

THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

AFFORDING THE PPACA IN 2014 AND BEYOND

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Editor's Note: As this article went to press the week of July 8, 2013, the Employer Mandate in the Affordable Care Act that requires employers of 50 or more full-time employees to provide health insurance coverage has been pushed back from 2014 to 2015. However, the Individual Mandate will still go into effect at the beginning of 2014.

Introduction

As we all know, in 2010 Congress passed The Patient Protection and Affordable Care Act as one of the most sweeping pieces of legislation regarding healthcare in this country. Contained within the PPACA are dozens of provisions including health-care exchanges, mandates, credits, and rules, rules, rules galore. Of the more well-known provisions are the health-care mandates for both the employer and the employee. Unfortunately, nothing else in the entire rest of the ACA sparks such controversy and fear as these mandates. It doesn't have to

be that way for employees or employers. The following will explain the mandates.

Individual Mandate

With the new law comes an obligation for all individuals to be insured. Those individuals who refuse to get coverage will face a fine of up to \$695 per year to a maximum of \$2,085 per family per year or 2.5 percent of the household income over the amount subject to income tax, whichever is greater. The penalty is being phased in as follows: 2014—\$95 or one percent, 2015—\$325 or two percent, 2016—\$695 or two and a half percent. The penalty then increases after 2016 based on a cost of living adjustment. For some individuals, it may be less expensive to pay the fine as opposed to purchasing health insurance. However, be aware that the \$695 penalty is a penalty by means of the Internal Revenue Code. In other words, the penalty must be paid or such individuals will face the IRS for collection.

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Government Tax Credits

In order to pay for the individual mandate for insurance, the federal government is offering tax credits to

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individuals who are not eligible for Medicare, Medicaid, or are not covered by their employers for health insurance. The tax credits do not become

effective until 2014 and are available for individuals and families making between 100 percent and 400 percent of the federal poverty guidelines. The current federal poverty level for a family of four is \$23,550; therefore 400 percent of the federal poverty level is \$94,200.

In the simplest of terms, this credit works as follows: 1) the individual purchases insurance from an insurance exchange; 2) the individual tells the insurance exchange what his/her income is; 3) the IRS issues a credit and pays the insurance exchange a fee; and, finally, 4) the individual pays the insurance exchange the difference.

The Employer Mandate

In the new law, there is a mandate or requirement that employers provide/offer insurance to employees. There is a dichotomy between employers employing 50 employees or more

and those employers employing 49 employees or less. Those employing 50 or more face penalties if their employees elect the government credits for their health insurance purchases. Small businesses employing 49 employees or less are under no such penalties.

Within the law, there are two classes of employers: small and large. Companies such as General Motors, Wal-Mart, and Sears quite easily fall into the large employer designation. Other companies, such as small law firms, dental offices, and medical offices will easily be in the below 50 category. Then, there are companies such as restaurants owned by franchisees that tend to fall between the cracks. These are the firms that face the most confusion and risks.

The Rules

First, one must understand what an employee is under the new law. A full-time employee is an employee who works an average of 130 hours per month. This is the "x" variable. Full-Time Equivalent (FTE) employee(s) are all other employees' hours (those working below 30 hours per week) combined (added together) and then divided by 120 hours. The product is always rounded down to the nearest whole integer. This result is the "y" variable. The employer then adds x and y. The sum is the number of employees that the employer employs. If this number is 50 or above, the employer is a large employer. If this sum is 49 or below, the employer is a small employer.

Under the rules, a large employer must offer insurance to all of the employees in the "x" set (full-time employees or those working 30 or more hours per week). If your company does not offer coverage to all full-time employees, the penalty is calculated by the number of full-time employees (not FTEs) minus 30, the sum to be multiplied by \$2,000. In other words, if an employer employs 70 full-time employees as calculated and does not offer insurance, only 40 of those employees would count for the fine. The penalty for the year would be \$80,000.

Second is the penalty for each employee who elects to have subsidized insurance. If any employee elects

to go on subsidized care, this penalty is \$3,000 per employee receiving the subsidy. The first 30 are included in this formula, but only applies to each full-time employee taking the subsidy. This penalty cannot exceed the first penalty explained above.

Strategies

The ACA will cause an increase in the cost of doing business for many employers. The cold, hard reality is that many substantial businesses will not be able to afford being a so called "large employer." There are ways to deal with the upcoming reality. While we do not endorse any idea as being a specific plan, businesses have a duty to carry on and keep their employees employed even if it is at the expense of other employees.

1. Convert Full-Time Employees to Part-Time Employees

If you're in a situation where you have 50 full-time and full-time equivalent employees, the easy solution is to drop some to 29 hours. Most employees do their jobs in 55-75 percent of the allotted time. On the plus side, you can still pay them the same amount that you would have had they been available 40 hours per week.

2. Outsource

There are always some jobs that can be outsourced. Some good examples of this are cleaning, maintenance, transportation, and even sales. The good thing here is that the necessary employee will maintain some form of employment and just as in cutting hours, the same compensation can be paid to them.

3. Lay Off Employees

As an absolute last resort, if it has to be done, it has to be done. One option that comes to mind is to offer voluntary lay-offs first to those who take them on a voluntary basis. The reality is that some employees would appreciate some time off and have working spouses who can sustain their standard of living. On the positive side, these people are always recallable. If staff is lost in the mean time, give them a call.

4. I'm Just Too Big!

Some businesses in the 75 to 100 employee range are simply too big to

reduce back to a small employer status. For these employers, consider selling a division to a key employee, a relative, or even a competitor. One key thing to note here, any ownership in another company, if it is a majority share, will result in the employee numbers being combined. Selling off 49 percent ownerships will not result in reducing employee numbers for purposes of the PPACA.

5. So What Can I Do to Reduce Costs?

Some people are just stuck being large employers and they need to be. You can get creative as long as you stay legal as to what to do here. Many health problems are caused by an individual's behavior. Smoking and obesity are two widely known risk factors for health issues for the employee and higher premiums for the employer. Offering these people incentives and helping to curb the risks is not only good for your health insurance premiums, but also for the employee.

Let's face it; most of us could stand to lose some weight. Most overweight

people do not want to be, so why not make it a win-win situation? Offering an employee the chance to stay for losing so much as one pound a month is not a Draconian sentence, and the employee will enjoy better health as a result. Smokers too can utilize many aids to help them quit as well. You can also give financial incentives to these individuals to achieve desired results. Whatever you do, make it a positive experience and you will end up with a positive result in cutting costs and having healthier workers.

Conclusion

The healthcare bill has now become law, and it is now being implemented. Not only are there incentives for small businesses to cover employees and new opportunities for individuals to obtain health insurance, but opportunities to improve ourselves and our businesses await. Many see the PPACA as a negative thing for business. Let's rise to the challenge and make it a good thing for businesses, employees, and this country. *cr*

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