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Affordable Care Act and How it Affects Your Business

Presented By:

Norman LeBlanc, CPA, Partner

&

Loree Dubois, CPA, Tax Principal

September 25, 2013

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Agenda

- ▶ Health Care Reform Overview
- ▶ Applicable Large Employer Determination
- ▶ Employer Mandate Requirements
- ▶ Potential Penalties
- ▶ Other ACA Provisions Impacting Large Business
- ▶ Tax Credits for “Small Employers”
- ▶ Small Business Health Options Program (SHOP) and Exchanges
- ▶ Individual Tax Increases

Health Care Reform Overview

- ▶ Employers must move forward with planning to:
 - Comply with the requirements of the law
 - Adjust/refine health care strategies to comply with the law and support business and HR objectives
- ▶ Some major concerns for employers and uncertainties
 - Considerable delegation to Federal Regulators under the Act
 - Increased regulatory activity by the states
 - Potential legal challenges to the Act
 - Unknown cost increases in 2014 and beyond
- ▶ Strategic thinking is required now

Rationale behind ACA

- ▶ The number one concern for small businesses has been cost
- ▶ The number one concern for employees has been access to affordable health care
- ▶ Small businesses pay on average 18% more for health insurance than big businesses
- ▶ ACA was enacted with the goal of helping small businesses lower premium cost growth and increasing access to quality, affordable health insurance

ACA Reduces Premium Cost Growth

- ▶ Before ACA, Small Employers Faced Many Obstacles to Covering Workers
 - Too few choices
 - Higher premiums and unpredictable rate increases
 - Higher rates for groups with women, older workers & those with chronic health concerns or high-cost illnesses, in most states
 - Waiting periods or no coverage for individuals with pre-existing conditions

ACA Reduces Premium Cost Growth

- ▶ Today, under ACA, insurance companies:
 - Face limits on administrative spending. Most insurers must now spend at least 80% of consumers' premium dollars on actual medical care
 - Must disclose and justify proposed rate hikes of 10% or more, which states, or federal government, may review

ACA Reduces Premium Cost Growth

- ▶ Starting in 2014, insurance companies:
 - Cannot charge higher rates or deny coverage because of a chronic or pre-existing condition
 - Cannot charge higher rates for women, and face limits on charging additional premiums for older employees
 - Will pool risks across small groups creating larger pools like large businesses
 - Must not have annual dollar limits (cap on benefits)
 - Must offer plans that provide a core package of “Essential Health Benefits” equal to typical employer plans in the state

Determining if you are a small or large employer

- ▶ Starting on January 1, 2015, employers with at least 50 full-time equivalent (FTE) employees must offer all FTE employees an “affordable” health plan that meets a “minimum value” standard
- ▶ If less than 50 FTE’s, considered a small employer
 - Have option of offering health benefits (not mandated)
- ▶ Penalties have been postponed to 2015 on this mandate.

Determining if you are a small or large employer

- ▶ Step1: Definition of Employer (Ownership Test)
 - Defined by IRS Tax Code “Common Control”- Section 414 (b), (c), (m), (o)
 - Employers with common owners or who are otherwise related are aggregated together to determine whether they meet the threshold number of 50 or more FTE employees
 - Rules are complicated, consult your tax advisor

Determining if you are a small or large employer

► Step 2: Employee Hours or Service

- Full Time
 - 130 hours of service per calendar month is the equivalent of 30 hours a week on average in any given month
- Part-time
 - Law does not require employers to offer coverage to part-time employees
 - Must aggregate hours of service to figure out applicable large employer status (count no more than 120 hours per person)
- Seasonal
 - Seasonal exemption
 - If exceed 50 FTE for fewer than 120 days or 4 calendar months, may qualify for exemption in following year

