



## GUIDANCE TO LOCAL CHURCHES ON HEALTH INSURANCE RULES UNDER THE AFFORDABLE CARE ACT

The Affordable Care Act has created an incredibly complex torrent of new regulations regarding health insurance for the staff at your church. Between 2013 and the spring of 2015, it seemed like the rules were changing every few months. Thankfully, since then, things have quieted down. Here's where things stand today.

If you have **ONLY ONE FULL-TIME EMPLOYEE** at your church, you are **EXEMPT** from most of the requirements of the Affordable Care Act. So you may pay your pastor's health insurance premium in pre-tax dollars, whether he or she's on a **group** plan or an **individual** plan. That means your pastor doesn't have to pay taxes on whatever you pay toward his insurance.

**BUT** if you have more than one full-time employee at the church – and full-time is defined as working 29-hours per week or more – then you're **subject** to complex laws that I'll try my best to keep as simple as possible here.

The best possible way to provide health care coverage for your employees (if you have more than one) is to find a qualified **GROUP** health plan that conforms to the plethora of regulations associated with the A.C.A. Group coverage can be obtained through the Small Business Health Options Program (SHOP) Marketplace (that's the government's web-site for "Obamacare"), or you can find it through a private insurer. That's simplest, but it may also be the most expensive.

But it comes with some of the best tax advantages for employers and employees. As an employer, your church may be entitled to a health care tax credit to offset the cost of providing group coverage if certain conditions are met. You

may say, “but I don’t pay any income taxes”. Doesn’t matter. That tax credit could off-set any payroll taxes you’d owe – what you report on those Form 941’s.

If you can’t offer **GROUP** coverage, then – and this is very important – **YOU CAN NOT** reimburse your employee’s for anything associated with health insurance. You can’t pay their premiums for them. You can’t reimburse them for those premiums, or even a part of them. You can’t create an FSA or an HSA or even just pay them back for out-of-pocket costs. You can’t pay them or reimburse them for **ANYTHING** related to medical expenses. Doing so will make your church responsible for **FINES** (cleverly called, by the I.R.S., “excise taxes”) of \$100/person/DAY for every month you reimburse them or make those payments. So don’t do it!

**INSTEAD**, give your pastor and employees a **RAISE** – increase their salary by an amount slightly more than what you would otherwise pay on their behalf for health insurance. We encourage churches to also gross up that amount by the cost of the taxes your employees will have to pay on that raise. Because it is taxable income, not a reimbursement. The government says you cannot tie that raise to the employee using it for health insurance coverage. What they do with it is up to them. You’re just giving them a raise, which would allow them to go out and find insurance on their own – or to invest the money in a pickle factory or whatever **THEY** choose to do with it.

Life insurance, disability insurance, and certain limited-scope dental and vision benefits are **NOT** subject to taxes or fines, or included in the A.C.A. limitations. So your church can provide any of those, tax-free, to your pastors, and you can pay for them directly, or reimburse your pastors for those costs without any penalties or fines to the church.