CPA Practice Advisor

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With the Supreme Court ruling in favor of the government in King v. Burwell, it is clear that Obamacare is here to stay. For tax practitioners, the question is not "Will the ACA be repealed by congress or unraveled by the courts?" but rather "What do we need to know now about health care reform?" This article explores key issues professionals need to be aware of for 2015 and 2016.

Large Employer Mandate

The large employer mandate takes effect in 2015. Employers with 100 or more (50 or more in 2016) full-time equivalent (FTE) employees are subject to the nondeductible mandate penalties.

Employers measure their status as a large employer in the previous year. If an employer is determined to have 50 or more FTEs in 2015, they must play along and provide insurance or pay a fine in 2016.

Employees who are expected to be full-time workers (30 hours or more per week) must be offered insurance within 90 days of hire.

However, the employer does not need to immediately offer insurance if it is not certain whether the employee will work full or part time. For these workers, the employer can use measurement periods ranging from 3 – 12 months in determining whether an employee is full or part time. These measurement periods need to be consistent within certain groups of workers but can change year to year. By careful planning and selection of measurement periods, employers may be able to exclude workers from coverage if they so choose.

Employers need to be aware that controlled and affiliated group rules apply in

more than one employee is being covered.

IRS Notice 2015-17 provides relief for small employers (less than 50 FTEs) from the $100 per day penalty for EPPs on amounts paid for S corporation two-percent shareholder-employees through at least December 31, 2015, but only through June 30, 2015, for all other employees.

This means that employers providing insurance for non–two percent S shareholder employees after June 30 of this year through an EPP are subject to a $100 per day/per employee fine to the extent they cover more than one employee through such a plan.

Employers that find they can't keep the EPP after June 30, 2015, because of the $100 per day penalty may choose to just pay the employee more in wages. This is fine and will allow the employer to escape the $100 penalty provided the employer does not condition the payment on the employee purchasing insurance. Of course, both the employer and employee will pay more in FICA tax, and the employee will pay more income tax.

There are companies that sell products which they claim will work around the restrictions of Notice 2013-54. These companies use §125 plans, FSAs and other strategies. Employers that want to implement one of these strategies need to be careful in the company they select. The $100 penalty is very stiff.

2015 Reporting

Those of us in private practice need to let our clients know that this year most of them will be receiving forms and statements they have never seen before — forms that will be important in completing their tax returns.

Last year was the first year for the Individual Mandate. For the most part, only those who bought their insurance on a government Exchange received a Form 1095. Since most of our clients did not receive a Form 1095, we just asked them if they had

We need to let our clients know they can expect to receive these forms and statements sometime in January or early February. Generally the Forms 1095 are required to be mailed by January 31; however, some may be mailed later.

Large employers (defined as having 50 or more full-time equivalent employees) need to be aware of their reporting requirements for the Form 1095-C and Form 1094-C transmittal. Accountants should contact their large employer clients to make certain they are prepared for the new reporting.

Premium Tax Credit

The only way you win the lottery is by buying a lottery ticket. The only way to get the Premium Tax Credit is by buying insurance on the government Exchange. There are many rich Americans — millionaires — who can qualify for this credit because, although they have a lot of assets, their income is low.

If clients can get the doctors of their choice on plans offered through the Exchange, then they should consider buying on the Exchange. In that way, they may qualify for the Premium Tax Credit. The open enrollment period begins on November 1, 2015.

Individual Mandate

Accountants may want to familiarize themselves with the exemptions to the Mandate Penalty. Some exemptions are granted by the Exchange and others via the Form 1040.Those exemptions granted by the Exchange need to be obtained prospectively during the year.

The penalties are larger this year, the greater of $325 per adult or two percent of household income. Penalties increase again in 2016 to the greater of $695 per adult or 2.5% of household income, limited to the National Average Bronze level plan premium.

Generally taxpayers are responsible for providing insurance for themselves plus

similar services in New York City.

Doctor On Demand provides video visits via your phone, tablet or computer with physicians, psychologists and other health care professionals that provide focused care without you having to leave your home or office.

MDLive provides consultation with physicians 24/7 via phone or video.

Amwell is another app that brings doctors to you via video, text and cell phone.

There are several other similar types of apps. Some states do not allow, and others restrict, televisits by doctors.

Accountants can be of help to their clients by asking if their current health plan pays for televisits. If not, then the client may want to consider changing plans during the open enrollment period this fall. It is also a good time to consider other ways to pay for medical expenses, such as §105 plans.

With the recent Supreme Court ruling there is certainty that health care reform is here to stay. There is one other thing that is certain: the law will continue to change, providing many opportunities for accountants to proactively serve their clients.

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