



# Frost Insurance Compliance Tip

## PCOR Fee Extended Through 2029

### JANUARY 1, 2025

#### *What is it?*

Created by the Affordable Care Act, the Patient Centered Outcomes Research (PCOR) fee exists through 2029 and funds clinical effectiveness research studies overseen by the Patient Centered Outcomes Research Institute (PCORI). The payment of the PCOR fee applies through plan years ending before October 1, 2029.

#### *When is it due?*

The PCOR fee is due annually by July 31 for policy or plan years ending in the prior calendar year. The due date for filing Form 720 (and paying the PCOR fee) for policy or plan years ending in 2024 is July 31, 2025. Similarly, the due date for policy or plan years ending in 2025 will be July 31, 2026.

#### *How much is the fee?*

The amount of the fee varies depending on the employer’s plan year ending date. The below chart illustrates the PCOR fee due depending on the plan year ending date:

POLICY OR PLAN ENDING DATE IN MONTH OF	PCOR FEE AMOUNT	FILING DEADLINE
January 2024	\$3.22	July 31, 2025
February 2024	\$3.22	July 31, 2025
March 2024	\$3.22	July 31, 2025
April 2024	\$3.22	July 31, 2025
May 2024	\$3.22	July 31, 2025
June 2024	\$3.22	July 31, 2025
July 2024	\$3.22	July 31, 2025
August 2024	\$3.22	July 31, 2025
September 2024	\$3.22	July 31, 2025
October 2024	\$3.47	July 31, 2025
November 2024	\$3.47	July 31, 2025
December 2024	\$3.47	July 31, 2025
January 2025	\$3.47	July 31, 2026
February 2025	\$3.47	July 31, 2026
March 2025	\$3.47	July 31, 2026
April 2025	\$3.47	July 31, 2026
May 2025	\$3.47	July 31, 2026

POLICY OR PLAN ENDING DATE IN MONTH OF	PCOR FEE AMOUNT	FILING DEADLINE
June 2025	\$3.47	July 31, 2026
July 2025	\$3.47	July 31, 2026
August 2025	\$3.47	July 31, 2026
September 2025	\$3.47	July 31, 2026
October 2025	TBD	July 31, 2026
November 2025	TBD	July 31, 2026
December 2025	TBD	July 31, 2026

### ***Where are the required forms?***

Employers must reference the Second Quarter versions of [IRS Form 720](#) and the [Instructions for Form 720](#). Employers should ensure they are using the most current versions.

Since many of our valued clients have had questions concerning how to effect payment of the PCOR fee, we have assembled this helpful series of frequently asked questions:

#### ***1. How do I calculate the fee?***

For fully insured group health plans, insurance carriers are responsible for calculating and paying the fee. However, employers who sponsor self-insured group health plans are responsible for paying the fee directly to the IRS, using IRS Form 720.

Self-insured employers need to calculate the average number of lives covered under the plan. There are four methods of calculation available. The employer may choose any one of the methods, but must apply the same method for the entire plan year.

The employer may switch to an alternative method in a later plan year. Here are the available calculation options:

- **Actual count method** – Calculate the sum of the lives covered for each day of the plan year and divide that sum by the number of days in the plan year.
- **Snapshot method** – Add the actual number of lives covered on one date in each quarter, or an equal number of dates for each quarter, and divide the total by the number of dates on which a count was made.
- **Snapshot factor method** – Same as the snapshot method, above, except that the “snapshot factor method” allows the plan to add the number of participants with self-only coverage on the designated date, then add this to the product of: the number of participants with coverage other than self-only coverage on the designated date, multiplied by 2.35. The snapshot factor may be beneficial where the plan has a high number of individuals with dependents, particularly if there are more than a few dependents, and where the plan has a high number of individuals join towards the end of the fourth quarter.
- **Form 5500 method** – The plan may use the data reported on the most recent Form 5500. A calendar plan may only use this method if it files the Form 5500 by July 31. A calendar year plan filing an extension for the Form 5500 would have to use another calculation method. If a plan covers only employees, then the plan sponsor would add the number of participants at the beginning of the plan year and at the end of the plan year and divide by two. If the plan covers dependents, the plan sponsor would add the number of participants reported for the beginning of the plan year and the number of participants at the end of the plan year, and report this total.

