



TOPIC: **NCCMP COMMENTS ON PROPOSED REGULATIONS – SHARED RESPONSIBILITY UNDER THE AFFORDABLE CARE ACT**

**EXECUTIVE SUMMARY:** IRS HAS ISSUED A PROPOSED REGULATION THAT ESTABLISHES CRITERIA FOR WHEN AN EMPLOYER THAT CONTRIBUTES TO MULTIEMPLOYER HEALTH AND WELFARE PLANS IS DEEMED TO HAVE MET THE MINIMUM ESSENTIAL COVERAGE REQUIREMENTS OF THE AFFORDABLE CARE ACT (ACA).

THE NCCMP SUPPORTS THE FACT THAT THE PROPOSED REGULATION RECOGNIZES THE UNIQUE CHARACTERISTICS OF MULTIEMPLOYER PLANS BY PROVIDING SPECIFIC PROVISIONS THAT ADDRESS THESE CHARACTERISTICS. THE REGULATION PROVIDES THAT WHEN AN EMPLOYER CONTRIBUTES TO A MULTIEMPLOYER HEALTH AND WELFARE PLAN WITH RESPECT TO AN EMPLOYEE, AND THE PLAN PROVIDES AFFORDABLE MINIMUM ESSENTIAL COVERAGE, THE EMPLOYER SATISFIES THE ACA REQUIREMENT FOR PROVIDING SUCH COVERAGE.

THE NCCMP COMMENTS ADDRESS THE NEED FOR THE REGULATIONS TO CONTAIN ADDITIONAL CLARITY ON SEVERAL KEY ISSUES. FOREMOST AMONG THESE IS THE NEED FOR THE REGULATIONS TO SPECIFY THAT THE EMPLOYER IS NOT LIABLE FOR A PENALTY UNDER THE ACA MINIMUM ESSENTIAL COVERAGE RULES EVEN IF THE EMPLOYEE IS NOT IMMEDIATELY ELIGIBLE FOR COVERAGE IN THE MULTIEMPLOYER PLAN.

THE NCCMP DRAFT COMMENTS ARE AVAILABLE AT THE BELOW LINK. AS COMMENTS ARE DUE TO THE IRS BY MARCH 18, WE ASK THAT YOU PROVIDE FEEDBACK TO US BY FRIDAY, MARCH 15.

[HTTP://WWW.NCCMP.ORG/FOREMAILS/NCCMPCOMMENTSEMPLOYERRESPONSIBILITY.PDF](http://www.nccmp.org/foremails/nccmpcommentsemployerresponsibility.pdf)

PURPOSE: **REQUEST FOR COMMENTS**

CATEGORY: **REGULATORY**

ISSUER: **INTERNAL REVENUE SERVICE**

TARGET AUDIENCE: **HEALTH AND WELFARE FUND TRUSTEES AND PROFESSIONAL ADVISORS**

INPUT REQUESTED: **REVIEW AND RESPOND TO NCCMP ON DRAFT COMMENTS**

DUE DATE: **MARCH 15, 2013**

FORWARD COMMENTS TO: [Multi-Elert@nccmp.org](mailto:Multi-Elert@nccmp.org)

REFERENCE: **VOLUME XIII, ISSUE 3**

FOR ADDITIONAL BACKGROUND SEE: **NOTICE OF PROPOSED RULEMAKING AND NOTICE OF PUBLIC HEARING**  
<http://www.irs.gov/pub/newsroom/reg-138006-12.pdf>

---

---

*We strive to ensure that the information contained in this and every issue of Multi-Elert is correct to the extent information is available. Nevertheless, the NCCMP does not offer legal advice. Plan fiduciaries should rely on their own attorneys and other professional advisors for advice on the meaning and application of any Federal laws or regulations to their plans.*

\* \* \* \* \*

*If you have questions about the NCCMP, or about this or other issues of Multi-Elert, please contact the NCCMP, by phone at (202) 737-5315 or by e-mail at [nccmp@nccmp.org](mailto:nccmp@nccmp.org).*

---

---