

NEWS RELEASE

BUSINESSES GIVEN MORE TIME TO COMPLY WITH NEW TAX LAW

The Obama Administration announced on Tuesday that it will delay the employer responsibility penalty and insurance reporting requirements of the Patient Protection and Affordable Care Act (the “ACA”) until 2015 to give businesses more time to comply with the new law.

The ACA generally imposes a penalty of at least \$2,000 per employee on businesses with more than 50 full-time equivalent employees that do not provide health insurance coverage to at least 95% of their full-time employees. A full-time employee is any employee who worked an average of at least 30 hours per week. As part of the ACA, employers are required to report certain information regarding the health coverage offered to their full-time employees to the IRS and the employees. Similarly, insurers are required to report certain information regarding health care coverage to the IRS and the policy holders. The new effective date for these provisions of the ACA will be January 1, 2015 (the original effective date was January 1, 2014). The IRS is expected to issue guidance to employers and insurers regarding the information reporting requirements shortly.

Other elements of the ACA, including the requirement that individuals carry health insurance or pay a fine and changes to health plan requirements (e.g., the elimination of preexisting conditions exclusions for adults), are unaffected by the delay. While the announcement only applies to business penalties, some experts believe that more changes and delays to the Affordable Care Act are on their way.

Recommended next steps:

- Consider whether your business will be considered a “large employer” subject to the rules (i.e., an employer with more than 50 employees each of which works an average of 30 hours per week or more).
 - Consider restructuring your workforce to avoid large employer status.
 - Consider whether appropriate systems are in place to determine whether an employee works an average of 30 hours per week.
 - Evaluate whether your independent contractors are appropriately classified as independent contractors or whether they should be considered W-2 employees. With the new requirements for employee health care coverage, the IRS will increase the level of scrutiny of independent contractor status.
- If your business is considered a large employer, thoroughly review the health care coverage you provide to your employees to determine whether the coverage meets the requirements to avoid the penalty (i.e., whether you provide affordable minimum essential coverage to at least 95% of your full-time employees and their dependents). Consider whether it makes more economic sense to offer deductible insurance coverage that meets the requirements or to pay the non-deductible penalty.
- Prepare for the new tax reporting requirements. While the effective date of the employer reporting requirements has been postponed, consider voluntary compliance with the reporting requirements to gain familiarity with the process before compliance becomes mandatory.

Please consult with a GALLINA professional if you have any questions regarding the ACA or how it will impact your business.