

# January 2020 Employer Webinar

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Please remember, tax form preparation and employment and benefits law compliance depends on multiple factors – particularly those unique to each employer's circumstances. Numerous laws, regulations, interpretations, administrative rulings, court decisions, and other authorities must be specifically evaluated in applying the topics covered by this webinar. The webinar is intended for general-information purposes only and is not legal advice. It is not a comprehensive or all-inclusive explanation of the topics or concepts covered by the webinar.

# WHAT EMPLOYERS NEED TO KNOW ABOUT THE NEW FINAL RULES ON HEALTH REIMBURSEMENT ARRANGEMENTS PART 2



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# Health Reimbursement Arrangements (HRAs) Overview/Learning Objectives

- General Overview of Health Reimbursement Arrangements (HRAs)
  - Historic overview
  - New HRAs permitted under final regulations, including integration rules
- Compliance, Design and Best Practice Considerations ICHRAs and EBHRAs
  - ERISA
  - COBRA
  - Structuring provisions – including nondiscrimination rules
  - Interaction with employer shared responsibility provisions

# Glossary Of Terms

- ACA - Affordable Care Act
- ALE - Applicable Large Employer
- Code – Internal Revenue Code
- ERISA – Employee Retirement Income Security Act of 1974, as amended
- EBHRA – Excepted Benefit Health Reimbursement Arrangement
- FPL - Federal Poverty Level (aka federal poverty line, federal poverty guideline or threshold)
- FTE - Full-Time Employee
- GHC – Group Health Coverage
- GHP – Group Health Plan (traditional – not account based, not limited to excepted benefits)
- HRA – Health Reimbursement Arrangement
- ICHRA – Individual Coverage Health Reimbursement Arrangement
- IRS - Internal Revenue Service
- MEC - Minimum Essential Coverage
- MV - Minimum Value
- PHSA - Public Health Service Act
- QSEHRA - Qualified Small Employer Health Reimbursement Arrangement



## Basic HRA Features

A health reimbursement arrangement is:

- An employer funded arrangement
- Account-based group health plan (under the Code, ERISA and PHSA)
- Employer usually creates an unfunded account for each employee and reimburses an employee for expenses up to their account balance
- Can include former employees or be “retiree-only”
- Reimburses employees (or former employees) for substantiated, qualified medical expenses incurred by employees, as well as their spouses and dependents, such as,
  - Code 213(d) medical care expenses
  - Premiums for GHP coverage not otherwise paid for on a pre-tax basis
- May not be provided pursuant to a salary reduction election or a cafeteria plan
- Until recently, could not reimburse individual health insurance premiums – now have QSEHRA or new ICHRA
- Often designed to provide carry-over of unused funds and spend downs in subsequent coverage periods including post-employment
- Usually offered in conjunction with group health coverage. Stand-Alone options limited after health care reform – essentially either a retiree only HRA or limited scope dental & vision or grandfathered

## Basic HRA -Taxation

- Tax Provisions:
  - No particular section of the Code governing traditional HRAs but basic HRAs treated as tax favored under Code Sections 105 & 106
- Tax Benefits:
  - Employer generally receives a deduction for reimbursements made under the HRA to employees, retirees and their family members
  - Employee not taxed on value of HRA coverage or HRA reimbursements received

## QSEHRA Features

- Fairly new – 2016
- Only available for small employers
- Employer funded BUT not considered a group health plan (in fact cannot offer GHP coverage and a QSEHRA)
- Not subject to major requirements (PHSA mandates) in health care reform
  - (exception, tax on high cost of health coverage; ERISA Title 1: Plan/SPD, Reporting; HIPAA Administrative Simplification (privacy and security))
- Employer help employees with cost of paying substantiated
  - Individual qualifying major medical coverage
  - Qualifying medical expenses

- **October 12, 2017** - Executive Order
  - Expanded Availability and Permitted Use of Health Reimbursement Arrangements. Within 120 days of the date of this order, the Secretaries of the Treasury, Labor, and Health and Human Services **shall consider proposing regulations or revising guidance**, to the extent permitted by law and supported by sound policy, **to increase the usability of HRAs, to expand employers' ability to offer HRAs to their employees, and to allow HRAs to be used in conjunction with nongroup (individual) coverage.**
- **October 2018** - Proposed Regulations
  - Introduced two new HRAs
    - Individual Coverage HRA (ICHRA)
    - Excepted Benefit HRA (EBHRA)