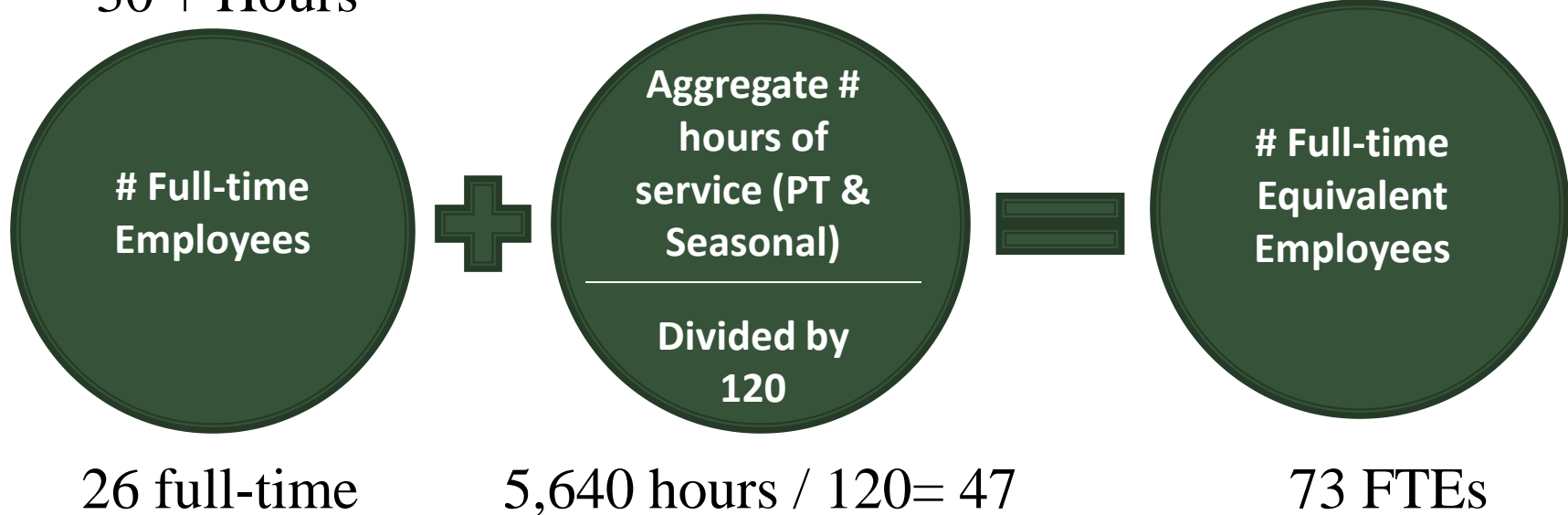
Determining if you are a small or large employer

- ▶ Step 3: Measurement dates
 - Measure previous year January – December

Determining if you are a small or large employer

► Step 4: Monthly Calculation

30 + Hours



**Regulatory proposal: only count max 120
hours per part-time employee**

Determining if you are a small or large employer

- ▶ Step 5: Average Over 12 months Applicable Large Employer: 86 FTEs

2013	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Ave FTEs
FT 130 hrs/ calendar month	26	26	26	31	35	35	38	38	38	38	38	38	
FT Seasonal (130 hours per calendar month) (4 months or ≤120 days)	0	0	0	0	10	10	10	10	0	0	0	0	
Total of hours worked by all other employees */120 (includes seasonal/part-time hours)	47	48	48	51	52	52	52	52	50	48	48	48	
# of FTEs	73	74	74	82	97	97	100	100	88	86	86	86	<u>86</u>
Total													86

* Do not count more than 120 hours for each part-time employee

If Total number of FTE employees is 50 or higher

- ▶ Employer is considered an applicable large employer
 - Subject to employer mandate
 - Additional reporting requirements

If Total Number of FTE employees is less than 50

- ▶ Employer is considered a small employer
 - Not subject to employer mandate
 - Additional reporting requirements

Employer Mandate Requirements

- ▶ Applicable large employers must offer their full-time employees (and their dependents) “minimum essential coverage” or face potential penalties.

What Does it Mean to “Offer” Coverage?

- ▶ Make available with “effective opportunity” to accept or decline coverage
- ▶ Employees can opt out if covered by spouse’s plan

Full-Time Employees & their Dependents

- ▶ Dependent = an employee's child who is under 26 years of age.
 - Offer to an employee's spouse is not required
- ▶ Rely on employee for their children's identity and ages

Minimum Essential Coverage

- ▶ Minimum Value
- ▶ Plan must cover 60% or more of the total allowed cost benefits provided by the plan
 - Deductibles
 - Co-pays
 - Covered services
- ▶ Affordable

Affordability

- ▶ Affordable for the full-time employee
 - Full-time employee's premium contribution cannot be more than 9.5% of household income (MAGI)
 - Based on single-only coverage
- ▶ 3 Affordability Safe Harbors for Employers Available
 - Form W-2 Safe Harbor (less than 9.5% of box 1 wages on W2)
 - Rate of Pay Safe Harbor (9.5 % of lowest paid employee)
 - Federal Poverty Line Safe Harbor

What Triggers an Employer Penalty?

