

Section 5000A Guidance for Individuals with No Available Marketplace Bronze-Level Plan

Notice 2017-74

PURPOSE

This notice provides guidance on computing the affordability exemption under § 5000A(e)(1) of the Internal Revenue Code (Code) and § 1.5000A-3(e) of the Income Tax Regulations (Regulations) for taxpayers with a family member who (i) is not eligible for coverage under an eligible employer-sponsored plan, and (ii) resides in an area in which the Health Insurance Marketplace (Marketplace) serving the area does not offer a bronze-level qualified health plan.

BACKGROUND

For each month beginning after December 31, 2013, § 5000A of the Code requires individuals to do one of the following: (i) maintain minimum essential coverage for themselves and any family members who are not exempt under § 5000A and § 1.5000A-3 of the Regulations, (ii) qualify for a coverage exemption, or (iii) include an individual shared responsibility payment with their Federal income tax return for the taxable year.

Section 5000A(e)(1) of the Code provides that an individual qualifies for an exemption for a month for which the individual lacks access to affordable minimum essential coverage. An individual lacks access to affordable coverage if the individual's required contribution (determined on an annual basis) for minimum essential coverage

exceeds a percentage (8.16 percent for 2017) of the individual's household income for the taxable year.

For individuals who are ineligible to purchase coverage under an eligible employer-sponsored plan, the required contribution is the annual premium for the applicable plan, reduced by the maximum amount of any credit allowable under § 36B of the Code for the taxable year, determined as if the individual were covered for the entire taxable year by a qualified health plan offered through the Marketplace serving the rating area where the individual resides. In general, an applicable plan means the lowest cost bronze plan available through the Marketplace serving the rating area in which the individual resides that would cover all nonexempt members of the individual's family on one policy. However, if the Marketplace serving the rating area where the individual resides does not offer a single bronze plan covering all nonexempt members of the individual's family, the premium for the applicable plan is the sum of the premiums for the lowest cost bronze plans that are offered through the Marketplaces serving the rating areas where one or more of the family members reside that would cover, in the aggregate, all the nonexempt members of the family. A nonexempt family member is an individual in the family who is not otherwise exempt under § 1.5000A-3 of the Regulations and is ineligible for coverage under an eligible employer-sponsored plan under § 1.5000A-3(e)(3)(i).

GUIDANCE

Market instability has resulted in limited offerings of plans on the Marketplaces in some regions, and, as a result, there are some individuals who live in rating areas where no bronze plan was offered for 2017. Thus, affected taxpayers would not be able

to make a determination as to whether an individual not eligible for employer-sponsored coverage who lives in a rating area without a bronze plan is eligible for the affordability exemption.

Individuals who are not eligible for coverage under an eligible employer-sponsored plan and who lack access to affordable coverage should not be denied the use of the affordability exemption under § 5000A(e)(1) of the Code and § 1.5000A-3(e) of the Regulations merely because they reside in an area served by a Marketplace that does not offer a bronze-level plan. Consequently, for purposes of the affordability exemption under § 5000A(e)(1) and § 1.5000A-3(e), if an individual resides in a rating area served by a Marketplace that does not offer a bronze plan, the individual generally should use as his or her applicable plan the lowest cost metal-level plan available in the Marketplace serving the rating area in which the individual resides that would cover all nonexempt members of the individual's family. However, if the Marketplace serving the rating area where an affected taxpayer resides does not offer a single bronze plan (or, if no bronze plan is available through the Marketplace, any lowest cost metal-level plan) that would cover all nonexempt members of the affected taxpayer's family, the affected taxpayer should determine the applicable plan by adding the premiums for the lowest cost bronze plans, or the lowest cost metal-level plans if a bronze plan is not offered, that would cover in the aggregate all of the nonexempt members of the affected taxpayer's family.

Example 1. Individual K resides in an area served by a Marketplace that does not offer a bronze plan but does offer several silver plans. K is not eligible for employer-sponsored coverage. To determine if he qualifies for the affordability exemption under

§ 5000A(e)(1) of the Code and § 1.5000A-3(e) of the Regulations, K should use as his applicable plan the lowest cost silver plan available in the Marketplace that would cover K.

Example 2. Individual J has three dependents, A, B, and C. None of the four family members is eligible for employer-sponsored coverage. A and B reside with J in an area served by a Marketplace that offers bronze plans. C resides with J's former spouse in an area served by a Marketplace that does not offer a bronze plan but does offer a silver plan. The Marketplace serving the area where J resides offers bronze plans that cover J and her three dependents. Thus, J uses the lowest cost bronze plan offered by the Marketplace serving the area where J resides as her applicable plan to determine if J qualifies for the affordability exemption under § 5000A(e)(1) of the Code and § 1.5000A-3(e) of the Regulations.

Example 3. Same facts as Example 2 except, although the Marketplace where J resides offers bronze plans covering J, A, and B under one policy, none of these plans also cover C. Because no bronze plan in the Marketplace serving the area where J resides covers all nonexempt members of J's family, J must aggregate the cost of more than one plan to determine the premium for J's applicable plan. J adds the cost of the lowest cost bronze plan covering J, A, and B and, because the Marketplace where C resides offers no bronze plans, the cost of the lowest cost silver plan offered by the Marketplace serving the area where C resides, to determine if J qualifies for the affordability exemption under § 5000A(e)(1) of the Code and § 1.5000A-3(e) of the Regulations.

EFFECTIVE DATE

This notice applies for taxable years ending after December 31, 2016.

CONTACT INFORMATION

The further information regarding this notice, contact Steve Toomey at (202) 317-4718 or Shareen Pflanz at (202) 317-7006 (not a toll-free call).