



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.75.38

OCTOBER 15, 2020

EFFECTIVE DATE

(10-15-2020)

PURPOSE

- (1) This transmits revised IRM 4.75.38, Exempt Organizations Examination Procedures, Small Employer Health Care Tax Credit Under Section 45R.

MATERIAL CHANGES

- (1) All references to “Audit” and “Auditing” are changed to “Examination” and “Examining”.
- (2) IRM 4.75.38.1 - All references to the EO audience will now include FSL/ET employees.
- (3) IRM 4.75.38.1.4; Removed the acronyms “GECS” and “TCO”, as these terms are now obsolete.
- (4) IRM 4.75.38.2(1); Updated the closing unit from Ogden to the TEGE Closing Unit.
- (5) IRM 4.75.38.3.2(1); Amended returns now go to CP&C.
- (6) IRM 4.75.38.4; Added Notice 2016-75, Notice 2018-27 to update the notices
- (7) IRM 4.75.38.5.3.5.1.1(3); Updated requirement to offer SHOP coverage with Notices 2016-75 and Notice 2018-27.
- (8) IRM 4.75.38.5.3.5.1.1(5a); Updated Notice 2015-08 with Notices 2016-75 and Notice 2018-27. For years after 2014, the employer must offer coverage through a SHOP Exchange.
- (9) IRM 4.75.38.5.3.5.1.1(5b+c); Expanded paragraphs b) and c) to include summaries of Notices 2016-75 and Notice 2018-27.
- (10) IRM Exhibit 4.75.38-5 -Added Notice 2016-75 Counties.
- (11) Moved IRM 4.75.38.5.9 “Auditing Prior and Subsequent Years” to the body of the auditing instructions, IRM 4.75.38.5.2 , where it belongs.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.75.38, Small Employer Health Care Tax Credit Under Section 45R, dated July 07, 2017.

AUDIENCE

Tax Exempt and Government Entities
Exempt Organizations and Government Entities
Examinations

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4.75.38
Small Employer Health Care Tax Credit Under Section 45R

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- 4.75.38-4 Qualifying Arrangements – Uniform Percentage
- 4.75.38-5 Notices 2014-6, 2015-8 and 2016-75 Counties

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Small Employer Health Care Tax Credit Under Section 45R 4.75.38

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4.75.38.1
(10-15-2020)
**Program Scope and
Objects**

- (1) *Purpose:* The purpose of this IRM section is to provide guidance for examining
- (2) *Audience:* The procedures in this manual apply to Exempt Organizations Examining Tax Compliance Officers and Exempt Organization Examination Employees..
- (3) *Policy Owner:* Director, Exempt Organizations and Government Entities
- (4) *Program Owner:* Exempt Organizations and Government Entities

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4.75.38.1.1
(07-07-2017)
Background

- (1) The small employer health care tax credit is included in the Affordable Care Act enacted in March 2010. It's designed to encourage both small businesses and small tax-exempt organizations to offer health insurance coverage to their employees for the first time or maintain coverage they already have.
- (2) In general, small employers who pay at least half of the premiums for single health insurance coverage for their employees may take the credit. It's specifically targeted to help small businesses and tax-exempt organizations who mostly employ moderate- and lower-income workers. The credit amount available to tax-exempt employers differs from the amount available to small businesses.
- (3) Eligible tax-exempt organizations can claim the credit for their 2010 through 2013 tax years and for any two consecutive years after that. For tax years 2010 to 2013, the maximum credit is 25 percent of premiums paid. Beginning in 2014, their maximum tax credit increases to 35 percent.
- (4) The maximum credit goes to smaller employers – those with 10 or fewer full-time equivalent (FTE) employees – paying annual average wages of \$25,000 (adjusted for inflation for tax years beginning after December 31, 2013) or less. The credit is completely phased out for employers who have 25 or more FTEs or pay average wages of \$50,000 (adjusted for inflation for tax years beginning after December 31, 2013) or more per year. Because the eligibility rules are based in part on the number of FTEs, not the number of employees, employers who use part-time workers may qualify even if they employ more than 25 individuals.
- (5) Tax-exempt organizations use Form 8941, Credit for Small Employer Health Insurance Premiums, to calculate their refundable credit, and claim the credit on the specified line on Form 990–T, Exempt Organization Business Income Tax Return. Though Form 990-T is primarily filed by those organizations liable for the tax on unrelated business income, Form 990-T is also used by any eligible tax-exempt organization to claim the credit, regardless of whether they are subject to this tax.
- (6) This IRM section discusses only the credits for which tax-exempt organizations apply.
- (7) The credit rules in this IRM generally apply to all tax years for which the credit is claimed. However, statutory changes to certain credit rules (for example,

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increase in maximum credit rate from 25 percent to 35 percent described above) take effect for tax years beginning after December 31, 2013. These changes are described in IRM 4.75.38.4.3.

4.75.38.1.2 (07-07-2017) Authority

- (1) IRC 7602 gives tax examiners the authority to:
 - a. Examine any books, papers, records or other data necessary to complete an examination.
 - b. Issue a summons for information necessary to complete an examination.
 - c. Take testimony under oath to secure additional information needed.
 - d. Ask about any offense connected with the administering or enforcing Internal Revenue laws.

4.75.38.1.3 (10-15-2020) Responsibilities

- (1) For this program, examiners are responsible for:
 - a. Determining if an employer is eligible for a credit under IRC 45R.
 - b. Calculating the allowable credit.
 - c. Ensuring taxpayer rights afforded in IRC 7803(a)(3).

4.75.38.1.4 (10-15-2020) Acronyms

- (1) The table lists commonly used acronyms and their definitions.

Acronyms	Definitions
ACA	Affordable Care Act
AIMS	Audit Information Management System
CCR	Case chronology report
EIN	Employer Identification Number
EO	Exempt Organizations
FTE	Full-time equivalent
Health FSA	Health Flexible Spending Arrangement
HRA	Health Reimbursement Arrangement
HSA	Health Savings Account
IDR	Information Document Request
IDRS	Integrated Data Retrieval System
QHP	Qualified Health Plan
RCCMS	Reporting Compliance Case Management System
SETR	Single Entry Time Reporting
SHOP	Small Business Health Options Program
TC	Transaction Code

Acronyms	Definitions
TE/GE	Tax Exempt/Government Entities
UBI	Unrelated business income

4.75.38.1.5
(07-07-2017)

Related Resources

- (1) Find additional information in the following related IRMs:
 - IRM 4.75.37, Exempt Organizations Examination Procedures, Claims, Requests for Abatement and Audit Reconsiderations
 - IRM 4.75.16, Exempt Organization Examination Procedures, Case Closing Procedures

4.75.38.2
(10-15-2020)

Systems and Processes

- (1) Cases for this program are:
 - Identified systemically using project code 1073
 - Controlled on AIMS
 - Worked using RCCMS
 - Closed through the TE/GE Closing Unit
- (2) TCOs and agents examine these cases using existing examination procedures and methods.

4.75.38.3
(07-07-2017)

Special Instructions

- (1) Track case time as follows:
 - WebETS: Charge technical time using normal procedures.
 - SETR: Charge time to this project according to separate instructions from the TE/GE Director of Finance as it is part of the ACA implementation.

4.75.38.3.1
(10-15-2020)

Power of Attorney/Third Party Authorizations

- (1) Follow IRS Disclosure Policies to prevent unauthorized disclosures. A disclosure is defined as making known to any person, in any manner, a return or return information. Ensure that you discuss the return with only:
 - An employee of the organization who is authorized to speak on behalf of the organization (for example, an officer).
 - An authorized representative of the organization with a valid Form 2848, Power of Attorney and Declaration of Representative. Refer to IRM 4.11.55.2.
- (2) A third-party designee or paid return preparer isn't authorized to discuss a return examination without a valid Form 2848.

4.75.38.3.2
(07-07-2017)

Amended/Revised/Corrected Returns

- (1) When an employer submits subsequent returns to the IRS Service Center, they're considered amended returns.
 - Groups receive amended returns from Accounts Management. Accounts Management establishes AIMS controls and sends to CP&C for review.
 - Agents must verify the tax module is adjusted to show the amended return. Refer to IRM 4.75.22.5

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Note: Corrected or revised returns that employers submit in response to an IDR aren't considered amended returns. See Exhibit 4.75.38-1, Amended/Revised/Corrected Return.

4.75.38.3.3
(07-07-2017)

Fiscal/Calendar Year

- (1) Calendar-year Filers: Use calendar-year amounts/figures for all components of the credit calculation, including calculating payroll tax withholding.
- (2) Fiscal-Year Filers: Use fiscal-year amounts/figures to calculate FTEs, Average Annual Wage, and Insurance Premiums. The examiner is always required to substantiate computations using payroll records because Forms W-3 and W-2 won't reconcile for fiscal-year filers.

4.75.38.3.4
(07-07-2017)

Short Tax Periods

- (1) Under general accounting principles, the examiner must prorate or annualize average annual wages and FTEs in calculating the credit.

Example: A small employer has only been in business and paying premiums for six months during its first taxable year. Therefore, it must prorate or annualize the employee hours worked and wages earned to reflect the six months the employer has been in operation.

4.75.38.3.5
(07-07-2017)

Returns with Unrelated Business Income (UBI)

- (1) Review both original and amended returns for UBI. See Pub 598, Tax on Unrelated Business Income of Exempt Organizations.

