



Compliance Corner

July 12, 2016

Health Care Reform

IRS Issues Update on Information Returns Filed After June 30, 2016

On June 30, 2016, the IRS released a bulletin and updated the Affordable Care Act Information Returns (AIR) Program website to inform applicable large employers, self-insured employers and other health coverage providers, that the AIR system will continue to accept electronically filed information returns after the June 30, 2016, deadline. Quickly, employers filing 250 or more forms must file electronically with the IRS, and those filing electronically were required to report 2015 data by June 30, 2016.

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IRS Issues Proposed Rules on Employer Offers, Opt-Out (Cash-In-Lieu of Coverage) Arrangements and Affordability, and PTC Eligibility

On July 6, 2016, the IRS published proposed rules relating to PPACA's employer mandate (including offers of coverage, opt-out arrangements and

Announcements

Reminder: Form 5500 Filing for Calendar Year Plans Due August 1

Plan sponsors must file Form 5500-series returns on the last day of the seventh month after their plan year ends. As a result, calendar-year plans generally must file by July 31. Since that date falls on a Sunday this year, plan sponsors must file the Form 5500 by Aug. 1, 2016, for their 2015 calendar year plans. Plans may request a 2 ½ month extension to file by submitting Form 5558, Application for Extension of Time to File Certain Employee Plan Returns, by that plan's original due date.

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affordability), premium tax credit (PTC) eligibility and the individual mandate. As background, PPACA's individual mandate generally requires all U.S. citizens to have minimum essential coverage (MEC) or pay a tax. To help facilitate coverage, individuals within a certain income range (100 to 400 percent of federal poverty level) may qualify for a PTC, if they purchase coverage through exchanges (also called 'marketplaces'). The PTC's value is determined with reference to the actual cost an individual or family pays for coverage or the difference between the premium of a state's benchmark plan (second-lowest-cost silver level plan available to individual or family) and the individual or family's required contribution (which in turn is dependent on their modified adjusted gross income). Lastly, under the employer mandate, if a large employer fails to offer affordable coverage to a full-time employee, the employee may qualify for a PTC in the exchange, which in turn may trigger an employer mandate penalty for the employer.

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IRS Releases Information Letter Regarding the Impact of Retirement Plan Distributions on PTC Eligibility

On June 24, 2016, the IRS publicly released Information Letter 2016-0035, dated May 27, 2016, which is a response to a taxpayer's email correspondence concerning repayments of advance PTC payments.

In this case, the taxpayer took a distribution from a retirement account and it appears that the distribution was not included in the estimated household income used to compute his/her advance credit payments. Distributions from a retirement account are generally required to be included in a taxpayer's household income. Thus, the IRS explained that because the estimated household income did not include the

PCOR Fee, Form 720 Filing Due August 1

PPACA imposed the PCOR fee on health plans to support clinical effectiveness research. The PCOR fee applies to plan years ending on or after Oct. 1, 2012, and before Oct. 1, 2019. The PCOR fee is generally due by July 31 of the calendar year following the close of the plan year.

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Four White Papers Updated

NFP Benefits Compliance has recently completed updates on four white papers. The first, *Health Care Reform: Impact on Employees*, is an employee-facing white paper that describes the employee's responsibilities under the individual mandate and the interaction with employer coverage. The second, *Health Care Reform: Employer Action Overview*, is a condensed timeline of health care reform, and includes employer action items for each requirement that may apply to an employer. The third, *Employer Mandate Flowchart*, provides an easy-to-follow flowchart to determine if and when the employer mandate

retirement distribution, the advance credit payments were more than the PTC allowed.

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IRS Releases 2016 Draft Versions of 6055 and 6056 Informational Reporting Forms

On June 22, 2016, the IRS released draft versions of the 2016 informational reporting forms that insurers and self-insured employers will use to satisfy their obligations under IRC Section 6055. Then, on July 8, 2016, the IRS released draft versions of the informational reporting forms that employer plan sponsors and health plans will use to satisfy their obligations under IRC Section 6056. These forms, once finalized, will be filed by employer plan sponsors in early 2017 relating to 2016 information. The IRS is currently accepting comments on the draft forms. Instructions for the forms have not yet been released.

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CMS Publishes 2017 SBC FAQs

On July 8, 2016, CMS published four frequently asked questions related to the revised version of the SBC. As discussed in the April 19, 2016, edition of *Compliance Corner*, HHS, DOL, and the Department of the Treasury released the final template for the SBC and uniform glossary on April 6, 2016.

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Federal Updates

DOL Issues Interim Final Rules Increasing ERISA Penalties

On June 30, 2016, the DOL published an interim final rule adjusting for inflation civil monetary penalties under ERISA. As background, federal law requires

applies to an employer. The fourth, *Quick Reference Guide for PPACA's Fees and Taxes*, is a summary chart of the PCOR and reinsurance fees and the health insurance tax.

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Save the Dates! August Training Opportunities

NFP Benefits Compliance is hosting a series of webinars in August. Training dates are Aug. 10, Aug. 17 and Aug. 24, 2016, at 3:00 pm ET, with the respective topics being: "You Might Mean Well, But Is Your Wellness Program in Compliance?," "Don't Let the Snake Bite You: A Review of COBRA Rules, Including Recent Clarifications," and "On the Fringe: A Look at the Compliance Aspects of Certain Fringe and Ancillary Benefits."

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State Updates

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agencies to adjust their civil monetary penalties for inflation, and the DOL had done this in 1997 and 2003. However, Congress recently passed the 2015 Inflation Adjustment Act, which requires agencies to conduct these adjustments on an annual basis, beginning with a ‘catch-up’ adjustment that was to be completed by July 1, 2016, and effective on Aug. 1, 2016.

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Sixth Circuit Affirms Ruling that Self-Insured Plan Is Subject to Michigan’s Claims Tax

On July 1, 2016, the U.S. Court of Appeals for the Sixth Circuit affirmed their earlier ruling in *Self-Insured Institute of America, Inc. v. Snyder*, 761 F.3d 631 (6th Cir. 2014), that a self-insured plan is subject to Michigan’s claims tax. Under the Michigan claims tax, health insurers and plans are subject to a one percent tax on health claims incurred in the state by state residents. The tax is calculated, paid and reported on quarterly returns.

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Appeals Court Strikes Down Fixed Indemnity Restriction

On July 1, 2016, the D.C. Court of Appeals affirmed a district court’s decision in *Central United Life v. Burwell*, enjoining HHS from enforcing a 2014 regulatory prohibition of the sale of fixed indemnity plans to individuals who do not have other coverage that qualifies as minimum essential coverage (MEC) under PPACA.

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IRS Modifies Determination Letter Program

FAQ

With the looming PCOR fee deadline, can we get a refresher on the proper calculation methods for determining the amount of the fee?

[Read the Answer »](#)

Reference

Commonly Used Acronyms

[Glossary »](#)

On June 29, 2016, the IRS issued Rev. Proc. 2016-37, changing the determination letter program for individually designed retirement plans (which are those that are not administered through a pre-approved master and prototype or volume submitter plan document). Specifically, individually designed retirement plans will now only be required to seek determination letters upon plan creation/qualification and plan termination (instead of at certain intervals, as in the past).

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DOL Issues Proposed Regulations Related to Form 5500 Filing

On July 11, 2016, as we were preparing to publish this communication, the DOL issued proposed regulations that would revise Form 5500 filing procedures. The regulations are proposed and would not impact the 2015 plan year filing currently in process. We will review and provide a detailed summary of the regulations in the next edition of *Compliance Corner* on July 26, 2016.

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