

[4830-01-P]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG-118412-10]

RIN 1545-BJ50

Group Health Plans and Health Insurance Coverage Rules Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue in the **Federal Register**, the IRS is issuing temporary regulations regarding status as a grandfathered health plan under the provisions of the Patient Protection and Affordable Care Act (the Affordable Care Act) in connection with changes in policies, certificates, or contracts of insurance. The temporary regulations provide guidance to employers, group health plans, and health insurance issuers providing group health insurance coverage. The IRS is issuing the temporary regulations at the same time that the Employee Benefits Security Administration of the U.S. Department of Labor and the Office of Consumer Information and Insurance Oversight of the U.S. Department of Health and Human Services are issuing substantially similar interim final regulations with respect to group health plans and health insurance coverage offered in connection with a group health plan under the Employee Retirement Income Security Act of 1974 and the Public Health Service Act. The text of the temporary regulations being issued by the IRS serves as the text of

these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by [INSERT DATE 30 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER].

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-118412-10), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to: CC:PA:LPD:PR (REG-118412-10), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC. 20224. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-118412-10).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Karen Levin at 202-622-6080; concerning submissions of comments or to request a hearing, Regina Johnson at 202-622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published elsewhere in this issue of the **Federal Register** amend §54.9815-1251T of the Miscellaneous Excise Tax Regulations. The proposed and temporary regulations are being published as part of a joint rulemaking with the Department of Labor and the Department of Health and Human Services (the joint rulemaking). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble

to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this proposed regulation. It is hereby certified that the collection of information contained in this notice of proposed rulemaking will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

The amendment to the temporary regulations adds a new third-party disclosure requirement so that it also applies to a group health plan that is changing health insurance coverage. The group health plan must provide to a succeeding or new health insurance issuer (and the succeeding or new health insurance issuer must require) documentation of plan terms (including benefits, cost sharing, employer contributions, and annual limits) under the prior health insurance coverage sufficient to make a determination whether a change described in §54.9815-1251T(g)(1) has occurred. The hour and cost burden associated with this requirement is de minimis, because group health plans can satisfy the requirement by providing a copy of the policy or summary plan description to the succeeding or new health insurance issuer. This is not a significant burden for any plan and thus will not have a significant impact on a substantial number of small entities.

For further information and for analyses relating to the joint rulemaking, see the preamble

to the joint rulemaking. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. Comments are specifically requested on this amendment to the proposed regulations, including the prospective effective date of the rule and how that affects plans with different plan years. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Karen Levin, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), IRS. The proposed regulations, as well as the temporary regulations, have been developed in coordination with personnel from the U.S. Department of Labor and the U.S. Department of Health and Human Services.

List of Subjects in 26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 54 is proposed to be amended as follows:

PART 54--PENSION EXCISE TAXES

Paragraph 1. The authority citation for part 54 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 54.9815-1251 as published on June 17, 2010, at 75 FR 34571, is amended by revising paragraphs (a)(1), (a)(3)(ii), (f), and (g)(4) Example 9 to read as follows:

§54.9815-1251 Preservation of right to maintain existing coverage.

(a) * * * (1) [The text of proposed §54.9815-1251(a)(1) is the same as the text of §54.9815-1251T(a)(1) published elsewhere in this issue of the **Federal Register**].

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(3) * * *

(ii) [The text of proposed §54.9815-1251(a)(3)(ii) is the same as the text of §54.9815-1251T(a)(3)(ii) published elsewhere in this issue of the **Federal Register**].

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(f) [The text of proposed §54.9815-1251(f) is the same as the text of §54.9815-1251T (f) published elsewhere in this issue of the **Federal Register**].

(g) * * *

(4) * * *

Example 9. [The text of proposed §54.9815-1251(g)(4) Example 9 is the same as the text of §54.9815-1251T(g)(4) Example 9 published elsewhere in this issue of the **Federal Register**].

Steven T. Miller
Deputy Commissioner for Services and Enforcement.

[FR Doc. 2010-28866 Filed 11/15/2010 at 4:15 pm; Publication Date: 11/17/2010]