4.75.38.3.6
(07-07-2017)

Governmental Entities

- (1) A governmental entity may qualify for the credit only if:
 - a. It's described in IRC 501(c)
 - b. Exempt from tax under IRC 501(a).
 - c. Otherwise meets the definition of an eligible small employer in IRC 45R.
- (2) Most governmental entities don't qualify for the IRC 45R credit.
- (3) If the examiner determines that a governmental entity doesn't have a valid EO status follow IRM 4.75.37.5.2.1, EO Claim Disallowed in Full Without Additional Tax Due.

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4.75.38.3.8
(07-07-2017)
**Credit From
Flow-Through Entities**

- (1) If any portion of the 45R credit is claimed on the copy of the Form 8941 Line 15 the examiner receives with a response, request a copy of the organization's Schedule K-1.
 - a. Verify that the credit claimed on Line 15 is the amount shown on the Schedule K-1.
 - b. Verify that the employer has payroll tax withholding to sufficiently cover the amount of the credit. If the employer is claiming a credit of their own in addition to the flow-through credit, they must have paid sufficient payroll taxes to cover their credit as well as the flow-through amount.
 - c. If the employer is claiming **only** a flow-through credit, examiners **don't** need to analyze FTEs, average annual wages, and insurance premiums.
 - d. If the employer is claiming its own credit **in addition** to a flow-through credit, fully analyze the non-flow-through credit (FTEs, average annual wages, insurance premiums, etc).

4.75.38.4
(10-15-2020)
**Relevant Authority and
Guidance**

- (1) The Patient Protection and Affordable Care Act (ACA), P.L. 111-148, Section 1421 added IRC 45R.
- (2) The Treasury Department and IRS issued the following guidance on IRC 45R:

Guidance Issued	Guidance Provides	Effective date
Notice 2010-44	Explanation on how to apply IRC 45R.	Taxable years beginning before January 1, 2014, includes transition relief for taxable years beginning in 2010 for a qualifying arrangement.
Notice 2010-82	Expansion of Notice 2010-44 Guidance on additional issues.	Taxable years beginning before 2014.
Final regulations under IRC 45R (79 CFR 36640 (June 30, 2014))	Guidance on determining eligibility for the credit, calculating and claiming the credit.	Taxable years beginning after 2013. Employers may rely on the provisions of proposed regulations (REG-113792-13, 78 Fed. Reg. 52719 (Aug. 26, 2013)) for tax years beginning in 2014.

Guidance Issued	Guidance Provides	Effective date
Notice 2014-6	Transition relief for certain small employers that can't offer a qualified health plan through a SHOP exchange for 2014.	2014
Notice 2015-08	Relief for certain small employers that can't offer a qualified health plan through a SHOP exchange for all or part of 2015.	All or part of 2015
Notice 2016-75	Relief for certain small employers that can't offer a qualified health plan through a SHOP exchange for all or part of 2016.	All or part of 2016
Notice 2018-27	Relief is available where SHOP is not available for the second year of the credit period.	For 2017 and later years

4.75.38.4.1
(07-07-2017)

Credit Eligibility Rules

- (1) IRC 45R offers a tax credit to eligible small employers that provide health insurance coverage to their employees. It's effective for taxable years beginning in 2010. Both taxable employers and tax-exempt employers may be eligible for the Section 45R credit.
- (2) To be a tax-exempt "eligible small employer" the employer must:
 - a. Be described in Section 501(c) and exempt from tax under Section 501(a).
 - b. Have fewer than 25 FTEs for the taxable year.
 - c. Have an average annual employee wage for the year less than \$50,000 per FTE (adjusted for inflation for tax years beginning after December 31, 2013).
 - d. Pay premiums for each employee enrolled in health insurance coverage offered by the employer equal to a uniform percentage (not less than 50 percent) of the premium cost of employee-only coverage (a qualifying arrangement).
- (3) Certain changes to these requirements take effect for tax years beginning in 2014 and after. See IRM 4.75.38.4.3.
- (4) For taxable years beginning in 2010:
 - a. Notice 2010-44 Section V provides transition relief in applying the uniformity requirement.

- b. Notice 2010-82, Section III, Part G gives rules for applying the uniformity requirement in taxable years beginning after December 31, 2009 and before 2014.
 - c. An employer may satisfy the uniformity requirement either by meeting the requirements of either of the notices listed above.
- (5) The 45R credit for **tax-exempt** eligible small employers is significantly different from the credit for eligible small employers that are **not tax-exempt** eligible small employers. For tax-exempt organizations the credit:
- a. Must be claimed on a Form 8941 attached to a Form 990-T. There is no other allowable return.
 - b. Percentage is 25 percent (35 percent for tax years beginning in 2014 and after).
 - c. Amount can't be more than the total amount of income and Medicare tax the employer is required to withhold from the employees' wages, and the employer share of Medicare tax on employees' wages, for the calendar year in which the taxable year begins.
 - d. Is refundable.

Note: Refundable credits issued to small tax-exempt employers are subject to sequestration. Refundable credits are reduced by the applicable sequestration rate according to the date the credit is processed for refund, regardless of when the IRS received the original or amended return. The sequestration reduction rate will apply until a law is enacted that cancels the sequester.

4.75.38.4.2 (07-07-2017) Credit Amount Rules and Phase Outs

- (1) For taxable years beginning in 2010 through 2013, the maximum credit for a tax-exempt eligible small employer is 25 percent of the employer's premium payments made for its employees for health insurance coverage under a qualifying arrangement. See IRM 4.75.38.4.3 for the maximum credit amount for taxable years beginning in 2014 and after.
- (2) In calculating the credit, the employer's premium payments are limited to the premium payments the employers would've made if the average premium for the small group market in the state or rating area, in which the employee enrolls for coverage were substituted for the actual premium the employer paid. The average premiums are published in the Form 8941 Instructions.
- (3) The credit phases out for eligible small employers if the number of FTEs exceeds 10 or if the FTEs average annual wages exceed \$25,000 (adjusted for inflation beginning in 2014). For example:
 - a. If the number of FTEs exceeds 10, multiply the otherwise applicable credit by this reduction calculated as:

$$\frac{\text{FTEs in excess of 10}}{15} = \text{result}$$

- b. If the average annual FTE wages exceed \$25,000 (adjusted for inflation beginning in 2014), multiply the otherwise applicable credit by this reduction, calculated as:

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$$\frac{\text{amount FTEs exceed \$25,000}}{\$25,000} = \text{result}$$

Note: Adjust the numerator and denominator for inflation beginning in 2014

4.75.38.4.3
(07-07-2017)

Credit Eligibility and Amount Rules

- (1) For tax years beginning in 2014 and later, a few statutory changes affect the definition of an eligible small employer and other credit rules:
 - a. Cost-of-living adjustments are made to the wage phase-out amount described in IRM 4.75.38.4.2 (3).
 - b. For the requirement described in IRM 4.75.38.5.3.5.1.1, the eligible small employer generally must contribute toward premiums on behalf of each employee enrolled in a QHP through a Small Business Health Options Program (SHOP Marketplace).

Exception: Some exceptions apply to the requirement to offer health coverage through the SHOP Marketplace in 26 CFR 1.45R-3(i) (for certain employers whose plan year and tax year do not match) and in Notices 2014-6, 2015-8, 2016-75 and 2018-27 (for certain employers located where QHPs aren't available through a SHOP in the time periods specified in these notices. See the notices for more details.).
 - c. The maximum credit amount in IRM 4.75.38.3.2(1) increases to 35 percent of employer premiums paid for tax-exempt eligible small employers.
 - d. An employer may claim the credit for up to two-consecutive taxable years, beginning with the first taxable year in or after 2014 in which the eligible small employer claims the credit.

4.75.38.5
(10-15-2020)

Examination Procedural Overview

- (1) Requests for the 45R credit are similar to claims. Therefore, in addition to the information below, consider IRM 4.75.37 when working these cases.
- (2) Refer to IRM 4.75.37.4 for statute requirements, and IRM 4.75.37.5 for barred statute requirements.
- (3) Use the following documents when reviewing Forms 8941 and 990-T for the Small Employer Health Care Tax Credit. This package allows you to do a pre-exam review and prepare the examination report, workpapers, letters, IDRs and forms you need to close the case. The package contains:
 - a. Form 3198-A, TE/GE Special Handling Notice
 - b. Letter 3611, EO Initial appointment - No Prior Contact
 - c. Form 4564, Information document request (IDR)
 - d. Letter 3597, Transmittal Letter for Power of Attorney
 - e. Form 4700, Examination Workbook
 - f. Workpaper B-1, to research IDRS to verify organizational status and other information
 - g. Form 5773, EO Workpaper Summary
 - h. Form 5464, Case Chronology Record
 - i. Supplemental worksheets to calculate allowed credit amount
 - j. Form 4549, Income Tax Examination Changes
 - k. Form 4549-A, Income Tax Examination Changes (Unagreed and Excepted Agreed)

- l. Form 2297, Waiver of Statutory Notification of Claim Disallowance
- m. Form 3363, Acceptance of Proposed Disallowance of Claim of Refund or Credit
- n. Form 886-A, Explanation of Items
- o. Form 13683, Statement of Disputed Issues
- p. Examination Letters
- q. Sequestration Notice
- r. Form 3870 for Sequestration
- s. Form 5599, TE/GE Examined Closing Record
- t. Form 5666, TE/GE Referral Information Report
- u. Pub 1, Your Rights as a Taxpayer
- v. Pub 3498-A, The Examination Process (Audits by Mail)
- w. Pub 5, Your Appeal Rights and How to Prepare a Protest If You Don't Agree
- x. Pub 556, Examination of Returns, Appeal Rights, and Claims for Refund

Note: The Form 4700 Workbook contains items 4"d" – "f" and "i" - "s". Items "a" - "c", "t", and "u" are saved on the shared drive. You can find items "v" - "y" at the *Core Repository of Published Products*.

