

## **OBAMA ADMINISTRATION FOLLOWS EMPLOYER MANDATE DELAY ANNOUNCEMENT WITH SPECIFIC GUIDANCE**

Early this month, a Treasury official announced in a blog that the Obama Administration would delay implementation of certain health care coverage reporting requirements and the "pay or play" shared responsibility payments under the Affordable Care Act ("ACA"). (See July 3, 2013 Hall Render [blog post](#) "Obama Administration Takes Its Foot off the Gas Pedal, Announces One-Year Delay of the Employer Mandate"). Recently, the IRS released Notice 2013-45. It details specific guidance regarding the delay. This delay is intended to provide time for the Obama Administration to elicit input from employers and other stakeholders, as well as time to publish rules for the information reporting provisions. It also provides more time for employers, insurers and other reporting entities to develop their systems for assembling and reporting information. Both the employer shared responsibility provisions and the information reporting provisions will be fully effective in 2015.

### **APPLICABLE PROVISIONS**

The only ACA provisions to be affected are Internal Revenue Code Sections 6055, 6056 and 4980H. Section 6055 requires annual information reporting by health insurance issuers, self-insured employers, government agencies and other providers of health coverage. Section 6056 provides reporting requirements as to the health insurance offered by large employers of 50 employees or more. Section 4980H imposes an assessable payment on large employers who have one or more employees enrolled in a qualified health plan for which a premium tax credit is allowed or paid if the employer either fails to offer employer-sponsored minimum essential coverage to its full-time employees or offers minimum essential coverage that does not meet "minimum value."

### **EFFECT OF THE DELAY ON EMPLOYER SHARED RESPONSIBILITY PROVISIONS**

Implementation of employer shared responsibility provisions relies heavily on the information reported under Section 6056. When the new rules are fully implemented, the IRS will collect information about employees claiming the premium tax credit for the given calendar year, as well as the Section 6056 information reported by employers. The employer will not be required to calculate whether it is subject to an assessable payment or the amount of that payment. The IRS will determine, based on the collected information from employers and employees, whether any of the employer's full-time employees received the premium tax credit, and assess any payment due by the employer.

By delaying the enforcement of Section 6056 and not collecting information regarding the health insurance offered by large employers, the IRS will not be able to determine which employers owe an assessable payment for 2014. Thus, no employer shared responsibility payments will be assessed for 2014. An employer may voluntarily comply with the information reporting provision in 2014, but no assessable payments will be calculated by the IRS.

You can view a copy of the notice by clicking [here](#).

If you have questions about the employer mandate delay guidance, contact Bill Roberts at (502) 568-1890 or [ebplans@hallrender.com](mailto:ebplans@hallrender.com) or your regular Hall Render attorney.