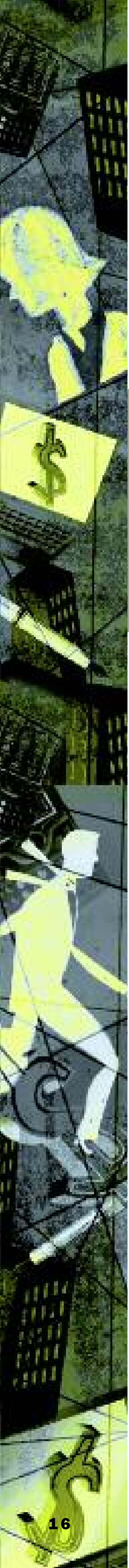

By Gerald Silberstein, CMA, CFM, CPA

The Affordable Care Act: What Should Be Done in 2013?

A number of provisions of the Affordable Care Act go into effect in 2013. Owners and managers of small and medium-sized companies should be prepared to deal with the changes required by these mandates.

The Affordable Care Act (ACA) is the law of the land. Its impact on small and medium-sized enterprises (SMEs) is wide-ranging and varied—and the full effect won't be known until after provisions are actually implemented. Despite this, there are things that you should be doing or have already done by now as the owner or manager of an SME. The changes brought on by the ACA will add to the compliance burden of your company, so you, your employees, and your company need to be prepared. This article will look at some of the provisions of the ACA that go into effect in 2013. Much of the information that's covered was provided by Dan Colacino, VP of Rose & Kiernan Insurance.

Employers already should have sent out W-2 forms in January 2013. Employers filing 250 or more W-2s for 2012 must report the full cost of health insurance to the employee. Full cost includes both employee and employer costs. For those filing fewer than 250 W-2s, the report is optional. This is expected to change to fewer than 50 W-2s filed for 2013.

A Medicare surtax of 0.9% must be withheld from all employees receiving compensation in excess of $200,000 per year. Employers withhold from the employee only. There's no employer surtax contribution. The actual tax is based on filing status. It's up to the employee to reconcile the tax paid with the tax required. This surtax also applies to self-employment income.

A four-page Summary of Benefits and Coverage must be distributed to all employees. This document should also include a two-page glossary. For insured plans, the insurer is responsible for preparing the document. For self-insured plans, the employer must develop and distribute it.

All Food and Drug Administration (FDA)-approved measures of contraception (and counseling) must be included in health plans at no additional cost for covered females. This requirement applies only to plans that aren't grandfathered, which includes any plan that either didn't exist on or before May 23, 2010, or was in existence on that date and then changed substantially. Self-certifying religious organizations have a one-year exemption from this requirement.

A fee is assessed of $1 per consumer for 2012 to be paid in 2013. The fee funds a nonprofit organization called the Patient Centered Outcomes Research Institute. Insurers will pay this fee for insured plans. Self-funded plans pay using IRS Form 720.

The ACA also includes a Small Business Health Care Tax Credit that's available for tax years 2010-2013. This credit is available to companies with fewer than 25 full-time employees (FTEs), workers employed for more than 30 hours per week for at least 120 calendar days during a one-year look-back period. Average FTE wages can't exceed $50,000 per year. The employer must also contribute at least 50% of the cost of single coverage. Taxable employers can take the credit for 35% of premiums paid. Tax-exempt employers qualify for a credit toward income tax and Medicare withholdings at a rate of 25% of premiums. The employer can file an amended return to obtain this credit for prior years. Form 8941 is used for taxable employers, and Form 990-T is used by nontaxable

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employers. The full credit is only available to employers of 10 or fewer FTEs with average income of less than $25,000 per year. Self-employed individuals and 5% owners aren't treated as employees. The credit reduces the Section 162 deduction for ordinary and necessary business expenses.

Finally, employers should align their plans with the law to avoid extensive penalties scheduled for 2014. Often referred to as the Pay or Play penalties, they're based on employer status determined by roster size in 2013. Careful planning in 2013 can be important for employers near the cutoff level of 50 FTEs or that offer insurance plans that either don't meet minimum requirements or are judged unaffordable. Keep in mind that there's already some discussion to moderate these penalties for 2014.

The No Coverage penalty applies if an employer of 50 or more FTEs doesn't supply "minimum essential coverage." To meet the definition of "minimum essential coverage," the employer's plan must cover at least 60% of the actuarial value of covered expenses. If a plan is offered that doesn't meet the standard of minimum essential coverage, the penalty is $3,000 per year, calculated monthly, for each FTE who enrolls in a government-subsidized health insurance exchange. (The ACA mandated that each state establish a health insurance exchange, or marketplace, where individuals can view multiple health plans from multiple providers, compare prices, and buy health coverage. The federal government will provide subsidies for eligible individuals in order to make the coverage more affordable and widely available.) If the employer doesn't provide *any* health insurance plan, the penalty is $2,000 per year, calculated monthly, per FTE (excluding the first 30 FTEs).

The Unaffordable Coverage penalty applies if at least one employee enrolls in a health insurance exchange (effective in 2014) and receives a federal subsidy. The subsidy is given if the employee's household income is less than 400% of the Federal Poverty Level (e.g., $92,200 for a family of four) and the household cost of insurance is greater than 9.5% of the employee's household income. The penalty is $3,000 per employee per year for each employee receiving an exchange subsidy, calculated monthly.

The nature and timing of any and all of these changes are subject to Congressional action or regulatory promulgation. No one can guarantee that any of the provisions discussed in this column won't be modified, eliminated, or expanded. **SF**

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