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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 54

[REG-138006-12]

RIN 1545-BL33

Shared Responsibility for Employers Regarding Health Coverage; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing (REG-138006-12) that was published in the **Federal Register** on Wednesday, January 2, 2013 (78 FR 218). The proposed regulations provide guidance under section 4980H of the Internal Revenue Code with respect to the shared responsibility for employers regarding employee health coverage.

FOR FURTHER INFORMATION CONTACT: Kathryn Johnson at (202) 927-9639 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing (REG-138006-12) that is the subject of these corrections are under Section 4980H of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG-138006-12) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking and notice of public hearing (REG-138006-12), that was the subject of FR Doc. 2012-31269, is corrected as follows:

1. On page 228, in the preamble, column 3, under the paragraph heading “4. Employees Rehired After Termination of Employment or Resuming Service After Other Absence”, line 10 of the first full paragraph, the language “section 2708 of the Affordable Care Act).” is corrected to read “section 2708 of the Public Health Service Act).”
2. On page 236, in the preamble, column 2, under the paragraph heading “A. Plans With Fiscal Year Plan Years”, line 3 of the second paragraph, the language “members of applicable large employer” is corrected to read “applicable large employer”.
3. On page 238, in the preamble, column 1, under the paragraph heading “D. Applicable Large Employer Members Participating in Multiemployer Plans”, the last paragraph of the column, and the beginning paragraph of column 2, the language “Under this transition rule, an applicable large employer member will not be treated as failing to offer the opportunity to enroll in minimum essential

coverage to a full-time employee (and the employee's dependents) for purposes of section 4980H(a), and will not be subject to a penalty under section 4980H(b) with respect to a full-time employee if (i) the employer is required to make a contribution to a multiemployer plan with respect to the full-time employee pursuant to a collective bargaining agreement or an appropriate related participation agreement, (ii) coverage under the multiemployer plan is offered to the full-time employee (and the employee's dependents), and (iii) the coverage offered to the full-time employee is affordable and provides minimum value. For purposes of the preceding sentence, whether the employee is a full-time employee is determined under section 4980H(c)(4), whether coverage is affordable is determined under section 36(c)(2)(C)(i), and whether coverage provides minimum value is determined under section 36B(c)(2)(C)(ii).

Notwithstanding this transition relief, any waiting period for coverage under the plan must separately comply with 90-day limitation on waiting periods in section 2708 of the Public Health Service Act. Further guidance under section 2708 of the Public Health Service Act will address this limitation." is corrected to read "This transition rule applies to an applicable large employer member that is required by a collective bargaining agreement to make contributions, with respect to some or all of its employees, to a multiemployer plan that offers, to individuals who satisfy the plan's eligibility conditions, coverage that is affordable and provides minimum value, and that offers coverage to those individuals' dependents. Under this transition rule, the applicable large employer member will not be treated, with respect to employees for whom the employer is required

by the collective bargaining agreement to make contributions to the multiemployer plan, as failing to offer the opportunity to enroll in minimum essential coverage to full-time employees (and their dependents) for purposes of section 4980H(a), and will not be subject to a penalty under section 4980H(b). For purposes of this paragraph, whether the employee is a full-time employee is determined under section 4980H(c)(4), whether coverage is affordable is determined under section 36B(c)(2)(C)(i), and whether coverage provides minimum value is determined under section 36B(c)(2)(C)(ii). Notwithstanding this transition relief, any waiting period for coverage under the plan must separately comply with the 90-day limitation on waiting periods in section 2708 of the Public Health Service Act. Further guidance under section 2708 of the Public Health Service Act will address this limitation. In addition to the transition rule provided under this section IX.D, the transition rule under section IX.F of this preamble (relief with respect to offers of coverage to dependents) is applicable to multiemployer plans and employers participating in those plans.”.

§ 54.4980H-1 [Corrected]

4. On Page 240, column 3, paragraph (a)(4), the last sentence of the paragraph, the language “employer status, see §54.5980H-2” is corrected to read “employer status, see §54.4980H-2”.

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