



# TaxNewsFlash

## United States

No. 2018-174

April 30, 2018

### **Notice of clarification: Final rule on certain health care-related measures**

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register a clarification of a final rule\* (T.D. 9744) that was issued in November 2015 with respect to health insurance and health care-related guidance under the Affordable Care Act.

\*The final rule was jointly issued by Treasury and the IRS and by the Department of Labor and the Department of Health and Human Services.

The final regulations were published in the Federal Register in November 2015. Read text of the final rule in: [\*\*TaxNewsFlash\*\*](#)

Today's [clarification](#) [PDF 342 KB] explains that the November 2015 final rule was issued regarding, in part, the coverage of emergency services by non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage, including the requirement that non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage limit cost-sharing for out-of-network emergency services and, as part of that rule, pay at least a minimum amount for out-of-network emergency services.

A legal complaint was subsequently filed challenging the final rule in federal district court. In 2017, the court remanded the matter to the departments for follow-up action.

Today's "notice of clarification" was issued to "provide a more thorough explanation of the Departments' decision not to adopt recommendations made" in response to the November 2015 final rule. The clarification concludes:

*The Departments believe that the November 2015 final rule provides a reasonable methodology to determine appropriate payments by group health plans and health insurance issuers for out-of-network emergency services....*

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at +1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)