



ACA EMPLOYER MANDATE PENALTIES DELAYED UNTIL 2015

On July 2, 2013, the Department of Treasury ("Treasury") announced a delay in the Affordable Care Act ("ACA") employer reporting and penalty provisions until 2015. This means that employers will not be subject to shared responsibility taxes ("pay or play penalties") for 2014.

The main reason for the delay seems to be the lack of firm guidance regarding how employers will report data to be used by the IRS to assess penalties. Beginning in 2014, the ACA was set to require all employers to report to the IRS detailed information for each month of the year regarding whether each of their employees have access to an employer health plan that provides "affordable" "minimum essential coverage" and that provides "minimum value." The IRS has not yet said how this reporting is to be done.

In an informal [blog post](#), a Treasury official stated that, "We have heard concerns about the complexity of the [reporting] requirements and the need for more time to implement them effectively." Treasury delayed the reporting requirements until 2015 and noted that the delay in the reporting requirements would make it impractical to implement the pay or play penalties, which were likewise delayed until 2015.

The delay will give Treasury additional time to consider ways to streamline reporting requirements and give employers more time "to adapt health coverage and reporting systems while . . . moving toward making health coverage affordable and accessible for their employees."

Treasury plans to issue more guidance regarding the delay "within the next week," and will soon publish proposed rules addressing implementation of the reporting requirements. Treasury will "strongly encourage" voluntary compliance with the reporting requirements in 2014 (in order to prepare for 2015), and will "strongly encourage employers to maintain or expand health coverage."

Employers still have much to do to prepare for 2014 and beyond. This includes preparing for the new recordkeeping and reporting obligations and consideration of sometimes complex issues involving contract labor, part-timers, and seasonal employees. It is unknown whether other provisions under ACA (such as the individual mandate and health care exchanges) will also be delayed, but for the time being, other requirements are unaffected by the announcement.

Employers should stay tuned for further developments. If you have questions regarding reporting requirements, the employer mandate or the ACA in general, please contact your Jones Walker relationship attorney or one of the attorneys listed on Page 2.

— [Timothy P. Brechtel](#) and [Ricardo X. Carlo](#)



Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:

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