

**From the Desk of**

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## **Health Reform Questions - Reimbursing Individual Market Premiums**

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**Question: Can an employer reimburse its employees for premiums on a pre-tax basis for purchasing individual market medical coverage?**

**Answer:** No. In IRS Notice 2013-54 & Technical Release 2013-3, the IRS and DOL prohibit the reimbursement of premiums for individual medical policies from health reimbursement arrangements and premium only plans.

The IRS and DOL indicate that such arrangements that help employees to pay for individual health insurance policies on a tax-free basis fail to satisfy the Affordable Care Act's annual dollar limit and preventive health services "market reform" provisions.

Any employer payment plan will not meet these mandates unless it meets the rules pertaining to participation in a group health plan.

An employer payment plan is defined as any arrangement that facilitates the direct or indirect payment of individual market coverage.

It does not include any arrangement whereby employees may choose between cash or an after-tax amount to be applied toward health coverage, including forwarding post-tax payroll deduction to the insurer, as long as the arrangement satisfies the voluntary plan safe harbor under the DOL regulations.

The reimbursement of premiums for certain other individual coverages are exempt from these requirements. These include premiums for:

\*Retiree coverage,

**\*Exempted benefits (dental and vision), and**

**\*Coverages that meet the voluntary benefits safe harbor.**

**On May 13, 2014, the IRS issued Q&A guidance restating the conclusion in Notice 2013-54, that an employer is considered to establish a type of group health plan, called an "employer payment plan," if it reimburses employees' premiums for individual health insurance policies.**