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## Employers and The Affordable Care Act

### OVERVIEW OF THE LAW

The Patient Protection and Affordable Care Act (a.k.a. "PPACA" and "ObamaCare") makes substantial changes to America's healthcare system. It **requires that all Americans obtain health insurance** which meets federal standards as to quality (insurance which will cover "at least 60% of actuarially expected medical costs") or pay a penalty on their annual Form 1040 personal income tax return. **Each state will have an "exchange" in which individuals can purchase health insurance.** Those individuals with household income less than 400% of the federal poverty level will receive tax credits and/or cost sharing subsidies to make their insurance premiums "affordable." (If they are not offered employer-based health insurance which meets both "minimum value" and "affordability" standards.) **The state exchanges are supposed to begin open enrollment on October 1, 2013 for January 1, 2014 mandated coverage requirements. Several states have also expanded Medicaid** income limits to include a larger number of people who can receive free medical care. Neither Medicaid nor Medicare recipients can utilize the state insurance exchanges since they already have sufficient healthcare coverage at an affordable, or free, cost.

### EMPLOYER RESPONSIBILITIES

**PPACA/ObamaCare requires that certain employers will have a legal responsibility to provide healthcare coverage, which meets government standards as to quality and affordability, or pay penalties to the IRS.**

Every employer needs to "count" their employees this year (2013) to determine their responsibilities under the PPACA effective January 1, 2014. If you have **50 or more "full-time equivalent" employees this year, you will be a "large employer" subject to coverage requirements for 2014. If your "employee count" is less than 50 "FTE's" for this year, you are not required to offer insurance coverage and cannot be penalized in 2014.** This "count" to determine "large" or "small" status must be done every year to determine your PPACA requirements for the following year.

**VERY IMPORTANT - Please re-read our recent PayDay entitled "[The Affordable Care Act - Step One](#)" for a detailed analysis of how to perform your "count."** You must pay attention to the "controlled group" provisions, make sure your "1099 people" cannot be re-classified as employees, learn

how to "count" employees who work above and below 30 hours per week, etc.

If your "employee count" for 2013 is below 50 employees, you are not subject to any employer responsibility for insurance coverage in 2014 - nor can you incur any PPACA penalties in 2014! **You will be required to send your employees a notice, no later than October 1, 2013, about the state insurance exchanges.** This "notice requirement" will be rather easy and the [DOL has provided templates](#) to be used for the notices.

### **I HAVE 50 OR MORE FTE'S - NOW WHAT?**

**All "large" employers must provide healthcare coverage to their "full-time" employees (those employees who average 30 or more hours per week) or pay rather substantial non-tax-deductible penalties to the IRS. The penalties are of 2 types:**

- The so-called "sledgehammer penalty" is levied if you do not offer "government standard" insurance coverage to your "full-time" employees AND at least one of those employees procures insurance coverage from the state exchange AND receives a federal tax credit/subsidy (over 50% of American households have income below 400% of the federal poverty level and will qualify for subsidies.) This specific penalty is **\$2,000 per "full-time employee," EXCLUDING THE FIRST 30.** If an employer has 70 full-time employees and chooses to not offer health insurance coverage, their penalty will be  $70-30=40 \times \$2,000 = \$80,000$  of a non-deductible penalty owed to the IRS; and
- The second type of penalty is levied on employers who offer "government standard" insurance to their full-time employees, BUT one or more employees cannot afford to pay their share of the premium. This "unaffordable penalty" is \$3,000 multiplied by only the employees who obtained exchange tax credits since their coverage was not affordable by them. The Federal government has indicated that **IF the employee's portion of the employee-only insurance premium does not exceed 9 1/2% of the employee's wages, then the coverage is "affordable" and the employer is not penalized.**

### **CONSULT WITH YOUR BENEFITS/INSURANCE CONSULTANT**

If you are a "large" employer since you employ 50 or more full-time equivalent employees, you need to ask your employee benefits consultant/insurance agent to discuss medical plan designs which meet "minimum value" government standards. Our understanding is that "minimum value" as defined by the PPACA is not "great" insurance and the "minimum value" test often can be met by a "high deductible health plan" (HDHP), such as found in the design of health savings accounts (HSA's). Your benefits consultant/insurance agent can also help you design "affordable coverage" in which the employees' share of insurance premiums does not exceed 9 1/2% of their gross wages.

