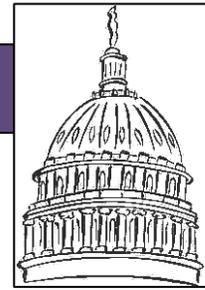




Health Care Reform Update



IMPORTANT NOTICE REGARDING HEALTHCARE REFORM **Update 24** **September, 2013**

IRS Proposed Regulations Regarding Information Reporting

The Internal Revenue Service (IRS) proposed guidance under Internal Revenue Code (the Code) Sections 6055 and 6056 clarifies information reporting requirements for insurers and self-insured employers under the Affordable Care Act (ACA). The reporting enables the IRS to determine compliance with the employer and individual shared responsibilities penalties as well as the individual eligibility for premium tax credits under the ACA.

Reporting of Minimum Essential Coverage

Beginning in 2014, individuals must maintain minimum essential coverage or face paying a penalty along with their annual federal income tax return. The IRS will use information reported under the requirements to determine compliance with the individual shared responsibility requirements and to determine individual eligibility for premium tax credits.

Minimum essential coverage is defined in Code Section 5000A(f)(1), and includes coverage under an eligible employer-sponsored plan. An eligible employer-sponsored plan includes a group health plan or group health insurance coverage offered by an employer to an employee that is a plan or coverage offered in the small or large group market within a state.

Code Section 6055, added by ACA Section 1502, imposes annual reporting requirements on covered entities, i.e., insurers, self-insured group health plans and certain other providers of minimum essential health insurance coverage. Covered entities, will report the required information to the IRS on Form 1095-B, (or another form the IRS may designate), and to covered individuals through a statement providing the policy number, contact information for the covered entity and the information required to be reported to the IRS. Code Section 6055(a) requires entities providing minimum essential coverage to file annual returns reporting the required information and specific information for each individual for whom minimum essential coverage is provided by February 28th (or March 31st if filing electronically) of the year following the year in which the coverage was provided.

The information these entities are required to report on individuals includes individually identifying information for insured individuals and the months during which each employee was covered by minimum essential coverage for at least one day. Entities may report birthdates rather than taxpayer identification numbers to identify covered individuals if the entity is unable to obtain a taxpayer identification number after reasonable effort.

Reporting by Applicable Large

Code Section 6056, added by ACA Section 1514, imposes annual reporting requirements on applicable large employers regarding health insurance the employer provides to its full-time employees. Applicable large employers are generally defined as employers with 50 or more full-time employees. Code Section 6056 requires large employers that are subject to the employer shared responsibility requirements of Code Section 4980H to file a return with the IRS describing health care coverage the employer provides to its full-time employees, including a list of full-time employees, the coverage offered to each full-time employee and for which months it applied. Entities will report the required information to the IRS on Form 1094-C, (or another form the IRS designates), and to each of its full-time employees.

Under the proposed regulations, large employers are only required to report the employee's share of the lowest cost monthly premium for self-only coverage. The IRS does not determine the affordability of employer coverage



Health Care Reform Update



IMPORTANT NOTICE REGARDING HEALTHCARE REFORM Update 24

September, 2013

IRS Proposed Regulations Regarding Information Reporting

for premium tax credit eligibility based on the cost of self-only coverage the employee is enrolled in if the employee has purchased a higher cost plan. Affordability is always determined from the employees share of lowest cost self only plan. The IRS will use information obtained under this reporting requirement to determine if the employer is in compliance with the ACA's employer shared responsibility rules and to determine individual eligibility for premium tax credits.

As part of the proposed regulations, the IRS describes various administrative simplifications that are designed to reduce or streamline information reporting and cost burdens on employers. The simplifications include:

- Allowing employers to report offers of minimum essential coverage on Form W-2
- Eliminating the need to determine an employee's full-time status, if applicable coverage is offered to all potentially full-time employees
- Requiring an employer to report an employee's cost to purchase employer-sponsored health coverage only when that cost is above a threshold amount
- Limiting reporting for employers offering no-cost coverage to employees and their spouses and dependents
- Eliminating certain duplicative reporting requirements

The IRS has delayed compliance with the proposed regulations for one year under IRS Notice 2013-45. The reporting requirements are now effective for tax years beginning in 2015, with the first report due in 2016 for 2015 coverage. The IRS is encouraging employers to voluntarily comply with the in reporting requirements for 2014.

Bernie Lowe & Associates, Inc. is not providing any legal advice with regard to compliance with the requirements of the Affordable Care Act ("ACA"). Bernie Lowe & Associates, Inc. makes no representation as to the impact of plan changes on a plan's grandfathered status or interpretation or implementation of any other provisions of ACA. Bernie Lowe & Associates, Inc. will not determine whether coverage is discriminatory or otherwise in violation of Internal Revenue Code Section 105(h).