

IRS Provides Transition Relief Regarding QSEHRA Notice Deadline

March 9, 2017

The IRS has provided transition relief under its Notice 2017-20 (the “**IRS Notice**”) regarding the employee notice requirement that small employers must meet if they want to provide a qualified small employer health reimbursement arrangement (“**QSEHRA**”) to their employees. As background, the 21st Century Cures Act (the “**Cures Act**”) permits certain employers who are not “applicable large employers” under the Affordable Care Act (*i.e.*, generally, employers with fewer than 50 full-time or full-time equivalent employees) (“**Eligible Employers**”) to offer QSEHRAs for the reimbursement of substantiated medical care expenses incurred by employees or their family members, effective January 1, 2017. The Cures Act requires Eligible Employers to furnish a written notice to their eligible employees (“**QSEHRA Notice**”) at least 90 days prior to the beginning of the year in which the QSEHRA will be provided (or in the case of an employee who is not eligible to participate in the QSEHRA as of the beginning of the year, the date on which the employee is so eligible). The due date under the Cures Act for QSEHRAs offered in 2017 is March 13, 2017. A penalty is imposed on Eligible Employers who fail to meet the QSEHRA Notice requirements. The IRS Notice defers the QSEHRA Notice due date, pending additional guidance to be issued by the Treasury Department and the IRS regarding the contents of the QSEHRA Notice. Under the IRS Notice, an Eligible Employer that offers a 2017 QSEHRA is not required to furnish the QSEHRA Notice until the due date that will be prescribed in that guidance, which date will be no earlier than 90 days following the issuance of such guidance. An Eligible Employer that decides to furnish the QSEHRA Notice before this guidance is issued may rely upon a reasonable good faith interpretation of the Cures Act to determine the contents of its QSEHRA Notice. The creation of the QSEHRA under the Cures Act is discussed in more detail in our [blog post](#). [View a copy of IRS Notice 2017-20](#).