

**FEDERAL TRADE COMMISSION****16 CFR Part 435**

RIN 3084-AB07

**Mail or Telephone Order Merchandise Rule; Staff Report****AGENCY:** Federal Trade Commission ("Commission" or "FTC").**ACTION:** Staff report; notice of availability.

**SUMMARY:** The FTC announces the publication of the Staff Report on the Mail or Telephone Order Merchandise Rule ("MTOR" or "Rule"). The Staff Report sets forth the staff's recommendations to the Commission on the various proposed amendments to the MTOR.

**DATES:** Comments on the Staff Report must be received on or before July 15, 2013.

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "16 CFR Part 435—Mail or Telephone Order Merchandise" on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/mtorstaffreport> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex N), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Jock Chung, (202) 326-2984, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room M-8102B, 600 Pennsylvania Ave. NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** The MTOR prohibits sellers from soliciting mail or telephone order sales unless sellers have a reasonable basis to expect that they will be able to ship, after receipt of a properly completed order, the ordered merchandise within the time stated on the solicitation or, if no time is stated, within 30 days. The MTOR further requires a seller to seek the buyer's consent to the delayed shipment when the seller learns that it cannot ship within the time stated or, if no time is stated, within 30 days. If the buyer does not consent, the seller must promptly refund all money paid for the unshipped merchandise.

On September 11, 2007, as part of its rule review process,<sup>1</sup> the Commission published a request for public comment,<sup>2</sup> which also served as an Advance Notice of Proposed Rulemaking.<sup>3</sup> It then published a Notice of Proposed Rulemaking (ANPRM) in 2011.<sup>4</sup>

Pursuant to the Commission's Rules of Practice, and the rulemaking procedures specified earlier in the NPRM, the Commission now announces the availability of the Staff Report on the MTOR. The Staff Report summarizes the rulemaking record to date, and sets forth the staff's recommendation that the Commission revise the Rule to respond to new methods of accessing the Internet and making payments and refunds. The Staff Report has not been endorsed or adopted by the Commission.

The Staff Report to the Federal Trade Commission and Proposed Revised Trade Regulation Rule for the Mail or Telephone Order Merchandise Rule is available at the FTC's Web site at <http://www.ftc.gov/ftc/regreview/index.shtml>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

The Commission invites interested parties to submit written data, views, and arguments on the recommendations announced by the Staff Report by following the instructions in the **ADDRESSES** section of this notice. Comments previously submitted in the ongoing rulemaking procedures are already part of the rulemaking record and need not be repeated.

**I. Request for Comment**

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 15, 2013. Write "16 CFR Part 435—Mail or Telephone Order Merchandise" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtml>. As a matter of discretion, the

Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment doesn't include any sensitive health information, such as medical records or other individually identifiable health information. In addition, don't include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don't include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>5</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/mtorstaffreport> by following the instruction on the web-based form. If this Notice appears at <http://www.regulations.gov#!/home>, you also may file a comment through that Web site.

If you file your comment on paper, write "16 CFR Part 435—Mail or Telephone Order Merchandise" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the

<sup>1</sup> The Commission reviews all its rules and guides periodically to ensure that they remain relevant. These periodic reviews seek information about the costs and benefits of the Commission's rules and guides as well as their economic and regulatory impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission.

<sup>2</sup> 72 FR 51728 (Sept. 11, 2007).

<sup>3</sup> 15 U.S.C. 57a(b)(2)(A).

<sup>4</sup> 76 FR 60765 (Sept. 30, 2011).

<sup>5</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

Secretary, Room H-113 (Annex N), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 15, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Upon completion of the comment period, the staff will make final recommendations to the Commission about the Rule. If the Commission adopts the proposed revised Rule as recommended by the staff, or alternatively determines to make changes to the proposed revised Rule, it will publish in a future **Federal Register** notice the final text of the Rule, statement of Basis and Purpose on the Rule, and an announcement of when the revised Rule will become effective.

## II. Communications to Commissioners and Commissioner Advisors by Outside Parties

Pursuant to Commission Rule 1.18(c)(1), the Commission has determined that communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor shall be subject to the following treatment. Written communications and summaries or transcripts of oral communications shall be placed on the rulemaking record if the communication is received before the end of the comment period on the Staff Report. They shall be placed on the public record if the communication is received later. Unless the outside party making an oral communication is a member of Congress, such communications are permitted only if advance notice is published in the Weekly Calendar and Notice of "Sunshine" Meetings.<sup>6</sup>

By direction of the Commission.

**Donald S. Clark,**  
Secretary.

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**BILLING CODE 6750-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-125398-12]

RIN 1545-BL43

#### Minimum Value of Eligible Employer-Sponsored Plans and Other Rules Regarding the Health Insurance Premium Tax Credit

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the health insurance premium tax credit enacted by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, as amended by the Medicare and Medicaid Extenders Act of 2010, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, and the Department of Defense and Full-Year Continuing Appropriations Act, 2011. These proposed regulations affect individuals who enroll in qualified health plans through Affordable Insurance Exchanges (Exchanges) and claim the premium tax credit, and Exchanges that make qualified health plans available to individuals and employers. These proposed regulations also provide guidance on determining whether health coverage under an eligible employer-sponsored plan provides minimum value and affect employers that offer health coverage and their employees.

**DATES:** Written (including electronic) comments and requests for a public hearing must be received by July 2, 2013.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-125398-12), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-125398-12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-125398-12).

#### FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Andrew S. Braden, (202) 622-4960; concerning the submission of comments and/or requests for a public hearing,

Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free calls).

#### SUPPLEMENTARY INFORMATION:

##### Background

Beginning in 2014, under the Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)), and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act), eligible individuals who purchase coverage under a qualified health plan through an Affordable Insurance Exchange may receive a premium tax credit under section 36B of the Internal Revenue Code (Code). Section 36B was subsequently amended by the Medicare and Medicaid Extenders Act of 2010, Public Law 111-309 (124 Stat. 3285 (2010)); the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, Public Law 112-9 (125 Stat. 36 (2011)); and the Department of Defense and Full-Year Continuing Appropriations Act, 2011, Public Law 112-10 (125 Stat. 38 (2011)).

Notice 2012-31 (2012-20 IRB 910) requested comments on methods for determining whether health coverage under an eligible employer-sponsored plan provides minimum value (MV). Final regulations under section 36B (TD 9590) were published on May 23, 2012 (77 FR 30377). The final regulations requested comments on issues to be addressed in further guidance. The comments have been considered in developing these proposed regulations.

##### Minimum Value

Individuals generally may not receive a premium tax credit if they are eligible for affordable coverage under an eligible employer-sponsored plan that provides MV. An applicable large employer (as defined in section 4980H(c)(2)) may be liable for an assessable payment under section 4980H if a full-time employee receives a premium tax credit.

Under section 36B(c)(2)(C)(ii), a plan fails to provide MV if the plan's share of the total allowed costs of benefits provided under the plan is less than 60 percent of the costs. Section 1302(d)(2)(C) of the Affordable Care Act provides that, in determining the percentage of the total allowed costs of benefits provided under a group health plan, the regulations promulgated by the Secretary of Health and Human Services (HHS) under section 1302(d)(2) apply.

HHS published final regulations under section 1302(d)(2) on February 25, 2013 (78 FR 12834). The HHS regulations at 45 CFR 156.20 define the percentage of the total allowed costs of

<sup>6</sup> See 15 U.S.C. 57a(i)(2)(A), 45 FR 50814 (1980), 45 FR 78626 (1980).