



IRS Explains “Qualified Health Plan Expenses” for Purposes of FFCRA Tax Credit

The IRS has issued FAQs to help employers determine the amount of “qualified health plan expenses” for purposes of determining their tax credit under the Families First Coronavirus Response Act (“FFCRA”).

Law

The FFCRA requires employers to provide paid sick leave and paid family leave to certain employees affected by the coronavirus.

Employers are entitled to a refundable payroll tax credit equal to 100% of qualified paid sick and family leave wages for each calendar quarter, up to specified amounts. The credit is increased by the employer’s “qualified health plan expenses” that are allocable to the leave wages for which the credit is allowed. Qualified health plan expenses means amounts paid or incurred by an employer to provide and maintain a group health plan.

For more details on the FFCRA, see our [Alert](#) of 4/1/20 and subsequent publications.

FAQs

The IRS explains that the amount of qualified health plan expenses taken into account in determining the credits generally includes both the portion of the cost paid by the employer and the portion of the cost paid by the employee through pre-tax salary reduction contributions, but not amounts that the employee paid with after-tax contributions.

If an employer maintains more than one health plan, qualified health plan expenses are determined separately for each plan. For each plan, expenses are allocated to the employees who participate in that plan. In the case of an employee who participates in more than one plan, the allocated expenses of each plan in which the employee participates are aggregated for that employee.

An employer that sponsors a fully-insured group health plan may use any reasonable method to determine and allocate the plan expenses, including: (1) the COBRA applicable premium for the employee (typically available from the insurer); (2) the average premium rate for all employees; or (3) a substantially similar method that takes into account the average premium rate determined separately for employees with self-only and other than self-only coverage. If an employer chooses to use one average premium rate for all employees, the allocable amount for each day an employee is covered by the insured group health plan is determined using a method provided in the FAQs.

An employer that sponsors a self-insured group health plan may use any reasonable method to determine and allocate the qualified health plan expenses, including: (1) the COBRA applicable premium for the employee (typically available from the administrator); or (2) any reasonable actuarial method. If the employer uses a reasonable actuarial method to determine the estimated annual expenses of the plan, then rules “similar to” the rules for insured plans are used to determine the amount of expenses allocated to an employee.

Qualified health plan expenses do not include employer contributions to Health Savings Accounts or Archer Medical Savings Accounts. Employers who sponsor a high deductible health plan should calculate the amount of qualified health plan expenses in the same manner as an insured group health plan or a self-insured plan, as applicable.

Qualified health plan expenses may include contributions to a health reimbursement arrangement (“HRA”), including an individual coverage HRA, or a health Flexible Spending Account (“FSA”), but do not include contributions to a qualified small employer HRA. To allocate contributions to an HRA or a health FSA, employers should use the actual amount of contributions made on behalf of the particular employee.

The FAQs are available at: <https://www.irs.gov/newsroom/determining-the-amount-of-allocable-qualified-health-plan-expenses>

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