4.75.38.5.1
(07-07-2017)

Initial Examination Steps

- (1) Take these initial steps (not necessarily in this order) for each case:

Step	Action	Additional Instructions
1	Verify assignment in RCCMS. When time is charged to the case, update to status 12.	Sync RCCMS. If still not in RCCMS, check with group clerk and manager.
2		

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Step	Action	Additional Instructions
3	<p>Start Form 4700, Case Chronology:</p> <p>a. Change the pre-populated entries to the dates of your initial letter and response due date for your case. Change comments if the amended return was selected for examination rather than the original return.</p> <p>b. Document all actions you take on the case, including dates and time spent. Work case timely. Document lapses in which you haven't acted on case in over 30 days (vacation, training, case in suspense, etc.).</p>	<ul style="list-style-type: none"> • Write clear, concise, and correct information. • Don't include IRS employees' names. Use their title and position. • Don't include procedures • Don't express personal opinions on the CCR.
4	<p>Complete Form 4700, page 1:</p> <p>a. Entity Information</p> <p>b. Section A, "Expand scope of examination" after you determine whether you'll include UBI in the exam.</p> <p>c. Sections B and C after you do IDRS research.</p>	<p>Note: Form 4700 references individuals, not businesses.</p>
5	<p>Complete Form 4700, B-1 Workpaper.</p> <ul style="list-style-type: none"> • Do a pre-exam analysis. • Save IDRS prints researched during the pre-exam as one document in RCCMS. 	
6	<p>Create and send Initial Letter and IDR to employer within 30 days of case assignment. Save documents in RCCMS case folder.</p>	<p>See IRM 4.75.10 for instructions on preparing IDR.</p>

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Step	Action	Additional Instructions
7	<ol style="list-style-type: none"> a. Analyze the employer's response to the initial IDR, and determine the allowable credit amount based on documentation provided. b. Do NOT rely solely on the employer's worksheets to determine the credit. c. Verify and compare the employer's worksheets and information with the documentation provided. 	If the employer documentation is insufficient to analyze, either call them or send a supplemental IDR to obtain additional documentation.

4.75.38.5.2
(10-15-2020)
**Examining Prior and
Subsequent Years**

- (1) If you need to open a prior or subsequent year for examination, you must get your manager's approval
- (2) After you receive approval to open a prior or subsequent year for examination:
 - a. Establish the case on RCCMS using Source Code 79.
 - b. When time is charged to the case, update RCCMS to status 12
 - c. Send the Initial Letter and IDR to employer.

4.75.38.5.3
(07-07-2017)
Determining Eligibility

- (1) To determine eligibility for credit under Section 45R, examiners will:
 1. Determine the employees who are considered for the credit.
 2. Determine the number of hours of service performed by those employees (maximum of 2080 hours per employee per year).
 3. Calculate the number of the employer's FTEs.
 4. Determine the average annual wages paid per FTE.
 5. Determine the premiums paid by the employer that are taken into account for purposes of the credit. Specifically, the premiums must be paid by an employer under a qualifying arrangement and must be paid for health insurance that meets the requirements under Section 45R.
 6. Determine the amount of payroll tax withholding.
 7. Calculate the credit.

4.75.38.5.3.1
(07-07-2017)
**Step 1 - Determining the
Employees Taken into
Account**

- (1) Generally, employees are workers who perform services for the employer during the taxable year.
- (2) These individuals aren't considered employees for purposes of the credit:
 - Owners of the small business, such as sole proprietors, partners, shareholders owning more than 2 percent of an S corporation or more than 5 percent of a C corporation.
 - Spouses of these owners.

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- Family members of these owners: a child, grandchild, sibling or step-sibling, parent or ancestor of a parent, a step-parent, niece or nephew, aunt or uncle, son-in-law or daughter-in-law, father-in-law, mother-in-law, brother-in-law.
 - Spouses of any of the above family members.
- (3) Look for identifiable discrepancies by comparing employer's worksheets with documentation such as Forms W-2, payroll records, and IRS records documented on the B-1 Workpaper.
 - (4) If the employer attempts to omit certain workers from its calculations or doesn't consider certain workers to be employees, refer to IRM 4.23.5.6, IRC 3121(d) and Rev. Rul. 87-41. The issuance of a Form W-2 is not the sole factor in determining employee status. You must also examine direction and control.
 - (5) Workers who are volunteers with an organization **and** are classified under the law as **federal** employees are **not** considered employees of the organization claiming the credit.
 - (6) A leased employee who isn't a common law employee is considered an employee for credit purposes if he or she:
 - Provides services to employer under an agreement with a leasing organization.
 - Performed services for an employer or related person substantially for at least a year.
 - Performs services under the employer's primary direction and control.
 - (7) If the employer **leases** workers who aren't common law employees, don't use hours, wages or premiums paid for their initial year of service.
 - (8) If the employer uses a third party for payroll liabilities and/or health insurance, see Exhibit 4.75.38-3, *Third Party Job Aid*.
 - (9) **Factors to determine if you should consider certain workers for the credit:**

Worker Category	Determining factor	Employee for the credit	Include/exclude from wage calculation	Count hours worked	Count employer premiums paid toward the 45R credit
Ministers ¹	determined to be an employee using common law standard	yes	exclude	yes	yes
Ministers ¹	not determined to be an employee using common law standard	no	exclude	no	no

Worker Category	Determining factor	Employee for the credit	Include/ exclude from wage calculation	Count hours worked	Count employer premiums paid toward the 45R credit
Seasonal workers ²	who work for the employer more than 120 days during the taxable year	yes	include	yes	yes
Seasonal workers ²	who work for the employer less than 120 days during the taxable year	yes	exclude	no	yes
Part-time workers	regardless of days worked	yes	include	yes	yes
Religious workers	who have taken a vow of poverty	yes	include only if the worker(s) has wages subject to Medicare on Form W-2.	yes	yes
Workers working under a J-1 VISA	who have been issued a Form W-2	yes	include only if the wages are subject to Medicare on Form W-2	yes	yes

Note: 1. See 26 CFR 1.45R-1(a)(5)(v) and Notice 2010-82.

Note: 2. Department of Labor 29 CFR 500.20(s)(1):Workers **may be** considered seasonal if labor is performed on a seasonal basis **where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.** Employers may apply a reasonable, good faith interpretation of the term seasonal worker. **Determine whether or not a worker is seasonal on a case-by-case basis, considering the particular facts and circumstances.** Items to consider are: the reason they were hired, their duties, and range of time-periods worked. A retail worker who is employed **exclusively** for the holidays would be considered to be a seasonal worker. A substitute teacher who may be called upon to work through-out the school year wouldn't be considered to be a seasonal worker. They would be considered a part- or full-time worker.

4.75 Exempt Organizations Examination Procedures

4.75.38.5.3.2

(07-07-2017)

Step 2 - Determining the Number of Hours of Service Worked by Employees for the Taxable Year

- (1) An employee's hours of service during the employer's taxable year includes:
 - a. Each hour for which they were paid, or entitled to payment, for the performance of duties.
 - b. Each hour for which they were paid, or entitled to payment, for the tax year during which no duties were performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence (except that no more than 160 hours of service are required to be counted for an employee on account of any single continuous period during which the employee performs no duties).
- (2) Don't include an employee's hours of service in excess of 2,080 for a year.
- (3) Employers may use one of these three methods to calculate hours of service for any employee:
 1. **Actual Hours Worked Method:** Determine actual hours of service from records of hours worked and hours for which payment is made or due (payment is made or due for vacation, holiday, illness, incapacity, etc.)
 2. **Days Worked Equivalency Method:** Use a days-worked equivalency method in which you credit the employee with 8 hours of service for each day for which the employee would be required to be credited with at least one hour of service per actual hours worked method.
 3. **Weeks Worked Equivalency Method:** Use a weeks-worked equivalency in which you credit the employee with 40 hours of service for each week for which the employee would be required to be credited with at least one hour of service per actual hours worked method.

4.75.38.5.3.3

(07-07-2017)

Step 3 - Calculating the Number of the Employer's FTEs

- (1) **FTE Worksheet in Form 4700 Workbook:** The worksheet is formulated to make these calculations. However, you're responsible to accurately complete all fields in the workbook.

Column/Section	Instructions
Employee Column	<ol style="list-style-type: none"> a. Calendar-year filers: Input the names per Forms W-2 provided by the employer. Compare the number of Forms W-2 to the number reported and shown on PMFOL. b. Fiscal-year filers: Input the names per the payroll records provided by the employer. Compare the names provided by the employer to the names appearing on the payroll records. Compare the number of names to the Forms W-2 and PMFOL and the totals reported on the quarterly filings to identify potential discrepancies.