**If you are a "large" employer, it is very important that you review your medical plan options with your benefits/insurance consultant now, if you have not already done so.**

### **TRACKING EMPLOYEES' HOURS AND INFORMATION REPORTING REQUIREMENTS FOR LARGE EMPLOYERS**

The PPACA/ObamaCare is chock-full of rules which require very detailed tracking and reporting of

employee hours worked, detailed as to each month, not just annually. Every "large" employer (and I would suggest the same for those "growing or close to large") must have payroll/HR/insurance systems in place which will provide information required by PPACA.

**AccuPay has custom-designed the following reports which will automatically generate from our Paychoice payroll/HR software for all our "large" (or "near large") employer-clients:**

- **ACA Monthly FTE Report (All Employers)**

This report will **calculate your "full-time equivalent" employees for every month** to help determine IF you are a "large employer" subject to all the employer PPACA "coverage and penalty" mandates. If we determine that you have less than 50 "FTE" employees per month in 2013, you will not be a "large employer" for 2014 and not be subject to insurance coverage requirements and penalty provisions stipulated in the PPACA. You can "go about your business" as usual without the Obamacare insurance coverage/penalty requirements.

*The remaining reports only apply to "large employers" (those with 50 or more "full-time equivalent" employees):*

- **ACA Monthly Hours Report**

**All "large employers" are required to submit annual reports to the IRS or DOL (regulations still to be used as to forms) which detail out hours worked/paid EACH MONTH for all employees.** These monthly hours reports will help determine which employees worked 30 or more hours per week, for each month, and thus are treated as "full-time employees" for those months. Those employees who average "below 30 hours" per week are considered as part-time employees.

**NOTE - a "large" employer is only required to offer insurance or pay penalties for their "full-time employees."** No obligation exists for employees who average below 30 hours per week, calculated monthly.

- **ACA Affordable Coverage Calculator**

AccuPay will help employers determine if the insurance coverage they provide to their full-time employees is "affordable." **If the employer requires that an employee contribute more than 9.5% of their gross wages to their own insurance coverage, the insurance will be deemed "unaffordable" and could result in a \$3,000 per person IRS penalty assessed to the employer.** AccuPay's reports will help "large" employers monitor this "affordability" provision of the PPACA.

- **ACA Work Week Planner (Really Cool!)**

**Many "large" employers with several "part-time" employees will plan their work schedules so that their "non-core" part-time employees work less than 30 hours per week, calculated on a monthly basis.** A "large" employer cannot be required to pay a penalty or offer insurance coverage for employees who work below 30 hours per week.

AccuPay anticipates that our restaurant and retail employer-clients who staff their workforce

with many non-core, "come and go" employees will want REAL- TIME EMPLOYEE HOURS INFORMATION so they can schedule employee hours to be less than 30 hours per week average for EVERY MONTH.

**AccuPay's Work Week Planner Report will be generated after each payroll to alert management as to specific employees who need to be "scheduled down" for the "second half" of every month.**

## **IN CONCLUSION**

The Patient Protection and Affordable Care Act is an enormously complex "overhaul" of America's healthcare system. **Every employer's "Step 1" is to very carefully determine if they are a "large employer"** ([see recent PayDay](#)) subject to all aspects of the PPACA, or instead have much less of a responsibility as a "small" employer. If you conclude that you are a "large" employer, you need to begin planning now as to your requirements/options and strategies available to your very specific workforce profile.

**AccuPay's Tax Director, Larry Shaub, CPA, has studied a curriculum and passed a test to become a "Certified Healthcare Reform Specialist."** Larry has taken the lead in AccuPay's mission to educate our clients about the PPACA and to custom design payroll/HR reports to assist our clients with complying with the new law and also mitigating the costs of compliance for our clients.

**Larry would be pleased to answer our PayDay readers' questions about the new law, and to meet and discuss the new law at AccuPay's Greenwood offices.** If you have questions or would like to meet with Larry, email him at [larry@accupay.com](mailto:larry@accupay.com). Please include the name of your benefits consultant/health insurance agent, if you have one, in your email to Larry.

*PayDay is an email communication of payroll news, legal updates and tax considerations intended to inform clients and colleagues of AccuPay about current payroll issues and planning techniques. You should consult with your CPA or tax advisor before implementing any ideas, comments or planning techniques.*