

IRS delays enforcement of non-discrimination requirements for insured health plans

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By [Jim Prince](#)

Effective for Plan Years which begin after September 23, 2010, the Patient Protection and Affordable Care Act (the "Patient Protection Act") prohibits non-grandfathered health plans from discriminating in favor of highly compensated employees and imposes a \$100 per day per participant penalty on plans that discriminate. However, in Notice 2011-1 the IRS has delayed the application of the non-discrimination provisions of the Patient Protection Act until after regulations or other administrative guidance of general applicability have been issued. Notice 2011-1 also indicates that the penalty for failure to comply with the non-discrimination provisions will also not apply until the required regulatory guidance is issued.



Employers with non-grandfathered, fully insured health plans should consider whether changes in their plans which are contemplated in response to the non-discrimination requirements are necessary. For additional information, please contact any member of [McAfee & Taft's Employee Benefits Practice Group](#).

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