

Notice 2015-52

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From: Donna Miller <dmiller@trcri.org>
Sent: Friday, September 04, 2015 11:43 AM
To: Notice Comments
Subject: Notice 2015-52

This email is a comment to Notice 2015-52.

Religious orders, specifically Catholic religious orders, were grateful that the federal government listened to our concerns with regard to the employer mandate and included a carve out in the rules and regulations in Federal Register Vol. 79, No. 29, issued Wednesday, February 12, 2014. Specifically, with regard to the Shared Responsibility for Employers Regarding Health Coverage, in Section VI. Hours of Service, part B. Exclusions from Definitions of Hours of Service, paragraph 3. Members of Religious Orders, it is provided that "Until further guidance is issued, a religious order is permitted, for purposes of determining whether an employee is a full-time employee under section 4980H, to not count as an hour of service any work performed by an individual who is subject to a vow of poverty as a member of that order when the work is in the performance of tasks usually required (and to the extent usually required) of an active member of the order."

Religious orders are again facing uncertainty with regard to the implementation of the "Cadillac tax." Many religious orders pay for insurance coverage for their members under age 65 or participate a trust (such as the Christian Brothers Religious Trust) for their members. These members are not employees of their respective religious orders. But at least one insurance company in particular is telling them that they ARE employees by virtue of the religious institute paying for their health insurance or covering their costs of health care through participation in a pooled trust. This is putting the cart before the horse since it bases employment status on who pays for health insurance/costs instead of the traditional IRS criteria for determining employment status.

We ask that the federal government again consider the unique situation of religious orders and their members' voluntary participation in these organizations. Please extend the same exclusion from the definition of employment in this instance as was provided for the employer shared responsibility payment such that a blanket exception applies with regard to the Cadillac tax. In other words, members will not be considered employees and the Cadillac tax will not apply to the health care coverage that a religious order provides to its members, whether it be through payment for a policy or payment into a trust that covers health care costs.

If those who consider these comments would like further information or wish to discuss this submission, please feel free to contact Donna Miller, Associate Director for Civil Law at the Resource Center for Religious Institutes, 8824 Cameron Street, Silver Spring, MD 20910, Phone 301-589-8143, email dmiller@trcri.org.

Respectfully submitted ,

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