ATTACHMENT

The Affordable Care Act:

Summary of Employer Requirements

Work Session III: Health Care Reform – Regulation Roll Out for 2014

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Building a better working world

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The Affordable Care Act



ACA background

- The ACA was passed by Congress and signed by President Obama in March 2010; insurance market reforms take effect within six months.
- In June 2012, the U.S. Supreme Court held the major coverage provisions of the ACA to be constitutional.
- Re-election of President Obama moves implementation of the ACA forward.
- Federal agencies are issuing significant ACA regulatory guidance to carry out the opening of the insurance Exchanges beginning October 2013 and coverage expansions in 2014.
- Effective in 2014, the ACA expands coverage through:
  - Individual mandate: requires all Americans, with some exceptions, to maintain a minimum level of health care coverage or be subject to a tax
  - Insurance Exchanges and premium tax credits (PTCs): Exchanges provide a marketplace for individuals and small businesses to purchase coverage and offer PTCs to assist eligible individuals with the purchase of coverage
  - Medicaid expansion: allows states to expand Medicaid for all individuals with incomes up to 133% of federal poverty level
  - Employer mandate: requires employers with 50 or more full-time equivalents to offer coverage to full-time employees (and their dependents) or pay an excise tax if any full-time employee obtains Exchange coverage and a PTC

A holistic approach to implementing the ACA

Employers must take action now to develop a strategy for implementing and complying with the core Affordable Care Act (ACA) requirements taking effect in 2014. There is no single approach or strategy – the unique characteristics of the organization and the nature and demographics of the workforce affect ACA implementation and potential costs. Adopting regulatory safe harbors across the board may not be the answer for all employers and could significantly increase costs. Projections need to fully consider the potential new taxes, fees and indirect costs under the ACA. Communication plans also are critical – employees will need more information to understand their new choices and the ramifications of opting into Exchange coverage. Companies will need to plan for Exchange communications, new filings and expanded reporting. All of these factors need to be considered in developing the strategy for transitioning to the new rules and minimizing disruptions to the business, the workforce and overall productivity.

Ernst & Young LLP has broad subject matter resources aligned to help employers understand the interrelated technical requirements of the ACA, model potential costs, and develop and implement a customized strategy to comply with the many facets of the ACA.

Objective analysis, financial modeling and readiness assessments tailored to your business

Ernst & Young LLP professionals couple broad subject matter knowledge of the ACA with objective financial analysis to help a business develop and carry out its ACA strategy. Our services include (i) technical consulting on ACA requirements; (ii) reviewing organizations' readiness for regulatory and reporting compliance requirements; (iii) performing financial and workforce analytics for projecting and potentially minimizing taxes and fees; (iv) planning and implementing communication strategies and (v) addressing tax controversy and appeals, which will be the primary enforcement mechanism under the ACA. We recognize that certain aspects of the ACA have varying effects on different industries and employee populations. Our services are designed to be tailored to the particular needs of the business; for example, our financial modeling tools may be utilized to test existing cost projections and compare outcomes in different scenarios that take into account broader economic and demographic data.

Process and technology efficiency analysis

Complying with ACA will be heavily data driven. Companies will need to collect data from diverse sources, including payroll, human resource information systems (HRIS), time and attendance, accounts payable, compensation and benefits. To successfully deliver the timely, accurate and complete data needed to track, monitor and report, companies will have to rely heavily on their own, and possibly third-party, technology and systems. Integrated end-to-end processes with effective controls will be needed to document and confirm the completeness and accuracy of incoming and outgoing data transfers. Compliance will require strong confidence in external vendor processes and effective vendor management. Ernst & Young LLP has a team of professionals experienced with the relevant systems required to communicate with each other and provide the necessary outputs that would help a large employer comply with the ACA. We also can assist you in testing your system readiness and provide consultation around the needed process to conform with the law.

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Workforce analytics

A cornerstone of our services is objective analysis that couples the employer's information on its workforce with broader economic data. Depending on an employer's posture (i.e., industry and workforce characteristics), compliance and reporting for the ACA will require understanding and monitoring the distinct data points that affect potential costs and compliance. For businesses with a significant seasonal or variable hour workforce, monitoring hours to timely and accurately identify full-time employees will be critical. Furthermore, employers' costs and potential excise tax liability may be significantly affected by demographic factors such as potential eligibility for Medicaid, dependent coverage, and analysis of likely household income in comparison to federal poverty levels. Adopting regulatory safe harbors under the ACA may significantly increase costs in some situations. Our workforce analytics provides detailed and objective analysis that allows an employer to compare different options. We utilize data developed with our economists and statisticians as well as data developed through our significant experience with employee tax credits and incentives. Our employee screening process and payroll interface infrastructure may be utilized to track certain data elements, such as potential eligibility for other health coverage. Understanding these elements for the particular workforce is key to projecting costs.

