

Qualified Small Employer HRA Basics



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The following information is derived from the [21st Century Cures Act](#), a law that allows eligible small employers to offer **qualified small employer health reimbursement arrangements (HRAs)**. For individualized guidance on funding a qualified small employer HRA, employers should consult knowledgeable benefits counsel.

What Are They?

Qualified small employer HRAs may be used to reimburse employees for qualified medical expenses, **including individual health insurance premiums**. Under existing Affordable Care Act (ACA) rules, "stand-alone" HRAs (except for retiree-only HRAs and HRAs consisting solely of [excepted benefits](#)) and HRAs used to purchase coverage on the individual market are considered group health plans that do not comply with certain market reforms of the ACA, and therefore may be subject to a \$100 per day excise tax per applicable employee. **The 21st Century Cures Act exempts qualified small employer HRAs from the ACA's market reforms by establishing that such arrangements are not considered group health plans.**

Who Can Fund Them?

An employer is eligible to fund a qualified small employer HRA for the current calendar year if:

- The employer has **fewer than 50 full-time employees**, including full-time equivalent employees, on average during the prior calendar year—as determined in accordance with the [employer shared responsibility provisions](#) ("pay or play"); **and**
- The employer does not offer a group health plan to any of its employees.

How Must They Be Structured?

To constitute a qualified small employer HRA, the arrangement generally must:

- Be funded solely by an eligible employer without salary reduction contributions;
- Provide, after an eligible employee provides proof of coverage, payment or reimbursement of qualified medical expenses (which generally include **individual health insurance premiums**) incurred by the employee or his or her family members;
- Limit annual payments and reimbursements to **\$4,950 per employee or \$10,000 per family** (which are prorated where coverage is for less than the entire year); **and**
- Be provided on the same terms to all eligible employees.

When Can They Be Used?

Qualified small employer HRAs may be used in years beginning after December 31, 2016.

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What Other Requirements Apply?

An employer funding a qualified small employer HRA for any year must provide a **written notice to each eligible employee** (see template on pg. 4) that includes the following information:

1. A statement regarding the maximum dollar amount of payments and reimbursements that may be made for the year with respect to the employee (the "**permitted benefit**");
2. A statement that the employee **should provide information regarding his or her permitted benefit to any Health Insurance Marketplace** to which the employee applies for advance payment of the premium tax credit; and
3. A statement that, for any month in which the employee does not have minimum essential coverage, he or she may be subject to an [individual shared responsibility payment](#) **and reimbursements under the HRA may be includible in gross income.**

Effective for years beginning after December 31, 2016, the notice generally must be provided **no later than 90 days** before the beginning of the year in which the HRA is funded (or, if an employee is not eligible to participate in the arrangement as of the beginning of such year, the date on which the employee is first eligible). In addition, effective for years beginning after December 31, 2016, an employee's total permitted benefit for the year **must be reported on his or her Form W-2.**

Note: While failure to provide the notice may generally result in a penalty of **\$50 per employee** (with the total penalty not to exceed \$2,500 in a calendar year), penalty relief is available with respect to years beginning after December 31, 2016 as long as the notice is provided **no later than 90 days after December 13, 2016.**

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Qualified Small Employer HRA Notice Template

Please Note: *This sample notice is for general reference purposes only. As changes in the law, rules, regulations, and interpretations may occur, please contact knowledgeable benefits counsel to review any documentation you intend to distribute to employees.*

You are receiving this notice because you are eligible to participate in the [Employer Name] qualified small employer health reimbursement arrangement (HRA). Please review the following information regarding the qualified small employer HRA and contact the individual(s) listed below for additional details:

- The maximum dollar amount of [payments/reimbursements] that may be made per year through this arrangement is \$4,950 [or less] per employee or \$10,000 [or less] per family.
- You should provide information regarding the dollar amounts listed above to any Health Insurance Marketplace to which you apply for advance payment of the premium assistance tax credit.
- You may be subject to tax under 26 U.S.C. §5000A for any month in which you fail to maintain minimum essential coverage, and reimbursements under this qualified small employer HRA may be includible in your gross income.

To obtain additional information, please contact: [Employer Contact].

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