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Information Paper

Topic: Affordable Care Act and Small Business

Small businesses under 50 employees (FTEs) need to follow the implementation of the Affordable Care Act, despite not being subject to the “pay or play” provisions. As the ACA continues to roll out, there are several important points to consider and contrary to popular belief, the ACA will impact small businesses. Here are some considerations:

1. **Stay small?** If your business is under the 50 employee threshold (using the rules previously established), it may be advantageous to remain under 50 through 2014, at least until you see how the law changes will impact the insurance markets. Perform a "pay or play" analysis, especially for employers with a large percentage of low wage hourly employees. Consider the cost of the penalties, when calculating labor burden if growth over 50 employees is planned (even though employees may decline the insurance if offered).

2. **Consider part timers?** If covered by the law (50 employees) and concerned about the penalties, consider increasing part time employment, since part timers are not counted under the penalty provisions. An employee regularly working under 30 hours is the current cut off. This will lower your potential for penalties. This will depend on what period of time your business uses for determining coverage under the law. Part time employees are considered when determining coverage, but are not considered when assessing the penalties for not offering affordable care under the law.

3. **Why offer a plan?** Examine your industry and the reason your business offers health insurance as an employee benefit. Is offering the benefit worth the cost and hassle? Does the benefit help recruit and retain key employees? Are the pre-tax benefits advantageous to your key employees? The new law is re-writing the way that everyone will think about delivery of medical insurance, and the trend is for small business owners to stop offering of medical insurance.

4. **Communicate.** Be prepared to explain to employees that have declined insurance in the past that they will be required to purchase insurance after 2014. Post information about the individual exchange marketplace on your bulletin board, in the same place you have other community resources. Be prepared for employees to ask for a raise if they are being required to pay for insurance for the first time.

5. **Small Business Exchange.** Although it was recently announced that the small business exchanges will not be fully operational in 2014 (1 year delay), there will be at least one plan option available through the Florida Small Business Exchange being set up by the federal government after October 1, 2013. There is still much uncertainty about the exchange, but keep your eyes open for the announcement of the Florida exchange, its plan and costs.

6. **Benefit Broker value.** Re-think the role of your employee benefits broker. The small business exchanges and individual exchanges will have new information that will make understanding insurance choices better, but you may still elect to work with your broker on your renewal. What is the value of



your broker, and how well are they guiding you on these matters. In the new world, there is still a place for a knowledgeable expert.

7. PEO Reconsideration. If you use a Professional Employer Organization (PEO) because of access to better more affordable health insurance, you may re-consider this arrangement since there will be access to a more health plan options in the future. Look at the small group market again or review the small group insurance plan at the state exchange. If insurance consideration is removed but administrative burdens still a concern, consider a fee for service arrangement that may be more cost effective. It is at least a time to discuss your services and pricing model to ensure you are able to maximize your spent in this area.

8. Tax Credits. The ACA allows for tax credits to small business that covers certain portions of employee insurance premiums. Be sure to examine your eligibility for the tax credits with your CPA and business advisors. Due to Sequestration, the value of these credits has been reduced for the 2013 tax year but is still available for qualifying businesses.

9. Non-discrimination. Some of the new rules of the PPACA regulate eligibility and contribution requirements, and mandate that plans treat all employees in a certain category (such as hourly/salaried) the same. Over time, many small businesses have created special "deals" for individuals regarding benefit contributions. These were usually negotiated at the time of hire, or agreed to in lieu of a merit increase. It is advisable to examine each relationship and change those that do not meet existing and new regulations (regulations regarding non-discrimination are still pending). This may require changes to payroll deduction agreements, re-negotiation of employee compensation and an opinion about the legality of any special "deals" to avoid penalties and loss of tax advantages.

10. Update Written Policies. Small employers should already have an Employee Handbook designed to provide critical legal protection to the company. Employee Handbooks and other written policies and procedures should be reviewed for compliance with the PPACA. For instance, part time classification should be revised to use "30 hour" cut off since this is the standard under PPACA coverage.

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