

## IRS Announces New Low Affordability Percentage of 9.12% for 2023

Recent IRS updates to the ACA’s affordability percentage may lead to increased costs for employers in 2023. In Rev. Proc 2022-34, the IRS announced that the ACA affordability percentage for plan years beginning in calendar year 2023 will be **9.12%**. This represents a .49% drop from the 2022 affordability threshold of 9.61%, which is a much more significant year-to-year change than in prior years.

Additionally, the 2023 figure is the lowest affordability percentage the IRS has set since the ACA’s employer mandate requirements first went into effect in 2015.

|       |       |       |       |       |       |       |       |
|-------|-------|-------|-------|-------|-------|-------|-------|
| 9.56% | 9.66% | 9.69% | 9.56% | 9.86% | 9.78% | 9.83% | 9.61% |
| 2015  | 2016  | 2017  | 2018  | 2019  | 2020  | 2021  | 2022  |

The ACA affordability percentage serves two primary purposes. First, it applies for determining whether employer-sponsored coverage will be considered affordable for purposes of an employee’s eligibility for premium subsidies for exchange coverage. For this purpose, employer-sponsored coverage will only be considered affordable if an employee’s required contribution is no more than 9.12% of the employee’s household income.

Second, and typically more important for employers, the ACA affordability percentage affects whether the employer’s coverage satisfies one or more of the affordability safe harbors under the employer mandate regulations. Because employers rarely know an employee’s household income, the employer mandate regulations establish three affordability safe harbors under which, if satisfied, the employer’s coverage will be treated as affordable for purposes of the employer mandate penalties—even if the coverage would not be affordable based on the employee’s household income.

With the new 2023 ACA affordability threshold of 9.12%, the affordability safe harbors are as follows:

- **Form W-2 Safe Harbor** – Satisfied if the employee’s required contribution is no more than 9.12% of the wages paid to the employee that the employer reports in Box 1 of that employee’s 2023 Form W-2.
- **Rate of Pay Safe Harbor** – Satisfied for a month if the employee’s required contribution is no more than 9.12% of an amount equal to 130 x the employee’s rate of pay at the beginning of the coverage period (or during the calendar month, if lower).
- **Federal Poverty Line Safe Harbor** – Satisfied for a month if the employee’s required contribution is no more than 9.12% of the federal poverty line for a single individual for the 2023 calendar year, divided by 12.

**The ACA affordability percentage affects whether the employer’s coverage satisfies one or more of the affordability safe harbors under the employer mandate regulations.**

Unfortunately, lowering the ACA affordability threshold means that employer’s may need to contribute a larger amount towards employees’ cost of coverage to avoid ACA employer mandate penalties. Note that, as long as the employer offers coverage to at least 95% of its full-time employees, the penalties for failing to offer employees “affordable” coverage only applies for employees who obtain premium subsidies for exchange coverage.