



GMS Flash Alert



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United States – Proposed Regs Aim to Clarify Rules for Expatriate Health Plans

On June 8, 2016, the U.S. Treasury Department and Internal Revenue Service (IRS), jointly with the Labor Department and the Department of Health and Human Services, issued proposed regulations applicable to expatriate health plans, expatriate health issuers, and qualified expatriates under the “Expatriate Health Coverage Clarification Act of 2014” (“EHCCA”).¹

WHY THIS MATTERS

There have been many questions about the impact of the health-care reform rules on U.S. assignees abroad and foreign nationals working in the United States and their health care plans. These questions continue to challenge assignees and their assignment program managers.

The proposed regulations aim to clarify the application of the rules to expatriates with health coverage under expatriate health plans and sponsors, issuers and administrators of expatriate health plans.

Background

Broadly, the EHCCA, enacted on December 16, 2014, provides that the Affordable Care Act (“ACA”) does not apply to expatriate health plans, employers in their capacity as plan sponsors of expatriate health plans, and expatriate health insurance issuers. The EHCCA generally applies to expatriate health plans issued or renewed on or after July 1, 2015. The IRS and Treasury Department previously issued transition relief and interim guidance on the application of the ACA to expatriate plans defined in the EHCCA² for the 2014 and 2015 tax years. These proposed regulations provide guidance for 2016 and beyond.

Other Aspects of Proposed Regs

The proposed regulations also propose standards for travel insurance and supplemental health insurance coverage to be considered "excepted benefits" and revisions to the definitions of short-term, limited-duration insurance for purposes of the exclusion from the definition of individual health insurance coverage. Also included in the proposed rule are proposed conforming amendments to other implementing regulations.

KPMG NOTE

KPMG LLP (U.S.) is currently reviewing the proposed regulations and will endeavor to provide *Flash Alert* readers with more detailed analysis in the near future.

FOOTNOTES:

1 26 CFR Parts 1, 46, 54, 57, and 301 (<https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-13583.pdf>).

2 IRS Notice 2015-43 (<https://www.irs.gov/pub/irs-drop/n-15-43.pdf>) provides transition relief and interim guidance on the application of certain provisions of the ACA to expatriate health insurance issuers, expatriate health plans, and employers in their capacity as plan sponsors of expatriate health plans, as defined in EHCCA. IRS Notice 2015-29 (<https://www.irs.gov/pub/irs-drop/n-15-29.pdf>) provides transition relief and interim guidance on the application of fees imposed by Section 9010 of the ACA for the 2014 and 2015 fee years under EHCCA.

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