Column/Section	Instructions
Hours & FTEs Per F8941 Column	Enter Full Time Equivalents number as it appears on the original Form 8941 filed with the Form 990-T (BRTVU). This is the only entry that you should make in this column.
Hours Per IDR Response Column	<ol style="list-style-type: none"> 1. Enter the hours worked by each employee that the employer used in calculating their credit on the original Form 8941 filed with the Form 990-T (BRTVU). 2. If the organization provides any additional information showing they didn't include any employees' hours or they are making a correction, show that information in the following "Per Exam "column. See "Hours Per Exam Column" below.
Hours Per Exam Column	<p>Enter the hours worked for each employee as determined during your examination. Include these hours worked by:</p> <ol style="list-style-type: none"> a. Full-time and part-time employees b. Religious workers who have taken a vow of poverty and ministers that are common-law employees c. Seasonal employees who worked more than 120 days d. Leased employees who provided services for the employer for at least a year
Comments Column	Enter comments for employees if they further clarify (i.e. "minister", "seasonal"), or explain discrepancies.
Comments Section Below Table	<ol style="list-style-type: none"> 1. Enter comments that show the employer-provided documentation which you reviewed to make your determination. 2. Notate any errors the employer made and how correcting those errors will affect the credit.

- (2) Divide the employer's total hours of service per Step 1 (but not more than 2,080 hours for any employee) by 2,080 hours. If the result isn't a whole number, round down to next lowest whole number. If the result is less than 1 FTE, round up to 1 FTE.

4.75.38.5.3.4
(07-07-2017)

Step 4 – Determining the Employer’s Average Annual Wages per FTE

- (1) Use **wages subject to Medicare tax withholding**, for the credit, NOT gross wages.
- (2) Aggregate total wages (wages subject to Medicare tax withholding) the employer paid for the taxable year to all employees used in Step 1 above.
- (3) Divide the aggregate total wages by the number of FTEs for the year as calculated under Step 3 above.
- (4) Round the result down to the nearest \$1,000 (if not otherwise a multiple of \$1,000).
- (5) **Average Annual Wages Worksheet in Form 4700 Workbook:** The worksheet is formulated to make these calculations. However, you are responsible to accurately complete all of the workbook’s fields.

Column/Section	Instructions
Employee Column	The names of employees you entered on the FTE Worksheet are formulated to flow to this worksheet. If you deleted a name line on the FTE Worksheet, delete the same line on the Average Annual Wages Worksheet.
Pay Per Form 8941 Column	Enter Average Annual Wages amount as it appears on the original Form 8941 filed with the original Form 990-T (BRTVUE). This is the only entry you should make in this column.
Pay Per IDR Response Column	<ol style="list-style-type: none"> 1. Enter the wages for each employee that the employer used to calculate their credit on the original Form 8941 filed with the Form 990-T (BRTVU). 2. If the organization provides any additional information showing they didn’t include any employees’ wages or they are making a correction, show that information in the following Per Exam Column. (See Pay Per Exam Column below).

Column/Section	Instructions
Pay Per Exam Column	<p>1. Enter the wages subject to Medicare tax withholding for each employee as determined during the exam. Calendar-year filers must provide copies of Forms W-2. Forms W-2, Box 5 (not Box 1) reports the relevant wages for calendar-year filers. Fiscal-year filers must provide payroll records for the fiscal tax period. Don't use Forms W-2 to determine wages for fiscal-year filers. Include Medicare wages in the calculations earned by:</p> <ul style="list-style-type: none"> a. full-time and part-time employees b. seasonal employees who worked more than 120 days c. leased employees who provided services for the employer for at least a year <p>2. Don't include wages earned by employees designated as ministers (even if the Form W-2 has an amount for Medicare wages) unless you've determined that they also performed non-ministerial duties. Indications that a minister might have also performed non-ministerial duties:</p> <ul style="list-style-type: none"> a. Two Forms W-2 were issued to that employee, and one of the Forms W-2 has a wage amount in Box 5. b. The Medicare Wages is less than gross wages and/or has an amount for Medicare Tax Withheld on the Form W-2. <p>In either case, ask the employer and document that information in the in the Comments Column or the Comment Section below the table. Refer to Publication 517.</p>
Comments Column	Enter comments for employees if they further clarify (i.e. "minister", "seasonal") or explain discrepancies.

Column/Section	Instructions
Comments Section Below Table	<ol style="list-style-type: none"> 1. Enter comments that show the documentation the employer provided and you reviewed to make your determination. 2. Notate any errors the employer made and how correcting those errors will affect the credit.

4.75.38.5.3.5
(07-07-2017)

**Step 5 – Determining the
Employer’s Annual
Premium Payments**

- (1) Count premiums the employer paid for health insurance coverage for employees employed during the tax period in calculating the credit.

Note: For tax years beginning in 2014, count only premiums the employer paid for employees enrolled in a qualified health plan (QHP) offered through a Small Business Health Options Program (SHOP) Marketplace in calculating the credit. See IRM 4.75.38.4.2.5.1.1(3).

- (2) You may treat premiums paid on behalf of a former employee as paid on behalf of an employee to calculate the credit if you also treat the former employee as an employee for purposes of the uniform percentage requirement. See 26 CFR 1.45R-1(a)(5)(vii).
- (3) The employer must meet the qualifications in IRC 414(f) if the employer states that their premiums are paid through a multiemployer plan. One hundred percent of the cost of coverage for all employees covered by the plan must be paid from employer contributions (not by employee contributions). This only applies for taxable years 2010-2013. For tax years 2014 and after, using a multiemployer plan doesn’t qualify for the credit.
- (4) If an employer pays only a part of the premiums for the coverage provided to employees (with employees paying the rest), use only the part the employer paid.
- (5) Don’t treat any premium paid under a Section 125 cafeteria plan as paid by the employer.
- (6) Include only health insurance premiums the employer paid under a qualifying arrangement.
- (7) Don’t include the payments for **reimbursements** for an insurance policy which the employer doesn’t offer or offers through a third party in the employer paid insurance amount; they don’t qualify.
- (8) **Medicare Supplemental Insurance Plans** may be an individual plan or may be a group –employer provided plan. Premiums reimbursed to an employee for the employee’s own individual Medicare supplement insurance plan **don’t** qualify for the 45R credit.
- (9) Don’t include administrative or service fees in the computation of the credit.
- (10) Employers that are religious organizations and self-insured can qualify for the credit for tax years 2010-2013 only.

- (11) Employers that aren't religious organizations that are self-insured can qualify for the credit **ONLY** if they provide proof that their self-insured plan is licensed by their State for tax years 2010-2013 only.
- (12) Health insurance coverage for this purpose means benefits consisting of medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer. See IRC 9832(b)(1). This section is only relevant to tax years 2010-2013. For tax years 2014 and after, further restrictions apply.
- (13) Health insurance coverage for this purpose also includes the following plans:
- limited scope dental or vision
 - long-term care
 - nursing home care
 - home health care
 - community-based care
 - coverage only for a specified disease or illness
 - hospital indemnity or other fixed indemnity insurance
 - Medicare supplemental health insurance
 - certain other supplemental coverage
 - similar supplemental coverage provided under a group health plan
- See IRC 9832 (c)(2), (3), and (4).
- (14) Health insurance doesn't include the following benefits:
- Automobile medical payment insurance
 - Coverage for on-site medical clinics
 - Coverage issued as a supplement to liability insurance
 - Coverage only for accident, or disability income insurance, or any combination thereof
 - Credit-only insurance
 - Liability insurance, including general liability insurance, and automobile liability insurance
 - Worker's compensation or similar insurance
 - Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits
- (15) Don't use employer contributions to, or amounts made available under, **HSAs**, **HRAs**, and health **FSAs** in determining the employer's premium payment for a taxable year.

Caution: The words "**HSA-Compliant**" in the **health insurance plan name** does **not** affect the employer's ability to claim the 45R credit.

- (16) If an eligible small employer offers any of the plans described in IRC 9832(b)(1) or IRC 9832(c)(2), (3), or (4) you can count the premiums the employer paid for these plans only if they're paid under a qualifying arrangement.

Example: If an employer offers a major medical insurance plan under IRC 9832(b)(1) and a stand-alone vision plan under IRC 9832(c)(2), the

4.75 Exempt Organizations Examination Procedures

employer must separately satisfy the requirements for a qualifying arrangement for each plan offered. Different plans are **NOT** aggregated for the purpose of meeting the qualifying arrangement requirement.

4.75.38.5.3.5.1
(07-07-2017)

Qualifying Arrangement Considerations

- (1) Consider these items to determine if the employer has paid premiums under a qualifying arrangement:

- a. Did the employer provide health insurance coverage?
- b. Is the employer the policy holder of the insurance?
- c. If the employer is not the policy holder of the insurance, did the employer pay insurance premiums through a third party?
- d. Did the employer provide more than one health insurance plan for employees?
- e. Specifically, what types of health insurance coverage did the employer provide?
- f. Are there any indications in response to the IDR that the employees paid any portion of their health insurance premiums? (IRC 125 Cafeteria Plan, payroll deductions, etc.) Did the employer report the non-taxable health insurance premiums on the employees W-2s?

Note: Most qualifying employers are not required to list the cost of employee health insurance on Forms W-2.

- g. Did the employer receive any state subsidies or state tax credits for health insurance? Did the state provide any state subsidies or tax credits that were paid directly to the insurance provider?
- h. Did the employer have any self-insured plans, such as HRAs and health FSAs, or contribute to HSAs? These arrangements are **NOT** health insurance coverage.
- i. Did the employer pay for each employee participating in the plan an amount equal to at least 50 percent of the single (employee-only) coverage premium amount?
- j. Did the employer offer more than one “tier” of coverage, i.e., coverage under a benefits package that varies only by the number of individuals covered? For example, self-only coverage, self plus one coverage, and family coverage would constitute three separate tiers of coverage.

