

Bernstein Shur

Affordable Care Act Team

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The “Look-Back” Period: What Large Employers Need to Know About the Employer Mandate

Set Up Your “Look-back” Period

Every large employer has compliance and reporting duties under the employer mandate, *even if you offer good coverage now.*

Every large employer must set up a “look-back” period to:

- Help identify and limit cost exposure
- Make reporting easier
- Prevent you from having to make coverage decisions on a month-to-month basis

Cost Exposure

Many large employers will have a significant cost exposure due to the employer mandate. This could be in the form of increased employee health coverage or penalties paid to the federal government.

- Use “look-back” period to identify and limit exposure
- Employers with high turnover should consider an additional “look-forward” period
- Some may consider risking penalties as part of their cost strategy

Start Planning NOW

Every large employer should start now to develop its plans and strategies regarding the employer mandate.

- Assemble your team: In-house folks from finance and HR, as well as your insurance broker and legal counsel
- Develop your “look-back” period and make trial runs

Mandatory reporting of health coverage information by large employers is postponed until January 1, 2015.

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What's Delayed and What's Not

Delayed

- Reporting requirements: Mandatory reporting of health coverage information by large employers is postponed until January 1, 2015
- Penalties: Assessment of employer penalties under the “pay-or-play” rules (for failure to offer adequate health coverage to employees) is postponed until January 1, 2015

Use Additional Time to Develop Compliance Strategies

Delays in the implementation of major tax provisions are not uncommon. Based on our experience with rollouts of other laws, we believe that the underlying infrastructure and requirements of the ACA will remain in place during the delay, with further guidance coming from the IRS and other regulatory agencies. We strongly encourage employers to use this additional time to develop and tweak compliance strategies.

Not Delayed

- Summaries of benefits and coverage: A short, language-appropriate description of employer’s health coverage to be distributed to employees, effective for plan years starting on or after September 23, 2012
- Limit on medical flexible spending accounts: The \$2,500 limit, effective as of January 1, 2013, remains in effect
- Patient Centered Outcomes Research Institute fee: This fee, first due on July 1, 2013, is assessed against insurers and self-insured plans
- Exchange notices: Employers are required to issue exchange notices to employees starting **October 1, 2013**
- Health insurance exchanges effective Fall 2013
- Expiration of annual limit waivers: Annual limit waivers will not continue after December 31, 2013
- Individual mandate effective January 1, 2014
- Insurance market reforms: The prohibition of annual and lifetime limits, the prohibition of waiting periods in excess of 90 days and other market reforms are still planned to take effect on January 1, 2014
- W-2 reporting: No changes have been made to this requirement. Employers issuing more than 250 W-2s are required to report health insurance costs on those W-2s. Employers issuing 250 or fewer W-2s are not required to comply with this requirement.