- ▶ Any full-time employee using a federal subsidy to purchase coverage on the exchange
 - Unaffordable
 - Below minimum value
 - 5% not offered coverage

Poverty Level FPL	2013 Single	2013 Family of 4	Expanded Medicaid Eligible
100%	\$11,490	\$23,550	Yes
133%	\$15,282	\$31,322	Yes
400%	\$45,960	\$94,200	No

- ▶ Impact of states not expanding Medicaid

Employer Penalties (IRC §4980H)

- ▶ 4980H (a): Employer does not offer “minimum essential coverage”
- ▶ 4980H (b): Employer offers minimum essential coverage, but unaffordable, not of minimum value or 5% not offered coverage

Do I Pay or Play?

- ▶ To play, offer minimum essential coverage to substantially all full-time employees.
- ▶ Must pay if:
 1. Don't offer coverage - pay \$2,000 annually per full-time employee over 30 full-time employees.
 2. Offer unaffordable coverage or coverage that lacks minimum value - pay \$3,000 annually per full-time subsidized employee
 - 2 tests: minimum value and affordability
 - \$3000 annual penalty per full-time employee for whom it is unaffordable, etc. (\$250/month)
 - Indexed after first year
 - Max limit of (a) penalty cannot exceed to \$2000 penalty calculation

When Must I Decide to Pay or Play?

- ▶ Penalties effective on January 1, 2015 unless employers qualify for certain transitional relief for fiscal years plans.
- ▶ However, employers must know by October 1, 2013, whether they will pay or play in order to issue required notices to all employees regarding coverage options and exchanges.
 - See <https://www.dol.gov/ebsa/healthreform/index.html> for technical release and model notices
 - This penalty has also been postponed but still encouraged to send notifications.

Expansion of Coverage - Individual Mandate

- ▶ Individual Mandate (if employee chooses not to accept the employer plan)
 - With limited exceptions, ALL individuals must maintain “minimum essential coverage” or pay a penalty
 - Government provided coverage
 - Employer sponsored coverage
 - Exchange coverage
- ▶ Exemption from mandate
 - If required contribution to purchase insurance exceeds 8% of household income
 - Religious objection
 - American Indians
 - Incarcerated individuals
 - Those with income below the tax filing threshold
 - Uninsured for less than 3 months of year

Expansion of Coverage- Individual Mandate

- ▶ Penalty amount is the higher of a flat dollar amount or percentage of income.
 - 2014: \$95 per adult and \$47.50 per child (up to \$285 for family) or 1% of household income
 - 2015: \$325 per adult and \$162.50 per child (up to \$975 for family) or 2% of household income
 - 2016 and later: \$695 per adult and \$347.50 per child (up to \$2,085 for family) or 2.5% of household income
 - Online calculator (Kaiser Family Foundation) KFF.org

Other ACA Provisions Impacting Large Business

- ▶ Summary of Benefits and Coverage disclosure rules
- ▶ Sample notices drafted by the U.S. Department of Labor
 - <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf> (for when no employer health plan is offered)
 - <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf> (for employers who offer a company health plan)
- ▶ W-2 reporting of annual health care costs
 - Report health care coverage costs on W-2, Box 12, Code DD
 - Tax year 2013: all employers
- ▶ October 1, 2013 deadline to provide written notice to employees about exchanges (penalty postponed)

Small Business Health Care Tax Credit

- ▶ **Since 2010, eligible small businesses can get tax credits worth up to 35 percent** of their premium contribution to help them pay for health insurance. About 360,000 businesses and business owners who provide health insurance received the tax credit in 2011
- ▶ **Better options through new Health Insurance Marketplaces:** Starting January 1, 2014, the self-employed and small businesses will have access to a range of affordable health care options

Businesses with less than 25 FTE Employees

- ▶ If these smaller businesses provide coverage, they may qualify for the **Small Business Health Care Tax Credit** to help offset costs:
 - Must have average annual wages below \$50,000; and
 - Contribute 50% or more toward employees' self-only premium costs
 - **Note:** The **maximum tax credit** is available to employers with 10 or fewer full-time equivalent employees and average annual wages of less than \$25,000
 - **Note:** Credit works on a sliding scale, i.e., for each FTE above 10 and average annual wages above \$25,000, the credit is reduced. See IRS Form 8941

Small Business Health Care Tax Credit

Business
employs less
than 25 full-
time equivalent
employees



Employees'
average annual
wages are less
than \$50,000



Business pays
for at least 50%
of employees'
self-only
premium costs



Up to 35% Federal Tax Credit in 2013
and *50% in 2014 if for-profit entity

** SHOP participants only*

Health Insurance Marketplaces

- ▶ Starting January 2014, if a small business, with under 50 employees, chooses to offer coverage, there is a new streamlined way to do so: Small Business Health Options Program (SHOP)
- ▶ State-based online marketplaces scheduled to be up and running October 1, 2013 for January 1, 2014 start