- **On June 13, 2019**, the Departments of Treasury, Labor, and Health and Human Services jointly issued **final regulations**:
  - **Expanding the availability and permitted use of HRAs, specifically in conjunction with individual (non-GHP) coverage - ICHRAs**
  - Final regulations effective for plan and taxable years beginning on or after January 1, 2020
- **On September 30, 2019**, the Internal Revenue Service published **proposed rules**:
  - Clarifying how the employer shared responsibility provisions apply to HRAs and account-based GHPs that are integrated with individual health insurance coverage or Medicare
  - Clarifying how the Section 105(h) nondiscrimination rules apply to account-based GHPs that are integrated with individual health insurance coverage or Medicare
  - Providing affordability and nondiscrimination safe harbors
  - Allowing taxpayers to rely on proposed regulations, generally for plan years beginning before the date that is six months after the final regulations are published
- **On September 30, 2019**, the Centers for Medicare and Medicaid Services (CMS) announced a **downloadable tool** for employer use in determining whether an ICHRA coverage offering is affordable

Starting 2020, two new types of HRAs, that unlike QSEHRAs, are available for any-size employer and allow HRAs to be used in conjunction **with non-group health coverage**:

- **The Individual Coverage HRA (ICHRA)**
  - An HRA that reimburses employee premiums for major medical insurance purchased in the **Individual Market** (MEC); Medicare-related coverages; and eligible Code §213(d) medical expenses.
- **The Excepted Benefit HRA (EBHRA)**
  - Limited dollar, nonintegrated HRA that qualifies as an excepted benefit. Reimburses eligible Code §213(d) medical expenses, and excepted benefit premiums (but not premiums for individual health coverage, Medicare, or non-COBRA GHP) PROVIDED employees eligible for group health coverage sponsored by the same employer. Some employers may also reimburse for short-term limited duration insurance premiums

## ICHRA Highlights

- Employer funded with no statutory limits
- Employees/dependents must be enrolled in qualifying individual medical coverage
- Enrollment in qualifying individual medical coverage must exist for each month covered by an ICHRA and in which medical expenses are incurred for reimbursement
- Enrollment in coverage must be substantiated annually and in conjunction with reimbursement requests according to specific substantiation rules
- May be offered to some, but not other, “permitted classes” of employees, provided:
  - same terms and conditions apply to all employees within a class (benefit amount increases based age and family size variations are permitted)
  - An ICHRA and traditional GHP may not be offered to same class of employees
  - If employer offers a traditional GHP and an ICHRA there are minimum class sizes
- Employer must comply with ICHRA notice requirements
- Employer must allow employees to opt-out of or waive ICHRA coverage

### ICHRA

#### Health Care Reform – Premium Tax Credit Basics

- ICHRA qualifies as MEC – 4980H(a)
- ICHRA may also be considered affordable – and if so, MV – 4980H(b)
- An applicable large employer can avoid ESR penalties by offering an affordable ICHRA to FTEs
- Employees and dependents covered by an ICHRA ineligible for PTC (regardless of whether ICHRA is affordable)
- Must provide annual opt-out, permanent opt-out/waive future reimbursements, forfeit remaining balance, when employment terminates (ICHRA subject to COBRA)

### ICHRA

#### Health Care Reform – Premium Tax Credit Basics

- An individual is generally eligible for a Premium Tax Credit if the premium of the lowest cost silver plan for self-only coverage offered by the Exchange in the ratings area in which the employee resides, less the ICHRA amount, exceeds 9.78% (2020)(adjusted for inflation) of the employee's household income
- Non-tobacco rates apply
- Premium discounts or rates provided under a wellness program benefit are not considered unless the incentive relates exclusively to tobacco use

## ICHRA – Benefit Specifics

### ICHRA Benefit:

- Employer funded - only
- No statutory limits
- May reimburse health insurance premiums, Medicare premiums (A, B, C, or D), Medigap policies, and Section 213(d) expenses
- Generally must provide same benefit amount to all employees in a permitted class  
Exceptions/special rules:
  - ❖ Carryovers and transfers from other HRAs are generally disregarded
  - ❖ Within the same permitted class, benefit amounts can vary, increase, similarly for all participants in the class, based on
    - Age, up to three times the maximum dollar amount available to the youngest participant
    - Family size - number of dependents
  - ❖ Mid-year enrollees may receive full benefits or prorated amounts – based on plan design, similarly for all participants in the class, determined before beginning of the plan year
- Different permitted classes may be offered varying benefit amounts
  - ❖ Consider 105(h)
  - ❖ Consider other federal and state discrimination laws

