



21st Century Cures Act: Relief for small employers

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The 21st Century Cures Act, approved by President Obama on December 13, 2016, amends portions of the Internal Revenue Code (IRC) enacted as part of the Affordable Care Act (ACA) to allow small employers greater freedom in offering health care reimbursement arrangements to their employees.

Prior to the Cures Act, reimbursement arrangements offered by employers were generally classified as health plans under the IRC and subsequent IRS guidance. As a result, stand-alone reimbursement arrangements were effectively prohibited, as these arrangements would not meet the requirements imposed on health plans by the ACA.

The Cures Act, however, imparts significant change to this regulatory structure by allowing small employers (*generally* defined as employers that averaged less than 50 employees during the previous year) to offer Qualified Small Employer Health Reimbursement Arrangements (QSEHRA). To qualify under the Cures Act, the QSEHRA must be funded entirely by the employer, limit reimbursements to expenses for medical care (defined under section 213(d) of the IRC), and not exceed \$4,950 in reimbursements if the arrangement benefits only an individual or \$10,000 if the arrangement benefits a family.

There are a number of limitations imposed on QSEHRAs. First, employees are required to show proof of health insurance. Second, employees will only be permitted to realize pre-tax benefits of a QSEHRA if they have insurance meeting the minimum essential coverage standard. Third, QSEHRAs may not be used to pay the cost of group health insurance premiums. Finally, the eligibility requirements of a QSEHRA must meet the standards set forth under the statute.

Ultimately, upon its effective date of January 1, 2017, the Cures Act will provide small employers with a vehicle for reimbursing employees for the cost of health insurance obtained in the individual market.

Authors



Justin D. Cook

Partner and Tax Practice Group Chair

Columbus

614.227.4836

jdcook@bricker.com

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