- (2) **Consider these additional items for tax periods ending December 2011, and after:**

- a. Did the employer offer the employees a plan for which the insurance provider lists the **same** premium for each employee enrolled in a particular tier of coverage, referred to as “composite billing”?
- b. Did the employer offer the employees a plan for which the insurance provider lists a **separate** premium for each employee based on the age of the employee or other factors, referred to as using “list billing”?
- c. Did the employer meet the uniformity requirements for each plan for the applicable tax year? See Exhibit 4.75.38-4, Qualifying Arrangement-Uniformity Percentage Job Aid.
- d. Did the employer offer **dependent-only coverage**? Dependent-only coverage is different than family coverage in that it provides coverage only to the employee’s dependents and doesn’t include the employee. Don’t take into account a coverage purchased that doesn’t include the employee for purposes of applying the uniformity requirement nor the 50

percent qualifying arrangement requirement. However, you may count premiums paid for dependent coverage in determining the amount of the credit.

- e. **Ineligible employees for insurance:** An employee who may participate in the health plan only by paying 100 percent of the cost of the coverage is not “enrolled” in the plan as that term is used in Section 45R. The employee is purchasing the insurance entirely on their own as an **ineligible** employee. Don’t factor payments for an employee who is not eligible to participate in the employer’s health insurance coverage into uniformity.

4.75.38.5.3.5.1.1
(10-15-2020)

**Considerations for Tax
Years Beginning in 2014
and Forward (SHOP and
QHP requirements)**

- (1) The maximum credit increases from 25 to 35 percent of premiums paid for small tax-exempt employers.
- (2) The credit is available only for an additional two consecutive taxable years. Starting with the first taxable year that begins in 2014 or later in which the eligible small employer attaches a Form 8941, Credit for Small Employer Health Insurance Premiums, to its income tax return, an employer may claim the credit for up to and including two-consecutive taxable years. If an eligible small employer takes the credit for tax years beginning in 2010 through 2013, you wouldn’t count those years toward the two-consecutive taxable year period.

Note: The two-consecutive-taxable-year period begins with the year in which the eligible small employer attaches Form 8941 to its income tax return, regardless of whether the eligible small employer actually claims the credit in the following year.

Example: If an employer files a Form 8941 with their Form 990-T in 2014, the two consecutive year period begins in 2014 regardless of whether or not they file the Form 8941 in 2015. They cannot claim the credit in 2016.

- (3) Generally, for tax years 2014 and forward, an employer must offer a QHP through a SHOP Marketplace.

Exception: There are limited exceptions to the requirement to offer SHOP coverage. Refer to Notice 2014-06 , Notice 2015-8 ,Notice 2016-75 and Notice 2018-27 .

- (4) For the 2014 taxable year, an eligible small tax-exempt employer doesn’t need to switch plans mid-year to comply with the requirement that an employer offer coverage to its employees through a SHOP Marketplace. If, as of August 26, 2013, the tax-exempt employer has a plan year that begins after its taxable year starts, they may claim the credit for premiums paid for the entire 2014 taxable year at up to the maximum 35 percent rate if the employer:
- Begins offering coverage through a SHOP Marketplace on the first day of the plan year.
 - Offers coverage during the period before the first day of the plan year that would’ve qualified the employer for the credit under the rules that applied to years before 2014.
 - Begins offering coverage through a SHOP Exchange as of the first day of its plan year that begins in 2014.

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Example: The employer is an eligible small tax-exempt employer and a calendar year taxpayer. As of Aug. 26, 2014, the employer's health plan year runs from July 1 through June 30. The tax-exempt employer offers a QHP to its employees through the SHOP Marketplace on July 1, 2014. If, from Jan. 1, 2014, through June 30, 2014, the tax-exempt employer has been offering coverage to its employees under the rules applicable to years before 2014, then the tax-exempt employer may claim the credit for premiums paid on behalf of each employee enrolled in coverage for the entire 2014 taxable year at up to the 35 percent for tax-exempt employers, even though the employer did not offer coverage through a SHOP Marketplace for the first six months of 2014.

- (5) A small employer with a principal business address in one of the counties listed in Exhibit 4.75.38-5, where QHPs aren't available through the SHOP Marketplace in 2014, may claim the credit under the pre-tax year 2014 rules. Calculate the credit at the maximum 35 percent rate for tax-exempt eligible small employers for the entire 2014 taxable year, and the 2014 taxable year will be the first year of the two-consecutive-taxable-year-credit period. For a detailed description of this transition relief, see Notice 2014-6.
- a. The Treasury Department and the IRS issued Notice 2015-08, which provides relief for certain small employers that can't offer a qualified health plan through a SHOP exchange for all or part of 2015. A small tax-exempt employer with a principal business address in one of the counties listed in Exhibit 4.75.38-5, where QHPs aren't available through the SHOP Marketplace for all or part of 2015, may claim the credit under the pre-tax year 2014 rules. Calculate the credit at the maximum 35 percent rate for the entire 2015 taxable year. If the eligible small tax-exempt employer doesn't claim the credit for the 2014 taxable year, but claims the credit for the 2015 taxable year, then the 2015 taxable year will be the first year of the two-consecutive-taxable-year-credit period. If the eligible small tax-exempt employer first claims the section 45R credit for the 2014 taxable year, then the 2015 taxable year is the second year of the two-consecutive-taxable-year-credit-period, regardless of whether they take advantage of the relief described in this paragraph. For a detailed description of this relief, see Notice 2015-08.
 - b. A small employer with a principal business address in one of the counties listed in Exhibit 4.75.38-5, where QHPs are not available through the SHOP Marketplace for all or part of 2016, may claim the credit under the pre-tax year 2014 rules. The credit will be calculated at the maximum 50% rate (35% rate for tax-exempt eligible small employers) for the entire 2016 taxable year. If the eligible small employer does not claim the credit for the 2015 taxable year, but claims the credit for the 2016 taxable year, then the 2016 taxable year will be the first year of the two consecutive taxable year credit period. If the eligible small employer first claims the section 45R credit for the 2015 taxable year, then the 2016 taxable year is the second year of the two-consecutive taxable year credit period, regardless of whether the eligible small employer takes advantage of the relief described in this paragraph. Refer to Notice 2016-75
 - c. A small employer that properly claims the credit for all or part of the 2016 taxable year or a later taxable year may still claim the credit for all or part of the remainder of the two-year credit period, even if the employer has a principal business address in a county where QHPs are not available

through the SHOP Marketplace. In that case, employers may calculate the credit for the remainder of the credit period by treating health insurance coverage provided for the plan year(s) in which a QHP is not available through a SHOP Marketplace as qualifying for the credit if that coverage would have qualified for the credit under the section 45R rules applicable before January 1, 2014. To properly claim the credit, the employer must offer coverage through a SHOP Marketplace or coverage meeting the requirements for relief under Notice 2016-75, if applicable, and must comply with all other applicable guidance. Refer to Notice 2018-27

- (6) Church welfare benefit plans: For taxable years 2014 and after, employers are required to offer a QHP to its employees through a SHOP Marketplace to claim the credit. Church welfare benefit plans may not be available through a SHOP.
- (7) Dental health plans: A stand-alone dental health plan offered through a SHOP Exchange is considered a QHP for purposes of the credit.
- (8) For state SHOP Marketplaces approved for a direct enrollment process, an employer may offer coverage through the SHOP Marketplace by offering a SHOP-approved QHP obtained directly from an insurance agent or broker. The employer or insurance agent or broker may request a certificate of employer eligibility from the SHOP Marketplace. An eligible small employer who is eligible for the SHOP Marketplace and who offers a SHOP-approved QHP meets the SHOP participation requirement. The employer must show that it (1) offered a SHOP-approved QHP and (2) the employer is eligible for SHOP to meet this requirement. A SHOP Marketplace approved for the direct enrollment process will generally issue the employer a certificate of SHOP eligibility upon request, but the employer may prove SHOP Marketplace eligibility using other documentation.
- (9) Cost-of-living adjustments are made annually to the average annual wage phase-out amounts beginning in 2014.
- (10) Premium limitations are applied by rating area (not state) for tax years beginning in 2014 and later.

4.75.38.5.3.5.2

(07-07-2017)

Small Group Market Average Health Insurance Premium Limitation

- (1) Use the lesser of these two amounts for an employer's premium payments:
 - a. The aggregate premiums paid by the employer, or
 - b. The aggregate Small Group Market Average Health Insurance Premiums.

Note: Calculate the Small Group Market Average Health Insurance Premiums on an employee by employee basis. See Rev. Rul. 2010-13. The average premium for the small group market in the State has an **overall cap** for **all health insurance coverage** provided by an eligible small employer.

Note: For tax years beginning in 2014 and after, the average premium for the small group market is determined by the rating area in which the employee enrolls for coverage. These amounts are determined by the Secretary of Health and Human Services and the IRS publishes them in the Form 8941 Instructions.

- (2) **Small Market Limitation Worksheet in the Form 4700 Workbook:**

Column/Section	Instructions
Column F, Row 5 (high-lighted in yellow)	Enter the applicable tax year in XXXX format. For fiscal-year filers, enter the year in which the fiscal year began. Example: If fiscal year ending is 201106, enter “2010” in this field because the fiscal year began 201007.
Enrolled Individuals Considered Employees	Enter the names of insured employees per insurance premium invoices.
State Where Employee is Employed	Enter the state in which the employee worked, not the state in which they resided.
County/Rating Area (applicable to Form 4700 Workbook for 201412 and later)	Enter the county/rating area in which the employer’s business is located. If the employer has multiple businesses or operations in multiple states, the average premiums may be different per employee.
Type of Coverage F=Dependent, Family or S=Employee Only	Enter “F” or “S”. Any tier of coverage that is not Single (Self-only) is considered Family Coverage in this column. Note: If an employee has coverage for more than one plan and the type of coverage differs per plan, enter the type of coverage for the plan that has the higher premium. Example: If the employee has family coverage for medical insurance and single coverage for dental insurance, and the medical insurance premiums are higher than the dental premiums, enter “F” for the type of coverage.

