THE SMART TAX PLANNING NEWSLETTER

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MONTHLY NEWSLETTER

Prepared By

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LIFETIME PARADIGM

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IN THIS ISSUE

ICHRA UNLEASHED: TRANSFORMING SMALL BUSINESS HEALTH BENEFITS

The individual coverage health reimbursement arrangement (ICHRA) allows businesses of all sizes, from large corporations to very smallest of businesses to reimburse employees for their personally purchased health insurance expenses. The ICHRA is particularly beneficial for businesses with fewer than 50 employees because they are not obligated to provide health benefits under the Affordable Care Act. However, when they do provide coverage, they expose themselves to a $100-per-day penalty for each employee. The ICHRA avoids this penalty.

The ICHRA offers several benefits to the employer, including:

- ·The flexibility to choose the reimbursement limits, which both controls your costs and minimizes your expenses...
- ·The ability to offer different plans to different employees based on classifications, and...
- ·The ability to offer a cafeteria plan that allows employees to pay pre-tax for additional insurance coverage above what the ICHRA reimburses.

There are restrictions on who can participate. Employees eligible for an ICHRA are those enrolled in individual exchange coverage, other individual insurance coverage, or Medicare. **More-than-2% S corporation shareholders, their family members, and Form 1040, Schedule C taxpayers are not eligible to participate in an ICHRA.**

If you plan to offer an ICHRA, you need to provide your employees with at least a 90-days' notice before the beginning of the plan year. We encourage you to start planning now if you wish to offer an ICHRA on January 1, 2024, as this gives you a target date for the ICHRA notice of October 2, 2023.

KEY INSIGHTS ON THE ICHRA FOR SMALL BUSINESSES

If you are thinking about offering your employees the new ICHRA, take a moment to read the insights below.

Class size rule: You face the class size rule only if you offer a traditional group health plan to one class of employees and an ICHRA to another.

Minimum class size example: You cover four full-time employees with group health coverage and offer an ICHRA of $400 a month to your 12 part-time employees. Eight of the part-time employees accept. You satisfy the "same terms" rule and meet the class size requirement.

No minimum class size example: You face no minimum class size requirements when you don't offer a traditional group health plan. Say you have seven employees. You can offer a $16,000 ICHRA to your two salaried employees and a $5,000 ICHRA to your five hourly employees.

Carryover rules: You can establish your ICHRA so employees can carry over unused amounts to next year.

Section 125 Plan Strategy
You can use a cafeteria plan (a Section 125 plan) to let those employees who purchase individual health insurance coverage outside of a public exchange pay the uncovered part of the premium, which allows you and your employees to save on taxes.

Avoiding the $100-Per-Day-Per-Employee Penalty
The ICHRA avoids the Affordable Care Act's $100-a-day-per-employee penalty for reimbursing individually purchased health insurance.

Not Subject to Affordability Rules
Businesses with fewer than 50 employees are not subject to affordability rules under Section 4980H, providing additional flexibility.

Qualifying insurance
Insurance that qualifies for the ICHRA includes individual coverage purchased through an exchange or on the open market, and Medicare.

As you can see, an ICHRA has several advantages for a small business. It's not a perfect solution, however, and it is complicated so be sure to consult with your licensed tax professional before taking any action to implement these plans for your business.

UPDATE ON STATE PASS-THROUGH ENTITY TAXES BEATING THE SALT

As part of the Tax Jobs and Cuts Act, a limit was placed on the amount of local taxes individuals can deduct from their federal taxes. Almost since the day that law was approved by Congress, States with high income taxes having been working on and implement workarounds to give that benefit back to their State's residents. Here are some critical updates on the pass-through entity tax (PTET), which has recently become the rule in most states rather than the exception.

The PTET enables owners of pass-through businesses, such as S corporations and multi-member LLCs, to navigate around the $10,000 annual limit on state and local taxes (SALT).

How PTET Works

The PTET process is relatively straightforward. A pass-through entity (PTE) can choose to pay state income tax on its business income, which would otherwise pass on to its owners. The PTE then claims a federal business expense deduction for these state income tax payments. Next, the states allow the owners to claim a credit or a deduction for these taxes, which avoids the SALT limit. Consequently, owners benefit from the federal deduction against their state income tax and avoid the $10,000 SALT limit on some or all their pass-through income.

State Updates

Currently, 36 of the 41 states imposing income taxes have adopted some form of PTET. So far, in 2023, Hawaii, Indiana, Iowa, Kentucky, Montana, Nebraska, and West Virginia have enacted a PTET. Of these, Indiana, Iowa, Kentucky, and West Virginia have made their PTET retroactive to 2022, while Nebraska's new PTET is retroactive to 2018. Hawaii's and Montana's PTETs are not retroactive.Interestingly, States with low- or no-income tax have not implemented a workaround. The argument is that, with no state income tax, there is no need for a workaround. That said, I've reviewed tax returns for my clients living in Florida, for example, and while do not have to pay income taxes their property taxes push them above the $10,000 threshold. Think about the irony.

UPDATE ON STATE PASS-THROUGH ENTITY TAXES BEATING THE SALT

Eligibility

In all states with a PTET, partnerships, S corporations, and multi-member LLCs taxed as partnerships or S corporations are eligible to elect to pay a state PTET. Sole proprietorships, single-member LLCs taxed as sole proprietorships, C corporations, trusts in most states, and LLCs taxed as C corporations are not eligible.

Deadline for PTET Election

No state (except Connecticut) requires a PTE to pay a state PTET; the PTE must elect to do so. The due dates for making the PTET election vary from state to state.

PTET Opt-Outs

In most states, a PTET election is binding on all the PTE's owners, and individual owners cannot opt-out. The only exceptions are Arizona, California, New York, and Utah.