

IRS Releases FAQ Discussing Effect of Association Health Plan Coverage on the Employer Shared Responsibility Requirements

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The following FAQ was published yesterday by the Internal Revenue Service:

18. Do the employer shared responsibility provisions apply if an employer that is not otherwise an applicable large employer (ALE) offers coverage through an Association Health Plan (AHP)?

No. Whether an employer member of an association that offers coverage through an AHP is an ALE that is subject to the employer shared responsibility provisions depends on the number of full-time employees (and full-time equivalent employees) the member employer employed in the prior calendar year and is unrelated to whether the employer offers coverage through an AHP. An employer that is not an ALE under the employer shared responsibility provisions does not become an ALE due to participation in an AHP, and an employer that is an ALE under the employer shared responsibility provisions continues to be an ALE subject to the employer shared responsibility provisions regardless of its participation in an AHP. (The only circumstances in which multiple employers are treated as a single employer for purposes of determining whether the employer is an ALE is if the employers have a certain level of common or related ownership).

Essentially what this means is if a small employer (one with less than 50 full-time equivalent employees) joins an AHP as a means of delivering health coverage to its employees, that small employer will not become an ALE, even if the AHP's total covered employees includes more than 50-full time equivalent employees.

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