Column/Section	Instructions
Employer Premiums Paid Total	<ol style="list-style-type: none"> 1. Enter the employer-portion of insurance premiums paid, not the total cost of premiums. If the employer provides more than one plan, enter the total of the employer-portion insurance premiums paid for all plans that are a qualifying arrangement and meet the uniformity requirements. 2. The employer must provide documentation to substantiate the claimed credit amounts. 3. The employer must provide documentation that provides sufficient proof of payment. 4. Include employer payments for wellness programs. 5. Administrative or service fees cannot be included in the computation of the credit. 6. State subsidies are included in the amounts for premiums that the employer paid.
Employer State Average Premiums Total or Average Premiums for Rating Area per F or S	<p>The average premiums for single and family for the applicable year and state or rating area are populated to make these calculations. If state or rating averages don't populate, enter amounts from Form 8941 Instructions for the tax year being examined.</p> <p>Reminder: A fiscal-year filer's tax year is the tax year in which fiscal year began.</p>
Percent Paid by Employer	Enter the percentage of total cost of insurance that the employer paid. If the employer provides more than one plan, enter the percentage of total cost of insurance that the employer paid for all plans that are a qualifying arrangement and meet the uniformity requirements.
Prorated Average Premiums	The worksheet has been formulated to make these calculations. However, you're responsible to make sure the calculations are accurate.
Months of Year Covered	Enter number of months each employee was covered by insurance under a qualifying arrangement.

Column/Section	Instructions
Prorated Average Premium	The worksheet has been formulated to make these calculations. However, you're responsible to make sure the calculations are accurate.
Tobacco Surcharge (applicable to F4700 Workbook for 201412 and later)	Enter amounts that the employer paid to cover tobacco surcharges so that these amounts are deducted from the total employer premium payments.
Employer Premiums Paid Excluding Tobacco Surcharge (applicable to Form 4700 Workbook for 201412 and later)	The worksheet has been formulated to make these calculations. However, you're responsible to make sure the calculations are accurate.
Lower of Prorated Average Premiums vs Premiums Paid AGGREGATE	The worksheet has been formulated to make these calculations. However, you're responsible to accurately complete its fields and make sure the calculations are accurate.

Column/Section	Instructions
Uniformity Dropdown (highlighted in yellow, column K row 209)	<ol style="list-style-type: none"> 1. Percentage differences of less than one percent are acceptable. If percentage differences are less than one percent, reformat column to include decimal points. 2. If percentage differences are more than one percent, but are relatively small because of timing differences in months of coverage or accounting errors, discuss the case with your manager. 3. Select "Yes" or "No" from the drop down menu. If "Yes" is selected then the total amount from Column K, Row 208 will flow over to Worksheets 5 and 6. 4. The uniformity requirement does not apply to dependent coverage. 5. Employer wellness program payments don't affect uniformity (whether due to a discount for employee participation or a surcharge for employee non-participation). 6. Exception to uniformity requirement: An employer is deemed to satisfy the uniformity requirement when failing to make uniform payments is due solely to additional employer contributions made to certain employees to comply with state or local law (e.g., state may require employer to pay a higher percentage for certain employees because the state may require that the employee contribution not exceed a certain percentage of the employee's monthly earnings).
Comments Section	<ol style="list-style-type: none"> 1. Enter comments that show the employer provided documentation which you reviewed to make the determination. 2. Include comments about how or how not the employer met uniformity and qualifying arrangement requirements for plan(s).

Column/Section	Instructions
Other	<ol style="list-style-type: none"> 1. Document the verification of costs of insurance plan(s) and number of months covered. Show month by month computations of insurance cost per invoices or other documentation for each insured employee, either below or to the side of the Comments Section or insert an additional worksheet in the workbook. 2. If the employer offered more than one plan, breakout computations showing how the separate plans meet/don't meet uniformity requirements, either below to the side of the Comments Section or insert an additional worksheet in the workbook.

4.75.38.5.3.6
(07-07-2017)

Step 6 – Determining the Amount of Payroll Tax Withholding

- (1) Limit the credit to the amount of certain payroll taxes required to be withheld and paid during the calendar year in which the taxable year begins. Payroll taxes for the purpose of this credit include Federal Income Taxes and Medicare Taxes (both the employer and employee portions).
- (2) If the employer paid these payroll taxes using its own EIN, the amounts input on the Form 4700 Workpaper B-1, BMFOLR Section, will flow over to the Form 4700 Withholding Calculation Worksheet, and then to the Worksheets 5 and 6. However, you're responsible to make sure the calculations are accurate.
- (3) If the employer paid these payroll taxes through another EIN, see Exhibit 4.75.38-3, Third Party Job Aid.
- (4) If you determine that payroll taxes paid through another EIN are allowed to be counted for the credit, manually enter Total Medicare Withholding and Total Federal Income Tax Withholding in the appropriate fields on the Withholding Calculation Worksheet. Enter comments on this worksheet notating what documentation the employer used to compute the payroll tax withholding.

Reminder: Calendar-year amounts should always be used for calculation of payroll tax withholding, even if employer is a fiscal-year filer.

4.75.38.5.3.7
(07-07-2017)

Step 7 – Calculating the Credit – IRC 45R(c)(1) & (2)

- (1) Form 4700 Workbook, Worksheets 5 and 6 have been formulated to make the following calculations, **except** for reducing the maximum credit for State subsidies or credits:
 - a. Calculate the maximum amount of the credit.
 - b. Reduce the maximum credit in step 1 under the phase-out rule (see below), if necessary.
 - c. Reduce the maximum credit in step 1 for employers receiving a State subsidy or credit for health insurance, when applicable.

- d. Determine the employer's net premium payment. The amount of the credit may not exceed the amount of the employer's net premium payments.

Reminder: It's your responsibility to ensure that the workbook's fields are complete and accurate.

Step	Action	Additional Instructions / Information
1	Calculating the Maximum Credit	<p>For a tax-exempt eligible small employer, the maximum credit is 25 percent (35 percent for tax year 2014 and thereafter) of the employer's premium payments taken into account for this purpose, i.e., including State premium subsidies. (See below) However, for a tax-exempt employer, the amount of the credit can't exceed these total taxes withheld on employees' wages for the year:</p> <ul style="list-style-type: none"> a. Income tax under Section 3402 b. Employee share of Medicare tax under Section 3101(b) c. Employer's share of Medicare tax under Section 3111(b)
2	Credit Phase-Out	<p>The credit phases out gradually (but not below zero) for eligible small employers if the number of FTEs exceeds 10 or if the average annual wages exceed \$25,000 (adjusted for inflation beginning in 2014). If the number of FTEs exceeds 10, determine the reduction by multiplying the otherwise applicable credit amount by a fraction: (FTEs in excess of 10)/15.</p> <p>If average annual wages exceed \$25,000 (adjusted for inflation beginning in 2014), determine the reduction by multiplying the otherwise applicable credit amount by a fraction: the numerator of which is the amount by which (average annual wages exceeding \$25,000)/\$25,000 (adjusted for inflation beginning in 2014). In both cases, subtract the result from the otherwise applicable credit to determine the credit to which the employer is entitled. For an employer with both more than 10 FTEs and average annual wages exceeding \$25,000, the total reduction is the sum of the two reductions. This may reduce the credit to zero for some employers with fewer than 25 FTEs and average annual wages of less than \$50,000 (adjusted for inflation beginning in 2014).</p>

Step	Action	Additional Instructions / Information
3	State Subsidies and State Credits for Health Insurance	<p>Certain states assist eligible small employers by paying a portion of their health insurance premiums. They do this in three ways:</p> <p>a. State Subsidies paid directly to an insurance company: Generally, if a State makes payments directly to an insurance company, to pay a portion of the premium for coverage of an employee under employer-provided health insurance (State direct payments), the State is treated as making these payments on behalf of the employer for purposes of determining whether the employer has satisfied the “qualifying arrangement” requirement.</p> <p>b. State Subsidies paid directly to an employer: Generally, if a State makes payments directly to an employer to pay a portion of the premium for coverage of an employee under employer-provided health insurance, the State is treated as making these payments on behalf of the employer for purposes of determining whether the employer has satisfied the “qualifying arrangement” requirement.</p> <p>Note: Both types of State subsidies are generally treated as an employer contribution for purposes of calculating the maximum credit. See 26 CFR 1.45R-3(d) and Notice 2010-44, Section III. D, examples 13 and 14.</p> <p>c. State Income Tax Credits: Instead of subsidy payments, some States choose to reimburse employers for a portion of their health insurance premiums through State tax credits. These State tax credits may be refundable or nonrefundable.</p>

Step	Action	Additional Instructions / Information
4	Determining the Employer's Net Premium Payment	<ol style="list-style-type: none"> 1. Although a state tax credit or premium subsidy paid directly to an employer does not reduce the amount of that employer's premiums paid, and although a state premium subsidy paid directly to an insurance provider is treated as a premium paid by the employer, the amount of an employer's credit cannot be more than the employer's net premium payments. 2. Net premium payments are employer premiums paid minus the amount of any state tax credits the employer received or will receive and any state premium subsidies paid either to the employer or directly to the employer's insurance provider for premiums for health insurance coverage the employer provides under a "qualifying arrangement" to individuals considered employees. 3. Compare the net premium payments to the allowed credit. The amount of credit can't exceed the net premium payment.

