies for each provision.

The IRS previously adjusted the affordability contribution percentage for 2015 in Rev. Proc. 14-37, for 2016 in Rev. Proc. 14-62, for 2017 in Rev. Proc. 16-24, for 2018 in Rev. Proc. 17-36 and for 2019 in Rev. Proc. 18-34. The adjusted affordability contribution percentage for purposes of the individual mandate exemption is separately announced in the Notice of Benefit and Payment Parameters final rule for each year.

Affordability Adjustments

This chart illustrates the adjusted affordability percentages for each purpose since 2014. Each provision is described in more detail following the chart.

Purpose	Affordability Percentage						
	2014	2015	2016	2017	2018	2019	2020
Employer Shared Responsibility Rules	9.5%	9.56%	9.66%	9.69%	9.56%	9.86%	9.78%
Individual Mandate Exemption	8%	8.05%	8.13%	8.16%	8.05%	8.3%	8.24%
Premium Tax Credit Availability	9.5%	9.56%	9.66%	9.69%	9.56%	9.86%	9.78%

Affordable Employer-sponsored Coverage

Under the ACA, employees (and their family members) who are eligible for coverage under an affordable employer-sponsored plan are generally not eligible for the premium tax credit. This is significant because the ACA's employer shared responsibility penalty for applicable large employers (ALEs) is triggered when a full-time employee receives a premium tax credit for coverage under an Exchange.

To determine an employee's eligibility for a tax credit, the ACA provides that employer-sponsored coverage is considered affordable if the employee's required contribution for self-only coverage does not exceed **9.5%** of the employee's household income for the tax year. After 2014, this required contribution percentage is adjusted annually to reflect the excess of the rate of premium growth.

Employer Shared Responsibility Rules

The ACA's employer shared responsibility or pay or play rules require ALEs to offer affordable, minimum value health coverage to their full-time employees (and dependents) or pay a penalty. The affordability of health coverage is a key point in determining whether an ALE will be subject to a penalty.

These rules generally determine affordability of employer-sponsored coverage by reference to the rules for determining premium tax credit eligibility. Therefore, for 2014, employer-sponsored coverage was considered affordable under the employer shared responsibility rules if the employee's required contribution for self-only coverage did not exceed **9.5%** of the employee's household income for the tax year.

This affordability contribution percentage was adjusted to:

- **9.56%** for 2015 plan years;
- **9.66%** for 2016 plan years;
- **9.69%** for 2017 plan years;
- **9.56%** for 2018 plan years; and
- **9.86%** for 2019 plan years.

For 2020, Rev. Proc. 19-29 **decreases the affordability contribution percentage to 9.78%**. This means that employer-sponsored coverage for the 2020 plan year will be considered affordable under the employer shared responsibility rules if the employee's required contribution for self-only coverage does not exceed **9.78%** of the employee's household income for the tax year.

Employers may use an affordability safe harbor to measure affordability of their coverage. The three safe harbors measure affordability based on **Form W-2 wages** from that employer, the employee's **rate of pay** or the **federal poverty line (FPL)** for a single individual. IRS Notice 2015-87 confirmed that ALEs using an affordability safe harbor **may rely on the adjusted affordability contribution percentages for 2015 and future years**.

The affordability test applies only to the portion of the annual premiums for self-only coverage and does not include any additional cost for family coverage. Also, if an employer offers multiple health coverage options, the affordability test applies to the lowest-cost option that also satisfies the minimum value requirement.

Individual Mandate Exemption

The ACA's individual mandate requires most individuals to obtain acceptable health coverage for themselves and their family members or pay a penalty. However, individuals who **lack access to affordable minimum essential coverage are exempt** from the individual mandate. For purposes of this exemption:

- Coverage is affordable for an employee if the required contribution for the lowest-cost, self-only coverage does not exceed **8%** of household income (as adjusted).

- Coverage is affordable for family members if the required contribution for the lowest-cost family coverage does not exceed **8%** of household income (as adjusted).

This affordability contribution percentage was adjusted to **8.05%** for plan years beginning in 2015, **8.13%** for plan years beginning in 2016, **8.16%** for plan years beginning in 2017, **8.05%** for plan years beginning in 2018 and **8.3%** for plan years beginning in 2019.

The tax reform bill, called the Tax Cuts and Jobs Act, **reduced the ACA's individual mandate penalty to zero, effective beginning in 2019**. As a result, beginning in 2019, individuals will no longer be penalized for failing to obtain acceptable health insurance coverage. However, the 2019 Notice of Benefit and Payment Parameters final rule notes that individuals may still need to seek this exemption for 2019 and future years (for example, in order to be eligible for catastrophic coverage).

As a result, the 2020 Notice of Benefit and Payment Parameters final rule **decreases the required contribution percentage in 2020**. For 2020, an individual qualifies for this affordability exemption if he or she must pay more than **8.24%** of his or her household income for minimum essential coverage.

Premium Tax Credit

The ACA provides premium tax credits to help low-income individuals and families afford health insurance purchased through an Exchange. The amount of a taxpayer's premium tax credit is determined based on the amount the individual should be able to pay for premiums (expected contribution).

The expected contribution is calculated as a percentage of the taxpayer's household income, based on the FPL. This percentage increases as the taxpayer's household income increases and is indexed each year after 2014, as follows:

Income Level	Contribution Percentage						
	2014	2015	2016	2017	2018	2019	2020
Up to 133% FPL	2%	2.01%	2.03%	2.04%	2.01%	2.08%	2.06%
133-150% FPL	3-4%	3.02-4.02%	3.05-4.07%	3.06-4.08%	3.02-4.03%	3.11-4.15%	3.09-4.12%
150-200% FPL	4-6.3%	4.02-6.34%	4.07-6.41%	4.08-6.43%	4.03-6.34%	4.15-6.54%	4.12-6.49%
200-250% FPL	6.3-8.05%	6.34-8.10%	6.41-8.18%	6.43-8.21%	6.34-8.10%	6.54-8.36%	6.49-8.29%
250-300% FPL	8.05-9.5%	8.10-9.56%	8.18-9.66%	8.21-9.69%	8.10-9.56%	8.36-9.86%	8.29-9.78%
300-400% FPL	9.5%	9.56%	9.66%	9.69%	9.56%	9.86%	9.78%