Creative compliance

Stricter ACA enforcement will require attention to costs, detail

INTERVIEWED BY ADAM BURROUGHS

Website:
For information on how to keep your company ACA compliant, visit skodaminotti.com/ACA.

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Affordable Care Act (ACA) regulatory requirements will continue to roll out in the coming years. Accompanying these changes will be greater enforcement of those rules, leaving noncompliant employers to face significant penalties.

Smart Business spoke with Ted Ginsburg, CPA, J.D., a principal at Skoda Minotti, about what employers can expect and strategies to lower costs and avoid penalties.

What should companies keep an eye on in the coming years regarding the ACA?

There may be new regulations coming out regarding certain classes of employees and situations — for instance, defining who can be classified as a seasonal employee.

While it's not likely to transpire until 2018, the IRS will start to assess an excise tax for failure to provide the right amount of insurance to employees. If an employer is penalized for not providing appropriate coverage to employees, employers will have two months to respond. If they don't, the IRS will come after them.

The IRS has made clear that the 1095 series of forms will continue to be used, and that the forms will be due Jan 31, 2017. There will be no extensions, so forms must be completed and submitted on time.

What can employers do to stay compliant with the ACA while reducing the costs associated with compliance?

One option to reduce the cost of providing health insurance coverage while staying in compliance with the ACA is to become self-insured, which suits companies with 200 or more employees. Programs are being marketed that would allow smaller employers to pursue this strategy. That move could save employers 30 percent annually on the cost of health insurance.

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Employers could also better estimate how much they can charge employees for insurance premiums and still meet ACA affordability guidelines. Explore various policy alternatives such as Health Savings Accounts. Examine the plan and plan design to see if cost savings can be uncovered. Take into account both the amount that the company must pay in total for the coverage as well as the amount that the employee could be forced to pay while meeting the ACA standards.

Those that had an unpleasant experience preparing 1095 forms in 2015 should be looking at ways to make the experience better. The forms are not difficult to prepare, but many employers had trouble getting the necessary data out of their payroll system to complete the process.

What can employers expect in terms of enforcement of ACA regulations?

The IRS is starting enforcement actions for failure to file or inadequate filings. And employers that fail to give employees their required 1095 form will be penalized $250 for each form that's not sent out.

When it comes to policing employers, the IRS is looking to the 1095 series of forms for clues. The IRS can easily check if an employer has completed that filing, so penalties for noncompliance can and will be doled out. The Department of Labor (DOL) may also help with enforcement. If, for instance, a disgruntled employee files a complaint for whatever reason with the DOL, it will likely ask if a 1095 was filed on the employee's behalf. If not, the DOL will alert the IRS.

What should employers know about the "Cadillac tax"?

Employers trigger a 40 percent excise or Cadillac tax when the actuarial value of an employee's health coverage exceeds a certain dollar level — the tax is on the benefit above that level. It won't be imposed until 2020.

The level of benefit that triggers the Cadillac tax is relatively low but is indexed for overall inflation. Most collectively bargained plans will be subject to it as will most employer plans. Employers, then, need to think about how they can provide less of a benefit to employees and still remain in compliance with the ACA guidelines. Employers should be proactive here. In the collective bargaining sector, some employers are reducing the offered health benefit and giving employees a pay raise in exchange for accepting a lower level of benefits.

The Cadillac tax is a major funding source for the ACA and will be used to pay for the subsidies provided through the exchanges, so the government doesn't want to give that up.

Most employers hold their open enrollment periods during the September through November time period. Employers should work with a trusted adviser prior to that time to examine changes in program design, employee contribution levels and the preparation of the 1095 forms. ●

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