(2) Credit Characteristics and Limitations:

- a. For a tax-exempt eligible small employer, the credit is a **refundable** credit, so even if the employer has no taxable income, the employer may receive a refund.

Note: The refundable portion of the credit is subject to a sequestration reduction as described in the Note to IRM 4.75.38.3.1(5)(d).

Example: If a tax-exempt eligible small employer has no taxable income and a corresponding Section 45R credit of \$1,500, that employer would receive a refund less the sequestration amount.

Example: If a tax-exempt eligible small employer has taxable income with a resultant 2010 federal income tax liability of \$1,000, and a corresponding Section 45R credit of \$1,500, that employer could offset the credit against its 2010 tax liability, and would receive a \$500 credit for the amount by which the credit exceeded its tax liability for 2010. A refund would be issued for the remaining credit less the sequestration reduction.

Reminder: For a tax-exempt employer, the amount of the credit can't exceed the total amount of income tax under IRC 3402 and Medicare tax under IRC 3101(b) that the employer is required to withhold from employees' wages for the year and the employer share of Medicare tax under IRC 3111(b) on employees' wages for the year.

4.75 Exempt Organizations Examination Procedures

4.75.38.5.4
(07-07-2017)
Withdrawals

- (1) If an employer wants to withdraw their claim for the credit, they must provide a signed statement. After you receive the employer's signed statement, send a full-disallowance report. Include information regarding the employer's statement of withdrawal on the Form 886-A.

4.75.38.5.5
(07-07-2017)
Reports

- (1) Prepare a report for **ALL** cases in the Form 4700 Workbook.
- (2) There are two reports in the workbook, Form 4549 and Form 4549-A:
 - Use Form 4549-A for partial and full disallowances, no changes, and no changes with advisory.
 - Use Form 4549 for everything else.
- (3) Forms 4549-A for no change cases should not be sent to the organization
- (4) No Change with Advisory:

- b. If you can close a case as no change, but the TP made an error(s), prepare and send:

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Document	Instructions
No Change Letter	Add Form "886-A, Explanation of Items" to the list of enclosures.
Form 4549A	Add the following to page 2, Other Information Section: "We identified a de minimis discrepancy in one or more of the calculations made to determine your credit. These de minimis discrepancies resulted in no change to the credit amount you claimed. Please refer to the accompanying Form 886-A."
Form 886-A	Add the heading, "Advisory", followed by a brief statement about the error(s). Use the words "de minimis error". Don't use the words, "under tolerance". The Form 886-A doesn't have to contain the usual required sections, (i.e., Issue, Facts, etc.) Note: Form 886-A for No Change with Advisory cases must be reviewed by the group manager.
Sequestration Notice	Send with all letters.

- (5) If you discover an error in your report after it has been sent, or if the employer responds to the first report with additional information that would change the first report, prepare and send a revised report to the employer (See note below). Enter the comment, "Revised report, supersedes report dated xx/xx/xxxx", in the appropriate places on Forms 4549/4549-A and 886-A.

Note: Before revising a report, save the original report electronically or in paper form. The Form 4700 Workbook will not save multiple versions of the same Form/report.

Form 4700 Worksheets for Reports / Letters/Tabs	Instructions / Information
Input for F4549-F4549-A	<ol style="list-style-type: none"> Entity information flows from tab <i>Form 4700, page 1</i>, except for the Tax Period Ending Date. Examiner's Name and Employee ID flow from tab <i>Form 4700, page 1</i>. Verify the accuracy of the information that flows over from other worksheets. Enter Tax Period Ending Date, Examiner's Title, Examiner's POD, and Date of Report/Letter.
Form 4549 or Form 4549-A, Page 1	<ol style="list-style-type: none"> Entity information flows from tab <i>Form 4700, page 1</i>. Verify the accuracy of the information that flows over from other worksheets. Generally, all amounts will be "0.00", unless there is UBI and you determine that the employer made errors in calculating its tax.
Form 4549 or Form 4549-A, Page 2, Other Information Section	<ol style="list-style-type: none"> Paragraph 1: Replace tax year showing in "red" with applicable tax year and re-format so that the color is "black". Paragraph 2: Replace amount and tax period ending showing in "red" with applicable amount and tax year ending, and re-format so that the color is "black". Paragraph 2: Replace sample explanation with appropriate explanation that matches the case scenario. Find examples of explanation statements on the lower portion of the tab <i>Input for F4549-F4549A Worksheet</i>. Amounts in the remaining rows of the worksheet flow from other worksheets in the workbook. Verify this information's accuracy.
Form 2297 and Form 3363	<ol style="list-style-type: none"> Send these forms with Letter 3602, Claim Disallowance without Additional Tax, to the employer if your determination is a partial or full disallowance. The employer signs these forms if in agreement with our proposal. Information on tab <i>Form 2297</i> flows from tabs <i>Form 4700, page 1; Form 4700, page 2, Section L, and Input for F4549-4549A</i>. Information on tab <i>Form 3363</i> flows from tabs <i>Form 4700, page 1; Input for F4549-4549A ; Workpaper B-1; and Form 2297</i>. Verify the accuracy of the information in all fields of the tabs <i>Form 2297 and Form 3363</i>.
Form 13683	Send this form with all reports.
Blank Form 886-A	<ol style="list-style-type: none"> Prepare Form 886-A for all reports that are sent to the employer. Prepare Form 886-A inside the Form 4700 Workbook or in a separate Word document.
Form 886-A Charts	<ol style="list-style-type: none"> Charts (i.e., index) are pre-populated from other worksheets. Copy and paste charts to the Form 886-A as attachments showing calculations per exam. Verify charts for accuracy.

Form 4700 Worksheets for Reports / Letters/Tabs	Instructions / Information
Letter Summary Chart	Don't use the Letter Summary Chart. Refer to IRM 4.75.37, Exempt Organizations Examination Procedures, Claims, Requests for Abatement and Audit Reconsiderations, and IRM 4.75.16, Case Closing Procedures, and use appropriate letters.
Letters	<ul style="list-style-type: none"> Don't use the letters in the Form 4700 Workbook. Use the letters from the <i>Forms/Pubs/Publication Repository</i>. Send the Sequestration Notice with ALL letters.

- (6) Follow up on the case if you don't receive a response by the due date.

4.75.38.5.6
(07-07-2017)
Disputed Reports

- (1) If the employer responds to the report with a completed Form 13683, Statement of Disputed Issues, or a written statement in lieu of the form, disagreeing to the proposed credit allowance/disallowance:
- Review the statement of dispute and the attached documentation.
 - If the additional documentation results in a change to the previous determination, send a revised report package reflecting the change. Include the taxpayer's position on Form 886-A in the Taxpayer's Position section.
 - If the additional documentation does **not** change your previous determination, refer to IRM 4.75.38.5.8.

4.75.38.5.7
(07-07-2017)
Case Closing

- (1) Follow IRM 4.75.16, Case Closing Procedures.

4.75.38.5.7.1
(07-07-2017)
Closing Case as a Surveyed Case

- (1) After you have conducted your initial research and no issues are present, consider surveying the case. Discuss the case with your manager.
- (2) If your manager instructs you to close the case as a surveyed case, follow the instructions in IRM 4.75.16 and IRM 4.75.37.

4.75.38.5.7.2
(07-07-2017)
Closing an Error Account on RCCMS

- (1) If IDRS research and employer correspondence indicate that there is a problem with an EIN or tax period, discuss the case with your manager.
- (2) If your manager instructs you to close out the existing case on RCCMS/AIMS:
- Establish the correct account in RCCMS.
 - Place documents in the new case folder. You can do this manually or move activities from one case to another using RCCMS procedures.
 - Complete Form 10904, Request for Record Deletion from AIMS/ERCS, and upload it to the case in RCCMS being closed as the error case. Also, upload the applicable IDRS prints.
 - Close the case established in error in RCCMS using Disposal Code 901. The Disposal Code for Form 10904 is 33.

4.75.38.5.8
(07-07-2017)
Closing Unagreed Cases

- (1) If the employer disagrees with the report, close the case as unagreed with disposal code 07. Use disposal code 10 if the employer did not send a response. Refer to IRM 4.75.16.

Exhibit 4.75.38-1 (07-07-2017)**Amended/Revised/Corrected Return**

Amended Returns: Subsequent returns an employer submitted to the IRS Service Center are considered to be Amended Returns.

1. A TC 976 with a “-A” Freeze Code is an indicator that the amended return has been received by the IRS.
2. Contact the FAST team to obtain a copy of the amended return.
3. Review IDRS BRTVU for any discrepancies. If BRTVU matches the return in the file it may be the original rather than the amended return.
4. Write in red ink on the left hand side of return, “Considered during examination on XX-XX-XXXX.” (Enter the date that you reviewed the return).
5. Address the amended return in workpapers, reports and forms.
6. Comment on closing Form 3198A: “-A freeze on account. Amended return was considered during this examination.”

Revised/Corrected Returns: Corrected or revised returns submitted by the employer in their response to Form 4564, Information Document Request, are **NOT** considered to be Amended Returns.