## ICHRA Specifics – Integration

### ICHRA Integration Provisions – Qualifying Coverage:

**Employees/dependents must be enrolled in qualifying individual medical coverage**

- Must be enrolled in
  - Individual health insurance coverage that complies w/
    - PHSA 2711 – prohibition on annual and lifetime dollar limits; and
    - PHSA 2713 – preventative services mandate
  - Medicare
    - Parts A and B; or
    - Part C
  - **Certain student health insurance coverages and catastrophic plans**
- **May NOT be integrated with**
  - Short-term limited duration insurance; coverage consisting only of excepted benefits; spousal coverage; health care sharing ministries; or TRICARE

## ICHRA Specifics - Integration

### ICHRA Integration Provisions – Qualifying Coverage (continued):

- Qualifying individual medical coverage must exist for each month enrolled in an ICHRA
- Qualifying individual medical coverage must exist for each month in which medical expenses are incurred for reimbursement

## ICHRA Specifics - Substantiation

### ICHRA Enrollment Provisions (continued) - SUBSTANTIATION:

**Enrollment in coverage must be substantiated annually and in conjunction with reimbursement requests according to specific substantiation rules**

- Annual substantiation – pre-condition to enrollment
  - Must be provided on or before first day of plan year or, if later, the first day of ICHRA coverage
  - Must substantiate enrollment by providing:
    - ✓ A participant attestation that contains:
      - Statement that covered participants and dependents are, or will be enrolled in qualifying individual medical coverage
      - The date that qualifying individual medical coverage begins
      - The name of the coverage provider
    - ✓ A third party attestation – e.g., documentation from the Exchange or an insurance card from the insurer – demonstrating:
      - That ICHRA covered participants and dependents are enrolled in qualifying individual medical coverage
- Ongoing substantiation of enrollment in qualifying individual medical coverage required for EACH request for reimbursement
  - May be provided by participant or third-party attestation
  - Participant written attestation may be part of reimbursement request form
  - Model Attestations available - provided by Treasury, DOL and HHS [Model Attestations](#)
- Can not rely on attestation if you have knowledge to the contrary

# New HRAs Permitted Under Final Regulations

## ICHRA

### ICHRA Specifics - Coverage

#### ICHRA Coverage Requirements

- Employees can be divided into “permitted classes”
  - ✓ Full-time or part-time
  - ✓ Seasonal
  - ✓ Salaried or non-salaried (hourly)
  - ✓ Same work location/geographic location
  - ✓ Temporary employees for placement at unrelated entity
  - ✓ Nonresident aliens with no U.S.-based income
  - ✓ Collectively bargained – per agreement
  - ✓ Employees who have not satisfied a waiting period for coverage
- Can combine 2 or more classes
- Once classes are established they can not change for that plan year
- Employers in the same controlled group can have different class rules
- Special rules for student employees offered premium reduction arrangements





# New HRAs Permitted Under Final Regulations

## ICHRA



### ICHRA Specifics - Coverage

#### ICHRA Coverage Requirements (Continued)

- May not offer ICHRA and Traditional GHP to same permitted class of employees
  - ❖ Exceptions
    - ✓ Special “new hire rule” - may offer an ICHRA to new hires in a permitted class (e.g., everyone currently in the class has a traditional GHP but new hires in class get an ICHRA)
    - ✓ Excepted benefits (vision or dental coverage) or health FSA permitted (but not an EBHRA)
- If employer offers traditional GHP to one or more permitted class of employees AND an ICHRA to one or more permitted classes of employees, then the “minimum-class size” requirement - applies to the following permitted ICHRA classes:

FTEs if part-time employees offered a traditional GHP	Part-time employees if FTEs offered a traditional GHP
Salaried employees	Non-salaried (hourly) employees
Employees with primary employment site in the same ratings area – unless ratings area is a state or 2+ state combination	A class of employees created by combining one of the ICHRA classes subject to the minimum class size requirement, with any other class

