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employee benefits lawflash

July 3, 2013

## Affordable Care Act Shared Responsibility Penalty Delayed Until 2015

*Employers welcome a one-year delay in the Shared Responsibility excise tax.*

On July 2, the U.S. Department of the Treasury (Treasury) made a surprise announcement—in an unusual place—that implementation of the employer Shared Responsibility requirement of the Affordable Care Act (ACA) will be postponed until 2015. Starting in 2014, this provision of ACA would have required employers with 50 or more full-time employees to provide to substantially all full-time employees health coverage that is affordable and of minimum value or pay an excise tax.

On the Treasury's blog, *Treasury Notes*, Mark J. Mazur, assistant secretary for tax policy at the Treasury, explained that an upcoming delay in the mandatory reporting requirements applicable to employers and insurers means that Treasury will not be able to enforce the employer Shared Responsibility requirements of the ACA until 2015.

We anticipate that additional (and likely more formal) guidance about the delay in the mandatory reporting and the Shared Responsibility requirements will be released in the next week or so.

While the one-year delay in the implementation of the Shared Responsibility requirement is good news for all employers with 50 or more full-time employees, it appears that the rest of the 2013 and 2014 ACA requirements will apply as scheduled, including the 2014 individual mandate, which requires virtually all U.S. citizens to have some basic level of health coverage or pay a tax, and the rollout of Health Insurance Exchanges (Exchanges) across the country.

As such, employers should continue to prepare for other ACA-required items, including the following:

- The Patient-Centered Outcomes Research Institute (PCORI) filing, which is due on July 31, 2013
- The Exchange notice to employees, which is due on October 1, 2013
- Implementation of the 2014 ACA design rules, such as no annual dollar limits on essential health benefits, no preexisting condition exclusions, no excessive waiting periods, and limits on cost sharing/deductibles (nongrandfathered plans)
- Implementation of the final wellness plan rules, which are effective in 2014

Finally, employers should take advantage of this one-year delay to identify which employees are considered full-time employees under the ACA.

The Treasury blog post is available at <http://www.treasury.gov/connect/blog/Pages/Continuing-to-Implement-the-ACA-in-a-Careful-Thoughtful-Manner-.aspx>.

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