1. Write in red ink on the left hand side of return, “Considered during examination on XX-XX-XXXX”. (Enter the date that you reviewed the return.)
2. Consider the return as part of the employer’s correspondence.
3. Do **not** refer to it as an Amended Return, regardless of how the employer refers to it.
4. Address the revised/corrected return in workpapers and reports.

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[illegible]

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Exhibit 4.75.38-3 (07-07-2017)**Third Party**

Use this job aid when a tax-exempt employer's payroll liabilities were reported under another EIN.

Scenarios covered by Exhibit:

- A tax-exempt employer's payroll tax liability is filed under another EIN, such as when the employer is a client of a payroll agency and the payroll agency files an employment tax return in the name and EIN of the payroll agency.
- A religious organization claiming the 45R credit when the parent religious organization files the employment tax return on behalf of the church.
- Any other tax-exempt organization's payroll tax liability is filed under another EIN, such as an affiliation, related party, or a third party acting as a fiscal agent.

The employer 45R credit is allowable if the employer meets other 45R requirements and if the employer can provide documentation showing:

- the employer paid health insurance premiums reported on Form 8941. This includes payments the employer paid through a third party, who then paid the insurer. The employer must show the amount the employer paid, not the total combined amount paid by the third party. The employer does **not** have to be the policy holder.
- the employer paid the portion of the payroll tax liability as reported by the third party.
- the employer paid the wages as reported by the third party.
- the employees on which the 45R credit is based are employees of the employer.

Examples of acceptable documentation:

- Paid invoices from the third party showing payment of insurance premiums and payroll tax liability.
- Bank account statements and/or cancelled checks showing that the employer paid the third party for payroll taxes and insurance premiums.
- Any other documentation that supports that the employer paid the third party for the health insurance premiums, payroll tax, and employees' wages.

Payments for reimbursements for an insurance policy which the employer **does not offer** itself or through a third party still do **NOT** qualify to be included in the amount the employer paid for insurance.

Small Employer Health Care Tax Credit Under Section 45R 4.75.38

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Exhibit 4.75.38-4 (07-07-2017)

Qualifying Arrangements – Uniform Percentage

DEFINITIONS:

- **Tier of coverage:** Tier of coverage is coverage under a benefits package that varies only by the number of individuals covered. For example, Self, Self-plus-one, Dependent, and Family. Age/Gender brackets do not constitute separate tiers and **should not** be considered in application of uniformity rules. Classification of positions or duties of employees, years of service, and hours worked **do not** constitute separate tiers and **should not** be considered in application of uniformity rules. *Notice 2010-82 page 11, Section G.1(d).*
- **Dependent-only coverage:** Dependent-only coverage is different than family coverage in that it provides coverage only to the employee's dependents and does not include the employee. A coverage purchased that does not include the employee is not taken into account for purposes of applying the uniformity requirement nor the 50 percent qualifying arrangement requirement. However, premiums paid for dependent coverage may be counted in determining the amount of the credit. Use the following link to refer to the *CFR 45R Final Regulations, 26 CFR 1 (TD 9672 RIN 1545-BL55):* <http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit:-Questions-and-Answers> (refer specifically to pages, 16, 19, 20, 31, 34, 42,43, 48, 52, and 57).
- **Multiple Plans:** Multiple, separate plans may be offered by the employer to its employees during the tax year. Separate plans may be identified by different insurance providers. In addition, the same insurance provider may offer more than one plan and may designate them as Basic, Standard, High, Low, etc. The multiple plans may have been for the same type of coverage – major medical, dental, vision, etc. Examples: (1) Employer had major medical coverage with Insurance Company A for part of the year and then with Insurance Company B for the remainder of the year. (2) Employer used Insurance Company A for some employees and Insurance Company B for other employees. (3) Employees were allowed to choose among two or more plans offered by the same insurance company. The multiple plans may also have been for different types of coverage. Example: one provider offered major medical coverage and the other provider offered dental coverage.
- **Employer-computed composite rate:** The average rate determined by adding the premiums for that tier of coverage for all employees eligible to participate in the health insurance plan (whether or not they actually receive coverage under the plan or under that tier of coverage) and dividing by the total number of such eligible employees. *Notice 2010-82 page 11, Section G.1(e).*

Type of Arrangement	Tier of Coverage	Qualification Requirements
Employers offering only one plan – COMPOSITE billing: <ul style="list-style-type: none"> • An arrangement that requires employer to pay a uniform premium for each enrolled employee. • <i>Notice 2010-82 page 10, Section G.1(b).</i> 	Self-only plan	Employer pays the same percentage or amount (not less than 50 percent) of the premium cost for each employee enrolled in self-only coverage. <i>Notice 2010-82 page 10, Section G and Notice 2010-82 page 14, Section G, Example 1.</i>
	Self-plus-one or family plan	Employer pays the same percentage or amount for each enrolled employee and this amount is no less than 50 percent of the premium cost of self-only coverage. <i>Notice 2010-82 pages 11-12, Section G.2(a) & (b) and Notice 2010-82 page 14, Section G, Example 2.</i>

Exhibit 4.75.38-4 (Cont. 1) (07-07-2017)**Qualifying Arrangements – Uniform Percentage**

Type of Arrangement	Tier of Coverage	Qualification Requirements
<p>Employers offering multiple plans – COMPOSITE billing:</p> <ul style="list-style-type: none"> • An arrangement that requires employer to pay a uniform premium for each enrolled employee. • <i>Notice 2010-82 pages 14-15, Section G, Examples 3, 4, & 5.</i> 		<ul style="list-style-type: none"> • Using the tests above for a single plan, the employer may meet the qualifying arrangement requirements on a plan-by-plan basis. • If all the employer's plans do not meet the above tests, then the plans may still be qualifying arrangements if one plan meets the requirements above (the reference plan) and if the self-only composite rate for the reference plan is at least 66 percent of the self-only composite rate of the other plans.
<p>Employers offering only one plan - LIST billing:</p> <ul style="list-style-type: none"> • An arrangement that requires employer to pay a separate premium for each employee based on age or other factors. • <i>Notice 2010-82 page 11, Section G.1(c) & (d).</i> 	Self-only plan	<ol style="list-style-type: none"> 1. Employer pays the same percentage or amount (not less than 50 percent) of premium cost for each employee enrolled in self-only coverage. <i>Notice 2010-82 page 10, Section G.45R(d)(4). Notice 2010-44, Section V.</i> 2. OR Employer pays the same percentage or amount (not less than 50 percent) of the -computed composite rate* for each employee enrolled in self-only coverage OR each employee pays the same percentage or amount (but not more than 50 percent) of the employer-computed composite rate for each employee enrolled in self-only coverage. <i>Notice 2010-82 page 11, Section G.1(e); page 12, Section G.2(c); and pages 15-16, Section G, Example 6.</i>

Small Employer Health Care Tax Credit Under Section 45R 4.75.38

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Exhibit 4.75.38-4 (Cont. 2) (07-07-2017)

Qualifying Arrangements – Uniform Percentage

Type of Arrangement	Tier of Coverage	Qualification Requirements
	Self-plus-one or family plan	<ol style="list-style-type: none"> 1. Employer pays an amount (not less than 50 percent of the premium cost of self-only coverage), AND either the employer OR the employee pays the same percentage or amount for each employee enrolled in a particular tier of coverage. <i>Notice 2010-82 page 10, Section G. §45R(d)(4). Notice 2010-44, Section V.</i> 2. OR Employer pays an amount (not less than 50 percent of the premium cost using the employer-computed composite rate for each employee enrolled in self-only coverage), AND either the employer OR the employee pays the same percentage or amount for each employee enrolled in a particular tier of coverage. <i>Notice 2010-82 pages 12-13, Section G.2(d) and pages 15-16, Section G, Example 6.</i> 3. OR Employer pays an amount (not less than 50 percent of their employer-computed composite rate for each employee enrolled in a particular tier of coverage for each employee enrolled in that particular tier of coverage) AND either the employer OR the employee pays the same percentage or amount for each employee enrolled in a particular tier of coverage. <i>Notice 2010-82 pages 12-13, Section G.2(d) and page 16, Section G, Example 7.</i>
Employers offering multiple plans – LIST billing		<ul style="list-style-type: none"> • Using any of the requirements above for a single plan, the employer may meet the qualifying arrangement requirements on a plan-by-plan basis. • If not all the employer's plans meet the above requirements, then the plans may still be qualifying arrangements if one plan meets one of the requirements above (the reference plan) and the self-only employer-computed composite rate for the reference plan is at least 66 percent of the self-only-computed composite rate of the other plans. <i>Notice 2010-82, pages 13-14, Sections G.3 and G.4, and pages 16-17, Section G, Example 8.</i>

Exhibit 4.75.38-5 (07-07-2017)**Notices 2014-6, 2015-8 and 2016-75 Counties*****Notice 2014-6 Counties***

State	County
Washington	Adams, Asotin, Benton, Chelan, Clallam, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, Pierce, San Juan, Skagit, Skamania, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, Whitman, Yakima
Wisconsin	Green Lake, Lafayette, Marquette, Florence, Menominee

Notice 2015-8 Counties

State	County
Iowa	Adair, Adams, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dubuque, Floyd, Franklin, Fremont, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Henry, Humboldt, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Ringgold, Sac, Scott, Shelby, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Winnebago, Worth, Wright

Notice 2015-8 Counties

State	County
Wisconsin	Pierce, Polk, St. Croix