



HR News Alert

Brought to you by **benefitsContinuum, Inc.**

February 2015 Issue

Top 5 Health Care Reform FAQs

Next month marks the five-year anniversary of the [Affordable Care Act](#) (ACA). While many of the requirements for employers and group health plans are already in effect, the questions continue to roll in. Here's a look at five of the most common questions and answers surrounding the law:

1. Are small employers required to provide health insurance to full-time employees?

Under the ACA, small employers--generally those with fewer than 50 full-time employees, including full-time equivalents--are not penalized for choosing not to offer coverage to any employee. Effective as of January 1, 2015, large employers subject to "[pay or play](#)" may be liable for a penalty tax if they do not offer affordable health insurance that provides a minimum level of coverage to full-time employees (and their dependents, unless transition relief applies).

2. Do employers need to offer the same coverage to all employees?

Similarly situated individuals must be treated equally. Distinctions among groups of similarly situated employees may be permitted if they are based on bona-fide employment-based classifications consistent with the employer's usual business practice--for example, full- and part-time employees.

The IRS has [delayed the requirement](#) under the ACA that fully insured group plans comply with rules "similar" to the rules prohibiting discrimination in favor of highly compensated individuals that currently apply to self-insured plans. However, health benefits offered as part of a cafeteria plan (a plan which meets specific requirements to allow employees to receive certain benefits on a pre-tax basis) generally will be subject to the nondiscrimination requirements of Internal Revenue Code [section 125](#).

3. Will an employer be liable for a "pay or play" penalty if one of its employees purchases health insurance through a Marketplace?

A large employer will only be liable for a penalty if at least one full-time employee receives a [premium tax credit](#). In general, an employee will not be eligible for a premium tax credit if the employer has offered the employee health coverage that is affordable and that provides minimum value, even if the employee rejects the offer of coverage and instead enrolls in coverage through a Marketplace.

4. Can employers reimburse employees for premiums paid for individual health insurance policies?

No. Arrangements under which an employer reimburses an employee for some or all of the premium expenses incurred for an individual health insurance policy, or arrangements under which the employer uses funds to directly pay the premium for an individual health policy covering the employee, will [violate the ACA](#) and may be subject to a \$100/day excise tax per employee. An employer-sponsored arrangement under which employees may choose either cash or an after-tax amount to be applied toward health coverage is permissible.

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5. How does the law impact tax-favored accounts such as HSAs and health FSAs?

The ACA [prohibits](#) tax-favored distributions from health savings accounts (HSAs) to reimburse the cost of over-the-counter medicines or drugs that are not prescribed, except for insulin. A similar rule applies to health reimbursement arrangements (HRAs) and health flexible spending accounts (FSAs).

HRAs must be "[integrated](#)" with other group health plan coverage in order to satisfy certain ACA requirements, and may no longer be used for an employee's individual insurance policy premiums.

A health FSA must qualify as [excepted benefits](#) and be offered through a cafeteria plan to comply with the law. In addition, the ACA requires that salary reduction contributions to health FSAs be limited to \$2,500 annually, indexed for inflation (for taxable years beginning in 2015, the limit is \$2,550).

For answers to other frequently asked questions and additional guidelines and tools to help companies with compliance please contact a [benefitsContinuum](#) team member.

Additional Guidance on Retroactive Increase for 2014 Monthly Transit Benefits

IRS [guidance](#) on how to apply the retroactive increase for monthly transit benefits in 2014 is now available for employers. As announced in December, the monthly exclusion for combined commuter highway vehicle transportation and transit passes was retroactively increased from \$130 to \$250, until January 1, 2015.



The guidance provides a special administrative procedure for certain employers that treated "excess transit benefits"--i.e., in excess of \$130 and up to \$250--as wages and did not yet file their fourth quarter Form 941 for 2014 (due February 2nd). Employers that already filed the fourth quarter Form 941, or that have not repaid or reimbursed employees prior to filing the fourth quarter Form 941, must use [Form 941-X](#), *Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund*, and normal procedures (described in the guidance) to make an adjustment or claim a refund for any quarter in 2014.

[Notice 2015-2](#) explains both the special administrative and normal procedures in more detail, and provides employer instructions for Form W-2.

For more on employer-provided transportation benefits, please contact a [benefitsContinuum](#) team member.

OSHA Summary of Work-Related Injuries and Illnesses Must Be Posted From February 1 - April 30

Employers subject to the recordkeeping requirements of the federal [Occupational Safety and Health Act](#) (generally those employers with more than 10 employees, except for those in certain low-hazard industries in the retail, finance, insurance, real estate, and service sectors) are reminded to post OSHA [Form 300A](#), *Summary of Work-Related Injuries and Illnesses*, from February 1 to April 30, 2015.