### ICHRA Coverage Requirements

- Minimum class size does not apply to:
  - ❖ employees offered traditional GHP
  - ❖ employees not offered coverage at all
  - ❖ combination of one the ICHRA classes in the previous chart and a class of employees that has not satisfied waiting period requirements for coverage
  - ❖ if new hire rule is used – no minimum class size requirement UNLESS the subclass is subdivided
- **Minimum Class Size**
  - ✓ For employer with less than 100 employees – minimum class size is 10
  - ✓ For employer with 100 - 200 employees – minimum class size is 10% of total number of employees
  - ✓ For employer with 200+ employees – minimum class size is 20
- Number of employees calculated before plan year (based on reasonable expectations)
- Class size determined based on number of people offered the ICHRA as of first day of plan year

### ICHRA Notice Requirements

General Rule – Notice of ICHRA must be provided 90 days before beginning of plan year. If employee not eligible to participate when notice provided or the beginning of the plan year, then notice provided no later than date employee first eligible to participate. **Exception** – new employer and ICHRA established fewer than 120 days before the beginning of the first ICHRA plan year, the notice can be provided no later than the date the ICHRA is first effective for employees

### Agencies provided a model notice - Individual Coverage HRA Model Notice!

Notice must contain a detailed description of the ICHRA, compliance explanations and numerous statements, including but not limited to the following non-exhaustive list:

1. General terms: contributions; eligibility; participation terms; explanation of individual medical coverage parameters; coverage start and end dates
2. General description of HRAs and a statement that the HRA being offered is an ICHRA
3. For ICHRAs subject to ERISA - statement that individual medical coverage is not subject to ERISA if certain conditions met
4. Detailed explanation of potential premium tax credit eligibility and ICHRA affordability determinations
5. Numerous statements regarding premium tax credit impacts. For example, statement that an offer of ICHRA coverage does not render a former employee ineligible for PTC even if ICHRA is affordable; statement explaining how to find assistance with determining affordability; statement that Medicare enrollees are ineligible for the PTC irrespective of ICHRA offer or acceptance. **Departments provide model language**
6. Statement of opt-out right and right to waive future reimbursements
7. Statement concerning substantiation requirements and employees obligation to provide substantiation under ICHRA rules
8. Statement that qualifying individual medical coverage/Medicare is required for initial and ongoing ICHRA reimbursement
9. Statement that special enrollment periods are available for those with new access to ICHRAs – **HHS provides model language**
10. Contact for ICHRA questions – ICHRA sponsor must provide contact information, including phone number, for an individual/group that can provide additional information regarding the ICHRA and information about HRA affordability – **Departments provide model language**

### ICHRA Opt-Out & Waiver Requirements

**Employees eligible for an ICHRA must be provided with an opportunity to opt-out of ICHRA coverage and waive future reimbursements from the ICHRA**

- ✓ Annually – each plan year
- ✓ In advance of the first day of the plan year or during applicable enrollment period
- ✓ For employees and all eligible dependents
- ✓ When employment is terminated, employees must:
  - Forfeit remaining ICHRA balances, subject to COBRA
  - Be permitted to permanently opt-out and waive future reimbursements (for employee and eligible covered dependents)

## ICHRA

- ✓ What benefit amount will be provided?
- ✓ What expenses will be reimbursed?
- ✓ Which classes will be covered or will entire workforce?
- ✓ Minimum class sizes met?
- ✓ What is impact of new HRA coverage with existing coverages?
- ✓ How will coverage be substantiated?
- ✓ Have ICHRA notices been provided timely?
- ✓ Have opt-out, waiver of future benefits been provided?
- ✓ ERISA – formal adoption; plan documents
- ✓ Cafeteria plan amendment



# New HRAs Permitted Under Final Regulations

## EBHRA

### EBHRA – Highlights

- Employer funded – unlike ICHRA there is a statutory limit
- An EBHRA is essentially another excepted benefit type of HRA (similar to LS vision/dental)
  - Market reform rules not apply
  - EBHRA coverage not considered MEC
- Excepted not due to type of benefits but due to limited dollar amount
  - \$1,800 annual limit (indexed after 2020)
  - Other HRA amounts count against limit, but exceptions
  - Can carryover – carried over amounts do not count against limit
- EBHRA is a non-integrated HRA – stand alone
- Must offer a traditional GHP to any employees offered an EBHRA
  - No requirement that GHP be affordable or provide minimum value
  - No requirement that employee actually enroll in GHP coverage
- Employer may NOT offer an EBHRA and an ICHRA to the same group of employees



