

# ACA COMPLIANCE BULLETIN



## Affordability Percentages Will Increase for 2021

On July 21, 2020, the IRS issued [Revenue Procedure 2020-36](#) to index the contribution percentages in 2021 for determining affordability of an employer's plan under the Affordable Care Act (ACA).

For plan years beginning in 2021, employer-sponsored coverage will be considered affordable if the employee's required contribution for self-only coverage does not exceed:

- **9.83%** of the employee's household income for the year, for purposes of both the pay or play rules and premium tax credit eligibility; and
- **8.27%** of the employee's household income for the year, for purposes of an individual mandate exemption (adjusted under [separate guidance](#)). Although this penalty was reduced to zero in 2019, some individuals may need to claim an exemption for other purposes.

### Action Steps

The updated affordability percentages are effective for taxable years and plan years beginning Jan. 1, 2021. **This is a slight increase from the affordability contribution percentages for 2020.** As a result, some employers may have additional flexibility in setting their employee contributions for 2021 to meet the adjusted percentage.

### Highlights

For plan years beginning in 2021, the ACA's affordability contribution percentages are increased slightly to:

- **9.83%** under the pay or play rules
- **9.83%** under the premium tax credit eligibility rules
- **8.27%** under an exemption from the individual mandate

### Important Dates

#### July 21, 2020

Rev. Proc. 20-36 increased the ACA's affordability contribution percentages for 2021.

#### January 1, 2021

The updated percentages are effective for taxable plan years beginning Jan. 1, 2021.

# ACA COMPLIANCE BULLETIN



## 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.

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](#), for 2019 in [Rev. Proc. 18-34](#) and for 2020 in [Rev. Proc. 19-29](#). 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  | 2021  |
| Employer Shared Responsibility Rules | 9.5%                     | 9.56% | 9.66% | 9.69% | 9.56% | 9.86% | 9.78% | 9.83% |
| Individual Mandate Exemption         | 8%                       | 8.05% | 8.13% | 8.16% | 8.05% | 8.3%  | 8.24% | 8.27% |
| Premium Tax Credit Availability      | 9.5%                     | 9.56% | 9.66% | 9.69% | 9.56% | 9.86% | 9.78% | 9.83% |

## 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.

# ACA COMPLIANCE BULLETIN



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;
- **9.86%** for 2019 plan years; and
- **9.78%** for 2020 plan years.

For 2021, Rev. Proc. 20-36 **increases the affordability contribution percentage to 9.83%**. This means that employer-sponsored coverage for the 2021 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 **9.83%** 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, **8.3%** for plan years beginning in 2019 and **8.24%** for plan years beginning in 2020.

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).

# ACA COMPLIANCE BULLETIN



As a result, the [2021 Notice of Benefit and Payment Parameters](#) final rule slightly **increases the required contribution percentage in 2021**. For 2021, an individual qualifies for this affordability exemption if he or she must pay more than **8.27%** 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       | 2021       |
| Up to 133% FPL | 2%                      | 2.01%      | 2.03%      | 2.04%      | 2.01%      | 2.08%      | 2.06%      | 2.07%      |
| 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% | 3.10-4.14% |
| 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% | 4.14-6.52% |
| 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% | 6.52-8.33% |
| 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% | 8.33-9.83% |
| 300-400% FPL   | 9.5%                    | 9.56%      | 9.66%      | 9.69%      | 9.56%      | 9.86%      | 9.78%      | 9.83%      |