



Compliance Update

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What's Happening!!

Cadillac
Tax

Wellness

IRS Reporting

Same-Sex
Marriage



Marketplace Issues



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Marketplace Issues

- *King vs. Burwell*, currently with US Supreme Court, is challenging whether or not Premium Tax Credits are available through Federally-Facilitated Marketplaces
 - Oral Arguments: March 4, 2015
 - Ruling expected by end of June 2015
- Affordable Care Act as drafted in such a way that Credits might only apply in State-administered Marketplaces
 - That tax subsidies are only available for health insurance purchased on an exchange “established by the state”
- Another wrinkle: Can states create a Marketplace now? Or did it have to be created by January 1, 2014 to be eligible?



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US Supreme Court on Marriage Equality

- *Obergefell v. Hodges* was decided on June 26, 2015
- Based on U.S. Constitution:
 - States cannot refuse marriage licenses to same-sex couples
 - States must recognize marriages legally performed in other states
- This has most direct impact on 14 states that did not recognize same-sex marriage
- This expands decision from 2 years ago in *Windsor* which struck down part of the Defense of Marriage Act
- Can an employer limit welfare plan coverage to opposite-sex spouses?
 - Fully insured: No
 - Self insured: Yes, if they want to open themselves up to an EEOC lawsuit.



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Cadillac Tax

- 40% excise tax on high-cost employer-sponsored coverage
 - “High Cost” if cost exceeds \$10,200 for self-only and \$27,500 for other-than-self-only coverage
 - May be increased for 2018; and will be adjusted for 2019 and later years
- Effective January 1, 2018
- IRS issued initial guidance in 2015 and are asking for comments by May 15, 2015
- On April 28th, US Rep Joe Courtney introduced the “Middle Class Health Tax Repeal Act” that would repeal the Cadillac Tax



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EEOC/ADA and Wellness

- Three-legged race
 - ADA and HIPAA (as amended by PPACA)
- EEOC provided proposed rules on April 16, 2015 under the ADA regarding employer wellness programs
- Crux of issue: Whether a wellness program is “voluntary”
 - Can still offer incentives (up to 30% of total cost of employee-only coverage)
 - Employees may not be denied coverage under any employer’s group health plans or denied particular benefit packages within a group health plan, and employers may not limit the extent of such coverage if the employee chooses to not participate
- Currently in public comment period through June 20, 2015



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IRS Reporting

- Beginning 1st Quarter of 2016, to report calendar year data for 2015
- “Minimum Essential Coverage” (Code 6055) AND
- “Applicable Large Employer” or “ALE” (Code 6056)
- Provides information to:
 - IRS: To help them enforce individual mandate penalty and employer shared responsibility penalty
 - Employees: To disclose the coverage they had during a particular calendar year
- Forms vary depending on size/type of employer and funding status (fully insured or self-funded)
 - IRS Transmittal Form: 1094-B or 1094-C
 - IRS Return and Employee Statement: 1095-B or 1095-C



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Still Awaiting Guidance

- Nondiscrimination (pending regulations)
- Automatic Enrollment (pending regulations)
- Expansion of W-2 reporting to small employers (pending regulations)
- Any other changes that might occur due to legislation, court rulings or regulatory guidance



What to File?

Employer and Plan Type	Type of Reporting	Who Reports	IRS Transmittal	IRS Return	Employee Statement
Large employer with fully insured group health plan	6055	Carrier	1094-B	1095-B	1095-B
	6056	Employer	1094-C	1095-C, Parts I, II	1095-C, Parts I, II
Large employer with self-insured group health plan covering employees only	Combined 6055 and 6056	Employer	1094-C	1095-C	1095-C
Large employer with self-insured group health plan covering employees and non-employees	Employees: Combined 6055/6056	Employer	1094-C	1095-C	1095-C
	Non-employees employed for 1 or more months: Combined 6055/6056	Employer	1094-C	1095-C	1095-C
	Non-employees for all 12 months: 6055	Employer	1094-B or 1094-C	1095-B or 1095-C, Part III	1095-B or 1095-c, Part III
Multiemployer plans	6055	Plan sponsor	1094-B	1095-B	1095-B
Small employer with fully insured group health plan	6055	Carrier	1094-B	1095-B	1095-B
Small employer with self-insured group health plan	6055	Employer	1094-B	1095-B	1095-B



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When to File?

- To Individuals: Annually by January 31st
 - February 1, 2016 for 2015 form
- To IRS: Annually by February 28th (or March 31st if filing electronically)
 - Electronic required if filing 250 or more Forms 1095-C; optional for under 250
 - See Publication 5165: Guide for Electronically Filing Affordable Care Act (ACA) Information Returns for Software Developers and Transmitters (Processing Year 2015)
 - March 31, 2016 for 2015 calendar year data
- Penalties: \$200 per return up to max of \$3 million for calendar year
 - Can be reduced or waived if corrective action is taken within 30 days if due to reasonable cause and not willful neglect



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Data Elements for Form 1095-C: 3 parts

- Part I: Employee and Employer Information
 - Name, SSN/EIN, Address, etc.
- Part II: Must report for each month:
 - Line 14: Offer of Coverage. Must enter 1 of 9 codes available to explain whether or not an offer of coverage was made to employee and/or dependents
 - Line 15: Employee share of lowest cost monthly premium for self-only coverage
 - Line 16: Safe Harbor used. Must enter 1 of 9 codes available to explain whether or not someone enrolled in coverage or why not (newly hired; waiting period; enrolled in coverage; etc.)
- Part III: Covered individuals
 - Employee's spouse/dependents, SSN (or DOB) and months of coverage



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Data Elements for Form 1094-C: 4 parts

- Part I: Applicable Large Employer (ALE) Information
 - Name, SSN/EIN, Address, etc.
 - Name of Designated Government Entity (if one entity reporting for another)
- Part II: ALE Member Information
 - Questions about controlled group
 - Whether utilizing a safe harbor (Qualifying Offer; 98% Offer Method; etc.)
- Part III: ALE Member Information
 - Minimum Essential Coverage offer indicator
 - Full-time employee count
 - Total employee count
- Part IV: Other ALE Members of Aggregated ALE Group
 - Complete this with info about members of controlled group



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Action Steps for Employers on ACA Reporting

- Understand WHO is required to report
- Determine WHAT must be reported
 - Figure out where the data is housed (payroll, IT, benefits, etc.)
 - Do a gap analysis to see what you need that you don't have
- Coordinate with all players
 - HR, Benefits, Finance, Payroll, IT/IS
- Decide who will be responsible for:
 - Completion of forms
 - Distribution of forms to employees
 - Submission of forms to IRS
- Caution: If you're planning to outsource, some vendors are shutting their doors to new business.



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Thank you!



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