# New HRAs Permitted Under Final Regulations

## EBHRA

### EBHRA Highlights (continued)

- Does Reimburse:
  - Code 213(d) medical expenses
  - Excepted benefit premiums
  - COBRA /group coverage continuation premiums
  - Short-term limited duration insurance premiums
- May Not Reimburse:
  - GHP premiums
  - Individual health coverage premiums
  - Medicare Parts A, B, C, or D
- Uniform Availability: Must offer EBHRA on same terms and conditions to similarly situated employees
- Discrimination: Subject to HIPAA and Code Section 105(h) nondiscrimination rules

## EBHRA



- ✓ What benefit amount will be provided
- ✓ What is impact of new EBHRA coverage with existing coverages – ensure indexed \$1,800 threshold not exceeded
- ✓ What expenses will be reimbursed
- ✓ Which employees will be offered EBHRA – ***ensure not also offered ICHRA***
- ✓ Was employer GHP offered with EBHRA
- ✓ Is coverage nondiscriminatory

ERISA

COBRA

NONDISCRIMINATION

EMPLOYER SHARED RESPONSIBILITY PROVISIONS



# New HRAs Permitted Under Final Regulations

## ERISA

The HRA – including ICHRA and EBHRA – is GHP coverage subject to ERISA (unless governmental, etc.) = Plan/SPD

Market reform generally requires an HRA to be integrated with qualifying group health plan coverage. New ICHRA rules allow HRA to be **integrated** with qualifying individual health plan coverage and satisfy market reforms

### **BASIC ICHRA INTEGRATION RULES** – covered previously

- ✓ Employee – must enroll in qualifying health insurance coverage purchased in the Marketplace; substantiate coverage
- ✓ Employer – must follow “offer” and reimbursement rules; provide proper notices; provide opt-out/waivers

### **The Underlying Coverage:**

Traditional HRA - underlying GHP coverage generally also subject to ERISA

ICHRA - underlying individual health plan coverage is also subject to ERISA unless

- Safe Harbor – ERISA exclusion for individual coverage funded by ICHRA, provided:
  - ✓ Employee purchase Voluntary
  - ✓ No endorsement
  - ✓ Employer does not receive gifts, cash or consideration for selection or renewal of any individual health insurance
  - ✓ Annual notification of ERISA inapplicability to individual health insurance

# New HRAs Permitted Under Final Regulations

## COBRA

ICHRA and EBHRA are subject to COBRA (unless exception, certain small employers, church plans, etc.)

Each qualified beneficiary has independent right to elect COBRA and continue HRA benefits

Generally, if employee loses ICHRA coverage due to qualifying event – e.g., employment termination or reduction in employment hours :

- Opportunity to self pay for the individual coverage under the ICHRA account on the day before the qualifying event, subject to COBRA rules and limitations
- COBRA premiums payable at times established by the Plan Administrator
- At the beginning of each month in the period of coverage, COBRA beneficiaries credited with monthly reimbursement
  
- Beneficiaries qualify for a special enrollment period to change individual coverage on or off of the Exchange
- Unused ICHRA benefits carried over to next period of coverage if COBRA premiums continue to be paid
- If COBRA premiums not paid, reasonable plan terms coverage how long ICHRA will reimburse eligible expenses incurred before individual coverage cessation and benefits unclaimed by close of ICHRA plan year forfeited

**Note, failure to maintain individual health coverage due to employee failure to satisfy integration requirements- lose coverage because not pay premiums or failure to substantiate – is NOT a COBRA qualifying event. Note, in such instances ICHRA must nevertheless reimburse otherwise eligible expenses incurred before individual coverage cessation, according to reasonable plan terms.**

# New HRAs Permitted Under Final Regulations

## NONDISCRIMINATION

- Steering Prohibition: Do not want employers to intentionally or unintentionally steer those with adverse health factors from an employers GHP into the Individual Market
- ✓ Plan Sponsor may not offer same class of employees traditional GHP and an ICHRA
- ✓ ICHRA must be offered on “same terms” (amount and T&Cs) to all employees within a class
  - Note, benign discrimination is NOT allowed under ICHRA rules
  - Exception, can increase ICHRA amounts based on family size, age subject to ICHRA rules, without violating Code Section 105(h) nondiscrimination rules.
    - Family size – no limit so long as amounts made available apply to all participant in that class with similar number of dependents.
    - Age - Maximum dollar amount made available to oldest participant may not exceed three times amount available to youngest participant and amounts must apply to all similarly aged participants in the class
    - Amounts and methods determined prior to plan year
    - Classes which may be defined under Code §4980H or Code §105 –(full-time, part-time, seasonal) must be defined under same Code provision for the plan year and the ICHRA plan document must specify the Code provision being used