Health Insurance Marketplaces

► SHOP= Small Business Health Options Program

- Part of the new Health Insurance Marketplaces (sometimes called “Exchanges”)
- Spurs competition for customers based on price and quality, rather than by avoiding risk
- Provides “Essential Health Benefits” – same level of benefits and services that would be covered in most employer-based plans
- Helps employers better predict and control health insurance expenses
- Will pool risks for small groups and reduce administrative complexity, thereby reducing costs
- Works with new insurance reforms and tax credits to lower barriers to offering health insurance that small employers face

Health Insurance Marketplaces

► Through a SHOP, smaller employers can:

- Offer employees a meaningful choice of qualified health plans from different private health insurers
- Decide which qualified health plans to make available to employees
 - SHOP can allow employers to offer a single plan or multiple plans
- Employer decides how much to contribute toward premium costs (credit at 50% if qualified)
- Collect employee share of premiums through payroll deduction
 - Premium contributions can be made with **pre-tax dollars**
- Get one monthly bill, make one monthly payment to SHOP
- Take advantage of enhanced level of Small Business Health Care Tax Credits

Enrolling in SHOP: Who, When & How

- ▶ Which small businesses are eligible?
 - Businesses with generally 50 or fewer employees (some states may allow businesses with up to 100 employees)
 - In 2016, employers with up to 100 employees will be eligible to participate
 - Once a business enrolls, it can grow and still remain in SHOP
- ▶ When can businesses enroll?
 - Starting October 1, 2013 for coverage beginning January 1, 2014
 - Thereafter, throughout the year on a monthly basis
- ▶ How can businesses enroll?
 - Through a broker, OR
 - Directly through the SHOP. Visit www.healthcare.gov for more information and to sign-up for alerts

Exchanges

- ▶ State-based
- ▶ Rhode Island is expected to offer 28 plans
- ▶ Shop & Exchanges Act like Expedia or Orbitz for health insurance
 - Individual and small firms
 - Obtain information
 - Compare and purchase private health insurance
- ▶ RI: HealthSource RI website
- ▶ MA: Health Connector website
- ▶ CT: Access Health CT website

ACA Provisions Looking Forward

- ▶ Beginning 2014, 90-day maximum waiting periods for otherwise eligible new hires to begin coverage
- ▶ Starting in 2014, additional incentives/rewards to provide workplace wellness programs will be in place (e.g. max reward increases to as much as 50% for smoking cessation programs)
- ▶ New information reporting requirements for issuers of health insurance coverage - applies to employers of any size that have self-insured health plans. First reports due 2015

Patient Centered Outcomes Research Fee (2012)

- ▶ Form 720
- ▶ Annual tax of \$1 (increase to \$2 in second year)
multiplied by average number of covered lives in plan
- ▶ Assessed on health insurers and sponsors of self-funded plans
 - Likely passed down to fully-insured plans
- ▶ HRA – Employer is considered self-funded

Exchange Reinsurance Fee (2014-2016)

- ▶ Health insurers and third party administrators (on behalf of self-funded plan sponsors) will contribute to a transitional reinsurance program for exchanges
- ▶ Total contributions over 3 years required at \$25 billion
 - Contributions will be determined on a per capita basis
 - 2014: \$5.25 per month (\$63) per year
 - Employers may see this passed down from insurer

Health Insurance Tax (2014)

- ▶ Tax on health insurers, based on net premiums written
- ▶ What it means: higher costs for health insurers

Cadillac Plan Tax (2018)

- ▶ Tax imposed when premiums exceed \$10,200 for individual and \$27,500 for family
- ▶ 40% tax on excess of the annual value of a health plans cost over threshold above

Individual Tax Rate Changes for 2013


- ▶ Highest tax rate change to 39.6%
- ▶ Increase in capital gains & dividend rates to 20% for high earners
- ▶ Medicare Surtax of 3.8% on certain passive investment income of individuals, trusts and estates
- ▶ Hospital insurance tax on s/e income of .9%
- ▶ 3% phase-out of itemized deductions on high earners
- ▶ Personal exemption phase-out on high earners

Questions?

Norman LeBlanc, CPA, Partner
nleblanc@kahnlitwin.com

Loree Dubois, CPA, Tax Principal
ldubois@kahnlitwin.com

(401) 274-2001

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