#### ***2. How do I pay the fee?***

Plan sponsors may pay the fee utilizing IRS Form 720. Please ensure you are using the most current version. Although the form is titled “Quarterly Federal Excise Tax Return,” this is the form to be utilized to pay the annual PCOR Fee. Part II, on page 2 is the section of the form that must indicate the amount of payment.

#### ***3. What if I sponsor a fully insured plan, with an integrated Health Reimbursement Arrangement (HRA)?***

For this purpose, the HRA will be considered a self-insured plan and the employer will be responsible for paying the fee. However, there is a simplified calculation method available in this case. Only the employee count need be considered, instead

of the average number of participants under the health plan. In other words, dependents may be excluded, and only those employees who participate in the HRA need be considered in the count.

**4. How about Health Flexible Spending Accounts (Health FSAs) – are payments required for that purpose?**

If the Health FSA meets the definition of an “excepted benefit” for other ACA purposes, it will not be considered a self-insured plan for this purpose and there will not be a PCOR payment due. If you are unsure if your Health FSA meets this definition, please see your Frost advisor.

**5. How about retiree health plans – is a payment due for retirees?**

Yes, the fee is required of retiree-only plans.

**6. Is COBRA coverage subject to the fee?**

Yes. COBRA beneficiaries should not be excluded from the total count. The fee applies for COBRA coverage.

**7. Are there any penalties for not paying the fee?**

Neither the statute nor regulations include an express penalty for failure to report or pay the PCOR fee. However, the IRS could impose penalties for failure to file a return or pay taxes as outlined under IRS Code Section 6651.

**8. What if I sponsor an HRA with self-funded health plan? Do I owe the payment once, or twice?**

For this purpose, the payment will be considered integrated, and no additional payment will be due for the HRA participants. Meaning, the participant count utilized for the calculation of the self-insured medical plan will also satisfy any necessary payment for the HRA.

**9. Is the PCOR fee considered tax-deductible?**

The IRS determined, through an IRS Chief Counsel memorandum dated May 31, 2013, that the PCOR fee is considered to be an ordinary and necessary business expense, and is therefore considered tax-deductible.

**10. Are tax-exempt organizations or governmental entities subject to the PCOR fee?**

According to the IRS, there are no special exemptions for tax-exempt organizations or governmental entities. As such, a self-insured governmental plan sponsor is responsible for payment of the PCOR fee.

**11. How about other types of coverage, such as hospital indemnity plans, specified illness benefits, EAP programs, wellness programs, accident-only coverage or disability income coverage?**

The fee does not need to be paid for any of the above types of policies. The fee is imposed on accident and health coverage, major medical coverage, retiree-only health, COBRA coverage and HRAs.

**12. Does the PCOR fee apply to expatriate plans?**

Generally no. *The Consolidated and Further Continuing Appropriations Act of 2015* amended the law such that expatriate plans issued or renewed on or after July 1, 2015 are exempt from the payment of PCOR fees.

**13. We forgot to pay the PCOR fee in prior years. What is the best way to handle this compliance issue?**

The PCOR fee is treated as a tax. As such, it is generally assessed, collected and enforced in the same manner by the IRS as other taxes. We know of no amnesty or leniency for noncompliance with the PCOR fee filing.

Specifically, the fee is found in the excise tax portion of the IRC, and since the fee is reported on IRS Form 720, there are general penalties that apply for failure to file a return or pay a tax. Those are found in IRC Section 6651 and the penalties vary based on the amount failed to be reported or paid.

The general penalty would be up to 25 percent for a failure that is beyond five months. Like any other tax payment failures, there is also the risk of interest on top of the required amount. Finally, there are additional penalties if the failure was due to willful neglect, which means that the employer knew about the requirement but did nothing about it.

There is no specific guidance on how to correct the failure. Ultimately the employer will want to consult their tax adviser as soon as the problem has been identified. However, as with other tax form and payment failures, it seems prudent and appropriate to come into compliance as soon as possible. Most likely, the employer could start by filing a Form 720 for past years as soon as possible, and then file the current year Form 720 by the applicable deadline. Generally speaking, the employer needs to file a separate Form 720 for each year, but could file both at the same time. The employer should consult their tax adviser for advice on precisely how to proceed.

