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Pay or Play Under the Affordable Care Act - Large Company Compliance

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Over the past few years, there has been much talk, maybe too much talk, about the Patient Protection and Affordable Care Act (ACA). This is because the ACA was game changing legislation impacting a large portion of U.S. individuals and businesses. Beginning in 2015, the pay or play regulations begin to kick in for employers with 100 or more employees. Effective January 1, 2016, employers with 50 to 99 employees will need to comply with the regulations. Under the ACA, large employers with 100 or more employees will need to offer health insurance coverage to at least 70% of their full-time employees in 2015 and 95% in subsequent years.

What is a large employer? The rules for defining a large employer are complex. In general, for year 2015, employers are considered large employers if they had at least 100 full-time employees (plus FTEs or "full time equivalent employees"). A full time employee is an individual who worked on average 30 hours per week or 130 hours per month. An FTE is an employee or combination of employees, none of which are full time employees whose hours, in aggregate, equal 120 hours.

Large employers should be tracking the number of hours that employees work during 2014 since the employer status for 2015 is initially based on the number of employees working in 2014. For 2015 only, employers may determine their size for compliance purposes based on the number of



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employees working during any consecutive six months in 2014.

Once a company is deemed to be a large employer under the ACA, they are required to offer at least minimum essential health insurance coverage or be subject to a tax. The Internal Revenue Service is responsible for monitoring compliance. To do so, large employers will be required to report what coverage is offered "or not offered" beginning in year 2015. Failure to report this information to the IRS may subject companies to penalties.

The IRS is at work designing a number of new tax forms to be filed in 2015 to report on ACA compliance. Many of these forms are currently available in draft format. Most applicable to large employers are Form 1095-C and Form W-2. Form 1095-C Employer-Provided Health Insurance Offer and Coverage (currently available in draft form dated July 24, 2014) will be provided to employees. The form

gives information on the health insurance coverage provided and also includes information as to whom and when the coverage was offered. This form will be used by employees to calculate any potential shared responsibility tax liability on their personal income tax return. The form will also be filed with the IRS so they can double check (using their information systems) whether employees are reporting and paying the shared responsibility tax, if any, when it is due.

The ACA also requires employers to report on Form W-2 the cost of group health insurance coverage. This requirement became effective in year 2012 so many employers are already complying with this requirement. However, the IRS had provided "transitional relief" to employers filing less than 250 W-2 Forms. These employers are not required to provide the cost information until the IRS publishes additional guidance.

Complying with these rules will require attention by all companies. Large companies should have already established systems of accounting to track and report on compliance. These same rules will soon also apply to smaller employers with 50 to 99 employees so they too need to consider what steps should be taken in order to comply.

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