Exchange notification support

In October 2013, Exchanges for all 50 states are scheduled to begin open enrollment. Employees will have the opportunity to consider whether to buy their own coverage for themselves and their families through the Exchanges and, for households with income not in excess of 400% of the federal poverty level, may seek advanced certification for premium tax credits to help buy this coverage. Employees' ability to purchase their own coverage in the Exchange affects employers' costs. Full-time employees who are not offered affordable and adequate coverage by their employer may be eligible for the premium tax credits that, in turn, will result in an excise tax assessment against the employer. Regulations provide that Exchanges will notify an employer and provide an appeals process. Employers will need a method to timely confirm coverage and employment information with the Exchanges in order to avoid potential excise tax assessments. Each Exchange notification could possibly result in a $3,000 non-deductible excise tax for the employer. Ernst & Young LLP can assist employers in centralizing and administering the responses to Exchange notifications, including assistance with appropriately appealing erroneous notifications.*

Reporting compliance support

The ACA creates new and expansive IRS reporting requirements. For example, employers will be required to make annual reports for 2014 detailing every covered life (employee and dependents) that is provided coverage for each month of the year. These reports are required for insured and self-insured plans and will require the retention and merging of data that employers have not been previously required to maintain. Ernst & Young LLP can provide employers with support in assessing current systems as well as ongoing compliance.

Employee communication and education

The ACA outlines specific employee communication requirements, such as communicating information about the Exchanges and the cost of coverage for your own employer-sponsored health plan. Many employers may find that additional and more expansive communication with employees will be needed beyond the capacity of existing HR resources. Ernst & Young LLP can help develop required and discretionary employer communications, including independent financial education and counseling for employees.

Taxes and fees and controversy support

Per capita taxes and fees are imposed on employer plans under the ACA, with the first filings beginning in July 2013. In addition, the excise taxes for employers whose workers receive premium tax credits via the Exchanges are estimated by the Congressional Budget Office (CBO) to be $117 billion over the next 10 years. Ernst & Young LLP tax services and our tax controversy teams can assist in planning to avoid controversy, including advice on maintaining the appropriate business records needed to defend against tax assessments, appealing determinations and appropriately resolving IRS matters.

** Certain restrictions may apply where Ernst & Young LLP is the auditor of a company.*

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Learn more

For more information on Ernst & Young LLP's holistic approach to assisting your organization with ACA implementation and ongoing compliance, please contact:

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The Affordable Care Act

July 2013 announcement: transition relief for employer excise tax and reporting provisions

Executive summary

The Obama Administration's decision
On 2 July, the Administration announced a one-year delay of the Affordable Care Act's (ACA) penalties under the employer mandate. The move stems from a decision to delay requirements under the ACA for employers to report information to the IRS regarding their compliance with the mandate. Regulations on these reporting requirements have not yet been issued. The Administration delayed the employer mandate because the tax penalties cannot practically be assessed without the reporting information. Treasury plans to release proposed rules on the reporting requirements later this summer. The 2 July Administration announcement was followed by IRS Notice 2013-45 confirming that employer reporting provisions under §6055 and §6056 will become mandatory in 2015.

In providing this transition relief for employers, the Administration has made it clear that other key provisions of the law remain in effect and will move forward as planned. The provisions that remain in effect include:

- The individual mandate to maintain coverage
- The insurance market reforms and coverage expansion provisions
- The requirement that employers communicate the availability of subsidized coverage, for qualified individuals under the ACA, to their employees by 1 October
- The ability for employees to receive advanced premium tax credits from the Exchanges and for the Exchanges to issue employer notices

Reaction in the market
Employers generally reacted favorably to the delay, particularly since many companies have indicated that they need more time to understand the complex rules and prepare their IT systems to comply with the law. Employers may still voluntarily comply with the employer mandate in 2014, but no tax penalties will be applicable until 2015. Many employers will want to use 2014 as a "practice year" to begin voluntarily complying without fear of penalty so they are well prepared to be in full compliance in 2015.

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Based on conversations with companies following the Administration's decision, we have witnessed a wide range of reactions in the market. Many companies have decided to stay the course and continue their implementation efforts, while others will delay certain activities until 2014.

Impact on employers' implementation efforts
EY has a wide range of ACA services to offer, many of which remain viable and important to our clients' ACA implementation efforts. Specifically, we think the following services represent near-term opportunities for companies to fine-tune their ACA implementation strategy:

- **Whiteboard strategy sessions** — During these sessions, EY works with employers to develop an ACA implementation strategy that considers the impact of the deferral on their unique business circumstances. As an example, businesses may consider the benefits of analyzing household income versus the safe harbors when setting the employee contribution level.
- **Readiness assessments** — EY helps clients analyze their readiness for ACA implementation across all of their business functions.
- **Employee communication/education** — EY can assist clients with their ACA employee communications, including educating employees on the various health care options and opportunities afforded by the public health care Exchanges. This service is particularly important as the 1 October opening of the Exchanges approaches. If an employer has chosen to alter their ACA implementation plans for 2014, communication with employees becomes critical.
- **Workforce analytics** — The deferral provides additional time for employers to educate employees about eligibility under the expanded Medicaid program. EY has a trained call center to provide support around Medicaid eligibility.
- **Exchange notification** — Employers utilizing 2014 as a practice year for ACA implementation have an immediate need to address their processing and response to notices received from the Exchanges. Additionally, they should be prepared to answer employee questions resulting from the Fair Labors Standards Act notice that must be communicated by 1 October 2013. EY has a process to assist with employee and Exchange interactions and analyze the quality of the Exchange notices to provide employers a preview of 2015 and any potential tax risks.
- **PCORI fee services** — This fee was not deferred, and as a result employers must comply with the 31 July filing date each year, beginning in 2013.

While the deferral of the employer mandate may create some short-term uncertainty for companies, EY remains committed to building a robust ACA network to help our clients identify and develop the most appropriate and cost-effective long-term ACA strategy.

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