**14. Has the IRS ever contacted or audited employers after they file the PCOR fee?**

Yes. The IRS sends Form 4564 to notify employers that an IRS agent will be conducting an onsite examination of the Form 720 Federal Excise Return at a pre-determined date and time at the employer’s place of business. As part of the examination

procedures, the IRS agent reviews the employer’s working papers and how they came up with the PCOR amount submitted on the Form 720. The employer may choose to have someone represent them during the examination by completing a Form 2848, Power of Attorney and Declaration of Representative or Form 8821, Tax Information Authorization. The employer is cautioned in the letter that they should not file any past due Form 720 Federal Excise Returns until after contacting the IRS agent named in the letter. The letter also references Publication 1 and Notice 609, which discuss the general rules and procedures followed during an examination, and explains what happens before, during and after an examination, as well as appeal and payment procedures.

The IRS audit letter makes several requests of the employer, but of special note are the requirements to have the self-insured health plan documents available, work papers, spreadsheets and data sources for determining the PCOR fee (for the last three plan years), identify the method used for counting the average number of lives for all self-insured plans reported for the taxable period, as well as any Forms 1095-C and transmittal Forms 1094-C must be available at the time of the examination

## RESOURCES

Published February 12, 2024	<a href="https://www.irs.gov/pub/irs-drop/n-22-59.pdf">https://www.irs.gov/pub/irs-drop/n-22-59.pdf</a>
IRS Notice 2024-49	<a href="https://www.irs.gov/irb/2024-49_IRB#NOT-2024-83">https://www.irs.gov/irb/2024-49_IRB#NOT-2024-83</a>
Application of the Patient-Centered Outcomes Research Trust Fund Fee to Common Types of Health Coverage or Arrangements	<a href="https://www.irs.gov/newsroom/application-of-the-patient-centered-outcomes-research-trust-fund-fee-to-common-types-of-health-coverage-or-arrangements">https://www.irs.gov/newsroom/application-of-the-patient-centered-outcomes-research-trust-fund-fee-to-common-types-of-health-coverage-or-arrangements</a>
Patient-Centered Outreach Research Institute Filing Due Dates and Applicable Rates	<a href="https://www.irs.gov/affordable-care-act/patient-centered-outreach-research-institute-filing-due-dates-and-applicable-rates">https://www.irs.gov/affordable-care-act/patient-centered-outreach-research-institute-filing-due-dates-and-applicable-rates</a>
<i>Federal Register</i> , Dec. 6, 2021	<a href="https://www.federalregister.gov/documents/2012/12/06/2012-29325/fees-on-health-insurance-policies-and-self-insured-plans-for-the-patient-centered-outcomes-research">https://www.federalregister.gov/documents/2012/12/06/2012-29325/fees-on-health-insurance-policies-and-self-insured-plans-for-the-patient-centered-outcomes-research</a>
Instructions for Form 720	<a href="http://www.irs.gov/pub/irs-pdf/i720.pdf">http://www.irs.gov/pub/irs-pdf/i720.pdf</a>
IRS Form 720	<a href="http://www.irs.gov/pub/irs-pdf/f720.pdf">http://www.irs.gov/pub/irs-pdf/f720.pdf</a>
Section 4375-77 Excise Tax on Certain Insurance Policies	<a href="https://www.irs.gov/pub/irs-counsel/AM2013-002-1.pdf">https://www.irs.gov/pub/irs-counsel/AM2013-002-1.pdf</a>
Deductibility of PCOR Fee, Office of Chief Counsel of the IRS	<a href="https://www.irs.gov/affordable-care-act/patient-centered-outcomes-research-trust-fund-fee-questions-and-answers">https://www.irs.gov/affordable-care-act/patient-centered-outcomes-research-trust-fund-fee-questions-and-answers</a>
<i>Further Consolidated Appropriations Act, 2020</i>	<a href="https://www.congress.gov/116/bills/hr1865/BILLS-116hr1865enr.pdf">https://www.congress.gov/116/bills/hr1865/BILLS-116hr1865enr.pdf</a>

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