# New HRAs Permitted Under Final Regulations

## NONDISCRIMINATION

IRS Proposed Regulations – Two Nondiscrimination Safe Harbors for ICHRAs under Code §105. **UBA Compliance Advisor provides a great overview!**

- An employer can vary an individual coverage HRA's maximum dollar amount available to participants who are members of a particular class of employees if the increases are based on the age of each participant and the increases comply with the age-variation rule under the "same terms" requirement described above;
- An employer can vary an individual coverage HRA's maximum dollar amount available to participants within a class of employees or between classes of employees if, within each class of employees, the maximum dollar amount only varies with the "same terms" requirement described above and, with respect to differences in the maximum dollar amount made available for different classes of employees, the classes of employees reflect the classes that the final rule allows (described below).

Note, if a plan uses a safe harbor but the plan operates to disproportionately favor highly compensated employees, then the plan can still be considered discriminatory under Code §105.

# New HRAs Permitted Under Final Regulations Employer Shared Responsibility - ICHRAs

Proposed IRS Regulations (September 30, 2019):

- provide greater detail on interplay between the ICHRA and employer shared responsibility rules
- Provide affordability safe harbors for ICHRAs
- May be relied on for plan years beginning BEFORE date that is six months AFTER final regulations are published



# New HRAs Permitted Under Final Regulations Employer Shared Responsibility - ICHRAs

Interplay between the ICHRA and employer shared responsibility rules

- Confirms for Code **§4980H(a)** penalty purposes that:
  - ✓ ALEs can count ICHRA offers towards 95% threshold
  - ✓ Confirms offering an ICHRA is sufficient
  
- Confirms for Code **§4980H(b) affordability** purposes that:
  - ✓ ALEs may continue to use safe harbors, on a uniform and consistent basis per class
  - ✓ An employees required contribution for individual coverage equals the excess of the monthly self-only premium for the lowest cost silver plan offered by the Exchange in the rating area where the employee resides over the self-only amount (or single dollar amount) made available to the employees under the ICHRA for the month
  - ✓ ALEs can continue to use the existing general affordability safe harbors (W-2, rate of pay, and FPL) by referencing the employee's required contribution for silver plan coverage

# New HRAs Permitted Under Final Regulations Employer Shared Responsibility - ICHRAs

Interplay between the ICHRA and employer shared responsibility rules

➤ For Code **§4980H(b) affordability** purposes:

✓ Proposes two new safe harbors designed to simplify affordability determinations:  
The LOCATION SAFE HARBOR and the LOOK-BACK SAFE HARBOR

- LOCATION SAFE HARBOR - Allows ALEs to determine Silver Plan premium based on employee's primary site of employment, instead of employee's residence
  - Primary site of employment is where employer reasonably expects employee to perform services
  - If employee regularly works from home or at another location, and may be required to work or report to another location, primary site of employment can be the other location
  - If employee regularly works from home and is not required to work or report to another employer location, then employee's home is primary site of employment
  - Special rules provided for primary site changes

# New HRAs Permitted Under Final Regulations Employer Shared Responsibility - ICHRAs

Interplay between the ICHRA and employer shared responsibility rules

➤ For Code **§4980H(b) affordability** purposes:

- LOOK-BACK SAFE HARBOR - Allows ALEs to determine Silver Plan premium based on a look-back month before the plan year
  - For calendar year plans – use January of the prior calendar year
  - For non-calendar year plans – use January of the current calendar year
  - Use employees age on first day of current plan year, or if later, first day of ICHRA coverage eligibility
  - Use employee's location (residence or primary site of employment, as applicable), but updates must be made if employee's location changes

# New HRAs Permitted Under Final Regulations Employer Shared Responsibility - ICHRAs

Interplay between the ICHRA and employer shared responsibility rules

➤ For Code **§4980H(b) minimum value** purposes:

- ✓ Confirms ICHRA coverage that is affordable is treated as providing minimum value

➤ **Code §6055 and Code §6056 reporting**

- ✓ Limited guidance. Many presume ICHRAs will be reported as a self-insured health plan under §6055 and that §6056 reporting will still be required
- ✓ Preamble to proposed regulations state that additional guidance is forthcoming on IRS reporting forms and instructions – due in 2021



# Final Questions

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# Thank You



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