A Summary of the Affordable Care Act for Employers

The Affordable Care Act (ACA) is unquestionably the one piece of legislation that has had the biggest impact on this country in almost 100 years and will continue to do so for a long time to come. It affects every person living in the United States and has altered the way hospitals, pharmacies, health insurance companies, payroll companies and employers do business.

One major task that senior-level managers are faced with is integrating data from historically separate systems. Changes to Human Capital Management systems such as HR, payroll, benefits, tax management and time and labor, affect every department and particularly impact the resources of Information Technology, Finance, Human Resources, Tax and Payroll. Without comprehensive data integration between these systems, it will increasingly become more difficult to maintain compliance with the law.

Three provisions of the ACA that put employers at high risk of noncompliance are the Shared Responsibility Mandate, the Individual Mandate and the 2018 Excise tax.

Each of these ACA requirements carries inter-departmental data sharing challenges that can easily cause a company to fall into noncompliance. Employers and the service providers who support them need to understand the very real risk of incurring penalties as well as providers who support them need to understand the very real risk of incurring penalties as well as the recordkeeping and reporting requirements necessary to avoid them. With proper planning, document management, forecasting and reporting companies can avoid the scenario where they find themselves facing thousands – and in some cases millions – of dollars in penalties.

Affected Employers

The reporting and compliance requirements associated with the Shared Responsibility Provision of the ACA affect Applicable Large Employers (ALEs), those with 50 or more full-time or full-time equivalent employees (100 or more in 2015). Under the ACA, full-time status is defined as 30 or more hours of service per week on average during the period being measured, or 130 hours of service in a calendar month. Hours of service consist of all hours paid or for which

the employee is entitled to payment, including hours worked, sick leave, disability and vacation hours, as well as certain types of unpaid leave, including Family & Medical Leave Act (FMLA) leave, military leave and jury duty.

The calculation for determining full-time equivalent employees includes part-time workers, terminated employees and those not covered by health care coverage and can include business owners if the business owner is receiving a W-2. Seasonal employees who work fewer than 120 days per year are not included, and as the employer you must be able to provide documentation that statistically supports your data. To calculate the number of full-time equivalent employees for ACA purposes, refer to the IRS' Questions and Answers on Employer Shared Responsibility Provisions under the Affordable Care Act:

(http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act).

> **4. I understand that the Employer Shared Responsibility provisions apply only to employers employing at least a certain number of employees. How many employees must an employer have to be subject to the Employer Shared Responsibility provisions?**
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> To be subject to the Employer Shared Responsibility provisions for a calendar year, an employer must have employed during the previous calendar year at least 50 full-time employees or a combination of full-time and part-time employees that equals at least 50. For example, an employer that employs 40 full-time employees (that is, employees employed 30 or more hours per week on average) and 20 employees employed 15 hours per week on average has the equivalent of 50 full-time employees, and would be an applicable large employer.

Companies who employ a part-time staff are unlikely to have a work force that keeps such uniform hours. As their employees' schedules generally vary widely, it makes this an exceedingly complex calculation to manage. And because the calculation is incumbent on data beyond the time and attendance system, such as vacation, sick and other paid time off, FLSA time, time off for jury duty, etc., multiple records and data sources must be accessed in order to accurately determine the number of ACA full-time equivalent employees. Employers must be careful to document hours of service to substantiate who is full-time under the ACA and, therefore, eligible for health care coverage.

Shared Responsibility Excise Penalty

The Shared Responsibility Mandate (which is in full effect in 2015) is a mandate which requires an employer to offer his full-time employees a medical benefit that meets both the ACA minimum essential coverage requirement, and is affordable to his full-time employees. If not, the employer is subject to a non-deductible excise penalty sometimes referred to as the "Catastrophic" penalty. ACA requires that all ALEs offer a Minimum Essential Coverage (MEC) plan to at least 70% of all full-time employees and their dependents in 2015; in 2016 and thereafter, ALEs must offer coverage to at least 95% of full-time employees and their dependents. If these parameters aren't met, one of two excise penalties will be incurred.

If a full-time employee goes to the Health Insurance Marketplace and qualifies for a federal subsidy and it is determined that the employer

did not offer health care coverage to at least 95% of full-time employees (70% in 2015), the employer could be penalized the first of the two excise tax penalties. The first penalty is comprised of a non-deductible fee that is computed by charging the employer $2,000 per each full-time employee. The penalty calculation includes employees who are enrolled in coverage, but does not include full-time equivalent employees. Although the employer is allowed to exclude some full-time employees from the calculation (80 in 2015; 30 in 2016 and thereafter), the financial risks can be high. If the employer offers health coverage to the required FTEs but the employer plan is not affordable or does not provide minimum coverage, the employer is only penalized the lesser of the two excise tax penalties.

