

Treasury Department Issues Final Regulations Regarding Affordability and Other Issues

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The U.S. Department of the Treasury has issued final regulations under the Affordable Care Act (the “**ACA**”). For purposes of determining whether the premium tax credit is available to an individual on the exchange, in order to determine the “affordability” of the employer’s coverage when an employee does not enroll in the employer’s primary plan, amounts made available under a health reimbursement arrangement (“**HRA**”) will count toward the employee’s required contribution if the HRA would have been integrated with the employer’s plan if the employee had enrolled in the primary plan. These regulations further provide that HRA contributions which can be used for premiums and cost-sharing only count for purposes of determining “affordability” and not “minimum value.” Additionally, for purposes of determining an individual’s required contribution, an HRA is taken into account only if the HRA and the employer’s primary plan are offered by the same employer. Note that the regulations apply to determine affordability for purposes of the employer shared-responsibility penalties under the ACA in situations where an employer does not rely on a safe harbor that would otherwise make such determination inapplicable. The final regulations can be found [here](#).