The Affordable Care Act: What Employers Need to Know

Beginning in 2015, certain employers are required to report information related to their employee's health coverage. Additionally, a majority of arrangements that previously allowed businesses to reimburse their employees for health insurance premiums are no longer allowed and can carry a penalty of $100 per day/per employee for non-compliance. Below we briefly outline some basic facts that employers should be aware of for the Employer Shared Responsibility Provision, issues around health insurance reimbursement by employers, and an outline of the reporting requirements and forms.

**Employer Shared Responsibility Provision:**

In 2015, employers of a certain size are required to provide a government defined level of health care as outlined in the Affordable Care Act (ACA) or be subject to a penalty under what is referred to as "the Employer Shared Responsibility Provision (ESRP)". For 2015, employers who have 100 or more full-time employees, or a combination of full-time and part-time equivalent to 100 employees, will be subject to the ESRP penalty provision if they do not comply with the details of the law. Starting in 2016, that threshold will drop from 100 or more employees to 50 or more. A full-time employee is defined by the statute as an individual employed on average at least 30 hours of service per week.

The ACA has a provision that entitles certain individuals who buy health insurance on one of the new Affordable Insurance Exchanges to qualify for a tax credit on their individual tax return. If any employee claims a premium tax credit, an employer penalty may apply. This penalty is based either on the individual, or in some cases, the total number of employees that are not offered qualifying health insurance.


**Health Insurance Reimbursement by Employers:**

*This provision of the law applies to virtually all employers, irrespective of the number of employees*

In general, most plans that allow employers to reimburse employee’s out-of-pocket costs for health insurance premiums are no longer allowed. Breaking the new rules can carry one of the heaviest of all the health care reform penalties. A $100 per person per day penalty may be imposed on any employer found not to be complying with the new rules. The rules surrounding this topic are much more complex than the above mentioned Employer Shared Responsibility Provision, although they will apply to far less employers.

**Why should you pay attention to the 2015 forms due the beginning of 2016?**

Some employers are now required to track information regarding health insurance provided to employees. Not tracking this information will leave you scrambling towards the end of the year and could put you in danger of incurring some hefty penalties. Getting ahead of the game now will not only save your sanity at the end of the year, but your pocket book too.
Reporting Requirements & Forms:
Beginning in 2015, for reporting purposes, Applicable Large Employers (ALEs) with 50 or more full-time employees will need to file Forms 1094-C and 1095-C to the IRS to report the health coverage and enrollment in health coverage information for their employees. These forms are used to determine whether an employer owes payments under the employer shared responsibility provisions (sometimes referred to as the “employer mandate”). Under the employer mandate, an employer can be subject to a penalty if they do not offer affordable minimum essential coverage that provides minimum value to substantially all of their full-time employees (and their dependents).

Form 1094-C
- Reports summary information for each employee
- Indicate whether any certifications of eligibility for relief from the employer mandate apply.

Form 1095-C
- Reports information about each employee
- Used in determining eligibility of employees for premium tax credits

Form 1095-C: Part II
ALEs report information for each employee who was a full-time employee for any month of the calendar year:
- Employee’s name, social security number (SSN), and address,
- Employer contact and Employer Identification Number (EIN), including the contact person’s name and phone number,
- Description of the offer of coverage (using one of the codes provided in the instructions) and the months of coverage,
- Each full-time employee’s share of the cost for coverage under the lowest-cost, minimum-value plan offered by the employer, by calendar month, and
- Applicable safe harbor (using one of the codes provided in the instructions) under the employer shared responsibility or employer mandate penalty.

Form 1095-C: Part III
ALEs who offer health coverage through an employer-sponsored self-insured plan have additional information to report in part III. For this purpose, a self-insured plan also includes a plan that offers some enrollment options as insured arrangements and other options are under self-insured options.
- Employee’s name, social security number (or date of birth if SSN isn’t available)
- Coverage information about each individual covered under the employer’s health plan, including: any full-time employee and non-full-time employee, and any employee’s family members
- If an individual was covered for some but not all the months of the year, indicate the months for which these individuals were covered
When should you not complete Form 1095-C: Part III?

If you provide health coverage in another manner, such as through an insured health plan or a multiemployer health plan, you may not have to complete part III. The issuer of the insurance or the sponsor of the plan who provide coverage will provide the information about the health coverage to any enrolled employees. You as the employer will not have to complete Form 1095-C: Part III for those employees.

Forms 1094-B and 1095-B

An employer that provides employer-sponsored self-insured health coverage, but is not subject to the employer mandate, is not required to file Forms 1094-C and 1095-C. Instead, those employers will report on Forms 1094-B and 1095-B for employees who enrolled in the employer-sponsored self-insured health coverage.

Please call us at (925) 271-8700 if you would like to discuss how these requirements will affect your business. We can examine your situation and analyze in detail how best to avoid steep penalties.