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HOW TO

How to comply with Affordable Care Act's employer mandate

BY STEVEN R. GERLACH

The Affordable Care Act is the most far-reaching piece of employee benefits legislation passed in 40 years. With 20,000 pages of regulations and other guidance, the ACA profoundly affects our employment-based system of health coverage.

For employers with 50 or more full-time-equivalent employees (FTEs), the ACA has instituted substantial new requirements regarding whom they must cover and how much it may cost the employee. There are no exemptions for nonprofits or governmental employers. The ACA has implemented detailed reporting requirements with respect to the coverage offered. For many employers, these requirements signify a substantial threat to the bottom line — they are confronted with the dilemma of whether to offer coverage to employees whose employment terms have not historically included coverage, or pay penalties for failing to offer that coverage. An employer may be assessed with ACA penalties for failing to offer ACA-compliant coverage to its full-time employees. Those penalties could run as high as \$2,000 per full-time employee, per year.

Here's an overview for companies with 50 or more full-time employees.

1. Get started now

There have been a lot of delays, but, with the IRS final regulations issued in February 2014, the timeline for full implementation is now known.

- For employers with 100-plus FTEs and a calendar year plan, the penalties provisions went into effect on Jan. 1, 2015.
- Employers with 100-plus FTEs and a non-calendar year plan, penalties may not apply until the beginning of the 2015 plan year. Several requirements must be met to qualify for this relief, including the requirement that an employer cannot have changed its plan year since 2012.
- For employers with 50 to 99 FTEs, the penalties provisions take effect with the beginning of the 2016 plan year.

2. Gather information

To satisfy both coverage and reporting requirements, employers will need to track employee hours worked, wages and premium costs. Employers should decide whether to use certain IRS "safe harbors" — such as the "look-back" period and the W-2 safe harbor for affordability — and build them into their tracking system. For most employers, performing this tracking will use and modify data from their HRIS and/or payroll system, either in-house or by engaging appropriate service providers.

3. Determine exposure

Using the information gathered, an employer should determine its potential exposure to penalties,



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which will inform its business decisions about how to address that exposure. Important considerations are: Whether the employer has 50-plus FTEs; what penalties apply; potential cost of those penalties; how does this compare to the cost of offering coverage; and does the coverage help attract and retain good people?

4. Take action

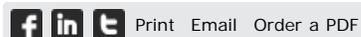
Having determined its exposure to penalties, an employer can then make decisions about its health plan in light of ACA requirements. Options include: offering coverage to classes of employees that historically have not been eligible, changing health plans as a way to reduce costs, managing employee hours and intentionally risking a certain amount of penalty exposure.

5. Reporting

All employers with 50 or more full-time employees will be required to report in early 2016 on the health coverage they offered in calendar year 2015. Reporting is done on a calendar year basis, whether or not the plan year runs on a calendar year. IRS Forms 1095-C and 1094-C were issued for the first time in 2014.

It is crucial that employers consult with trusted advisors and begin to manage ACA compliance and costs.

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