

Employers: Take a Moment to Comment In Support of New Health Care Reform Safe Harbor.

SAY YES TO THE IRS!

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The IRS released a proposed safe harbor that would significantly lessen at least one of the burdens imposed on employers by Health Care Reform. Employers should take a moment to email the IRS in support of this safe harbor to ensure that it is confirmed.

Large employers are subject to a penalty if any of their employees receive a premium subsidy, and the coverage offered to employees is not “affordable”. Right now, a plan is “affordable” if the amount of the employee contribution is not more than 9.5% of his household income (i.e. for himself, his spouse, and his dependents).

The obvious problem is that most employers don’t know the employee’s household income, and there are administrative headaches and practical barriers to finding out that information. So the IRS has provided a more workable solution in the new safe harbor: namely, measuring affordability by the wages that the employer pays to the employee.

This is a common sense, no nonsense, straightforward workaround of a nearly impossible statutory compliance provision. Employers should support it vocally to ensure that it actually is implemented.

The IRS is also seeking additional comments, such as whether the safe harbor should be determined at the end of the calendar year (as under the current proposal), how to deal with employees that switch between part-time and full-time status for part of a year, or suggestions of other safe harbor methods. You can include your own suggestions on these matters if you wish. Email your comments to notice.comments@irscounsel.treas.gov with the subject line “Notice 2011-73”.