Consider an employer with 100 ACA full-time employees that is subject to the Shared Responsibility penalty. In 2015 the calculation for the payment due is:

(100 employees – 80 excluded) X $2,000 penalty = $40,000 assessment

The calculation for the same scenario in 2016:

(100 employees – 30 excluded) X $2,000 penalty = $140,000 assessment

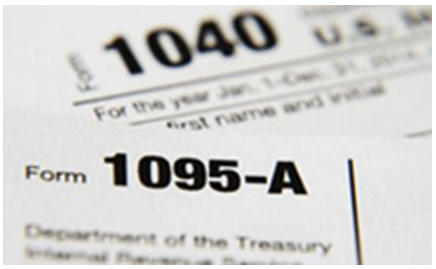
It is easy to see how the first penalty could be catastrophic for most businesses. Keeping accurate detailed records of benefits eligibility, the number of employees offered health care coverage, when coverage was offered and acknowledgement of the offer by employees, hours of service and more must be carefully coordinated and tracked, then accurately reported in a timely fashion. Again, data integration between all of the systems that house these data points is crucial in maintaining compliance.

The "Lesser" Excise Penalty

The Individual Mandate requires that all individuals obtain health insurance or pay a penalty. The employee can be penalized a tax should they receive a subsidized premium when their employer meets all ACA guidelines. Also note, that employers again have some responsibility in providing affordable and compliant coverage to their full-time employees. The second excise tax penalty, considered the "Lesser" penalty, is another ACA requirement to which employers need to pay special attention. The mandate requires that all ALEs offer employees an affordable health plan with at least a 60% minimum value. According to the Centers for Medicare & Medicaid Services, a health plan "meets the 60% minimum value standard if it's designed to pay at least 60% of the total cost of medical services for a standard population." To be considered affordable, the employee's share of the premiums for an "employee only" plan cannot cost the employee more than 9.5% of annual wages. To assist employers in calculating annual wages for the purpose of determining affordability, the IRS has provided optional safe-harbor thresholds from which employers can choose:

1. 9.5% of the employee's current year Box-1 W-2 wages
2. 9.5% of the federal poverty level for a single person
3. One month's wages (calculated as 130 hours x the employee's hourly rate of pay on the first day of the plan year)

If an employee goes to the Health Insurance Marketplace and qualifies for a federal subsidy and it is determined that the employer did not offer a health plan that meets both the affordability and minimum value requirements, a penalty will be assessed on a monthly basis for each month that employee qualifies for a subsidy. The penalty, calculated as 1/12 of $3,000 multiplied by the total number of full-time employees that qualify for a subsidy each month the employee(s) receive the subsidized premium, will be applied. The total penalty amount is not to exceed the payment the employer would owe if it did not offer coverage at all (1/12 of $2,000 multiplied by the total number of full-time employees). The employer will only be liable for the lesser of the two penalties.



2018 Excise Tax

The third provision is the Excise Tax, also known as the "Cadillac Tax". Starting in 2018, if the total of the employee and employer contributions exceed $10,200 (individual plan) or $27,500 (family plan), a 40% Excise Tax will be levied on the total amount in excess of the limits. Although the Excise Tax does not go into effect until 2018, it is advisable that employers complete a full analysis of plan cost, forecasting out at least 10 years to determine if or when they may exceed excise tax limits so that plan redesign can be considered and implemented if necessary. Again, full data integration and complete transparency across all HCM-related systems will be critical for senior leadership to analyze data and determine an appropriate course of action.

Reporting Requirements

The ACA requires ALEs to report employee-specific information. Employers can elect to report monthly or to provide a simplified annual statement via the 6055 and 6056 reporting. To make the reporting requirement easier for companies that report on a monthly basis, the IRS has combined two previously separate forms, 6055 (which requires submitting Forms 1094/1095B and 6056 (which requires Forms 1094/1095C) to be submitted.
As an alternative to monthly reporting, the IRS has made allowances for a simplified annual statement to be submitted under one of the following options:

1. Employer certifies that it offered its full-time employees and their dependents Minimum Essential Coverage that meets minimum value standards and affordability, defined as a cost of no more than 9.5% of the federal poverty level.
2. Employer certifies that it offered at least 98% of its full-time employees Minimum Essential Coverage that meets minimum value standards and affordability under one of the safe harbor options.
3. In 2015, the employer can certify that it offered at least 95% of its full-time employees and their dependents Minimum Essential Coverage that meets minimum value standards and affordability, defined as a cost of no more than 9.5% of the federal poverty level.

If the employer chooses the annual option, it is still important that they keep current, complete records substantiating that adequate coverage was offered.

The reporting requirements are considerable and dependent upon information from multiple systems, such as HRIS, benefits, payroll and time tracking at a minimum. All data must be stored as part of the employer's tax records for seven years and is subject to audit by the IRS. If penalty assessments are disputed, careful, complete records will be critical to presenting a compelling appeal.

The key to ensuring compliance with ACA regulations and reducing the financial risks involved is utilizing a fully integrated Human Capital Management (HCM) system. The complexities of the ACA demand interdepartmental coordination and sharing of data between systems that were not previously interconnected. Information Technology, Finance, HR, Benefits and Payroll must now document, share, report and retain information that determines employee eligibility, plan compliance and demonstrates that compliance in case of IRS audit or inquiry.

It is only through comprehensive, detailed, accurate and timely integration of information that employers will be able to ensure compliance and adequately document, record and report compliance status, thus avoiding the risk of high penalties.

The IRS Website includes detailed information about who qualifies as an employee as well as additional examples of the FTE calculation. For additional information about Minimum Essential Coverage, visit the Centers for Medicaid and Medicare Services website.