The Employer Shared Responsibility Provisions
Beginning Calendar Year 2015

What You Need to Know
What Employers Need to Know

• Fewer than 50 full-time employees (including full-time equivalent employees) – § 4980H does not apply

• Applicable Large Employer (ALE) status

• Employer tax provisions for ALEs:
  ▪ Employer Shared Responsibility Provisions ( § 4980H)
  ▪ Information Reporting ( § 6056)

• Employers that offer self-insured plans:
  ▪ Information Reporting ( § 6055)
Employer Shared Responsibility Provisions

ALEs must

- Offer health coverage to their full-time (FT) employees (and their dependents),

or

- Potentially be subject to an employer shared responsibility payment

• Generally not effective until January 1, 2015
• Transition rule for 2015 for ALEs with less than 100 full-time employees (including full-time equivalent employees)
Determining ALE Status

- Number of employees and their hours of service in preceding year determines ALE status for the current year
- Definition of full-time employee
- Definition of full-time equivalent employee
- Seasonal worker exception
- Common ownership and controlled groups
- Transition rule for 2015 ALE determination
ALE Examples

- Company X had 40 full-time employees and 20 part-time employees at 60 hours each month
  - The 20 part-time employees = 10 full-time-equivalent employees
  - 40 FT plus 10 FTE = ALE (50 FT/FTE)
- Company X is subject to the employer shared responsibility provisions
Common Owner ALE

• For all of 2015 & 2016, Corp A owns 100% of Corp B and Corp C
• Number of 2015 FT employees:
  ▪ Corp A – None
  ▪ Corp B – 40
  ▪ Corp C – 60
  -----------------------------
  ▪ Total – 100
• Corp A + B + C is an ALE for 2016
• Corps B & C are each an ALE member
Defining a Full-Time Employee

• FT = 30 hrs/week or 130 hrs/month
• Two measurement methods
  ▪ Monthly
  ▪ Look-back
• Defining an hour of service
  ▪ Hour for which paid or entitled to be paid
  ▪ Special rules
ESRP Liability

- Liability exists if employer:
  - Does not offer coverage to at least 95% of FT employees (and their dependents) and at least one FT employee receives the PTC
  - OR
  - Does offer to 95% of FT employees (and their dependents), but at least one FT employee receives the PTC because, for that full-time employee, coverage was
    - not offered
    - unaffordable, or
    - did not provide minimum value

- 2015 Transition relief
Definition of Affordability and Minimum Value

• Affordability
  ▪ Affordable if employee’s share of lowest cost self-only coverage does not exceed 9.5% of household income
    ○ Three employer “safe harbors”

• Minimum value
  ▪ Covers at least 60% total cost of benefits
Employer Shared Responsibility Payment

- Offer to less than 95% (70% for 2015)
  - Payment of 1/12 of $2,000 per FT employee, above 30 threshold (per month)
- Offer to at least 95% (70% for 2015)
  - Payment of 1/12 of $3,000 per PTC-receiving FT employee, (per month), subject to limitation
ESRP Assessment and Payment

• Employer will not make a payment with a return
• IRS will determine amount and notify employer
• Employer will have opportunity to respond before assessment
• IRS will send a notice and demand after assessment
2015 Transition Relief

- 50-99 FT + FTE employees (requires certification)
- Dependent coverage
- Non-calendar year plans
- First payroll rule (January 2015)
- Multiemployer plans
ALE Information Reporting (§ 6056)

• Effective 2015; first returns due 2016
• Information to be reported (Form 1095-C):
  ▪ Employer ID & contact information
  ▪ Number of FT employees
  ▪ Information for each FT employee including any coverage offered, employee cost of self-only coverage, and months employee enrolled
Other Information Reporting

- § 6055 – for all insurers, providers of government-sponsored programs and self-insured employers (regardless of size) (Form 1095-B)
- Effective 2015; first returns due 2016
- Information reported:
  - Identifying information for entity providing coverage & contact info
  - Identifying information of persons covered & months of coverage
Simplified Information Reporting

Combined reporting form for all ALE members:

- § 6056 top of form
- § 6055 bottom of form
• Applicable Large Employer (ALE) status

• Employer tax provisions for ALEs:
  ▪ Employer Shared Responsibility Provisions (§ 4980H)
  ▪ Information Reporting (§ 6056)

• Employers – regardless of size – that offer self-insured plans:
  ▪ Information Reporting (§ 6055)
Additional Resources

Tax Provisions
- IRS website: IRS.gov/ACA

Other Health Care Information
- HHS website: HealthCare.gov
- SBA website: SBA.gov/healthcare
- DOL website: DOL.gov/ebsa/healthreform