The Form 300A lists the total number of job-related injuries and illnesses that occurred during the previous year and **must be posted even if no work-related injuries or illnesses occurred during the year**. The summary must be signed and certified by a company executive, and should be displayed in a common area where notices to employees are usually posted so that employees are aware of the injuries and illnesses occurring in the workplace.

Note: As of January 1, 2015, there is a [new list of industries that are partially exempt](#) from keeping OSHA records. Establishments that are newly exempted are not required to post the 2014 Form 300A. Businesses located in states that operate their own safety and health programs should [check with their state plan](#) for the implementation date of the new recordkeeping and reporting requirements.

More information about employer responsibilities related to worker safety and health please contact a [benefitsContinuum](#) team member.

Form W-2 Reporting Requirements

The Affordable Care Act (ACA) requires employers to report the aggregate cost of employer-sponsored group health plan coverage on their employees' Forms W-2. The purpose of the reporting requirement is to provide information to employees regarding how much their health coverage costs. The reporting does not mean that the cost of the coverage is taxable to employees.

This reporting requirement was originally effective for the 2011 tax year (for the Forms W-2 due by the end of January 2012). However, the IRS later made reporting optional for 2011 for all employers. In addition, the IRS made the reporting requirement **optional for small employers** (those that file fewer than 250 Forms W-2) until further guidance is issued. Beginning in 2012, the IRS made the reporting requirement **mandatory for large employers**. Thus, the W-2 reporting requirement is currently mandatory for large employers, but optional for small employers.

In April 2011, the IRS provided interim guidance on how employers should comply with the Form W-2 reporting requirement. The IRS then revised and clarified its interim guidance by releasing [Notice 2012-9](#) on Jan. 3, 2012. Notice 2012-9 provides technical reporting information for employers that include health coverage cost information on Forms W-2 for 2012 and later years.

FORM W-2 REPORTING REQUIREMENT

Section 9002(a) of the ACA provides that employers must disclose the aggregate cost of applicable employer-sponsored coverage provided to employees on the Form W-2. Section 9002(a) specifically adds this information to the list of other items that must be included on the Form W-2. These items include information such as the individual's name, social security number, wages, tax deducted, the total amount incurred for dependent care assistance under a dependent care assistance program and the amount contributed to any health savings account (HSA) by the employee or his or her spouse.

The inclusion of this information on the Form W-2 does not change the requirements with respect to taxable income or the tax exclusion for amounts paid for medical care or coverage. Those items are addressed in another portion of the tax law that is not affected by this change. However, this information may be used to determine whether a plan is a "Cadillac plan" for purposes of the excise tax on high-cost health plans that will take effect in 2018.

The IRS has clarified that the reporting rule does not require an employer to issue a Form W-2 including the aggregate cost of coverage to an individual if the employer does not otherwise have to issue a Form W-2 for that person. For example, an employer would not have to issue a Form W-2 to a retiree or other former employee receiving no reportable compensation.

EMPLOYERS SUBJECT TO THE REPORTING REQUIREMENT

In general, all employers that provide "applicable employer-sponsored coverage" must comply with the Form W-2 reporting requirement. This includes government entities, churches and religious organizations, but does not include Indian tribal governments or tribally chartered corporations wholly owned by an Indian tribal government.

The Form W-2 reporting requirement is currently optional for small employers. Small employers will continue to be exempt from the reporting requirement, unless and until the IRS issues further guidance.

An employer is considered a small employer if it had to file **fewer than 250 Forms W-2** for the prior calendar year. Thus, if an employer is required to file fewer than 250 Forms W-2 for 2013, the employer would not be subject to the reporting requirement for 2014.

The IRS has indicated that the Internal Revenue Code's aggregation rules do not apply for purposes of determining whether an employer filed fewer than 250 Forms W-2 for the prior year. However, if an employer files fewer than 250 Forms W-2 only because it uses an agent to file them, the employer does not qualify for the small employer exemption.

Large employers (those that file 250 or more Forms W-2) were required to comply with the reporting requirement starting in 2012.

For more information on the coverage that must be reported & methods of reporting, please contact a [benefitsContinuum](#) team member. See contact information at the end of this newsletter.

Retirement Planning Resources for Your Business

It's never too early to start taking advantage of the benefits of retirement planning. As a business owner, a retirement plan allows you to invest now for financial security when you and your employees retire. As a bonus, you and your employees can receive significant tax advantages and other incentives. Consider the following benefits of setting up a retirement plan:



Business Benefits

- Employer contributions are tax-deductible.
- Assets in the plan grow tax-free.
- Flexible plan options are available.
- Tax credits and other incentives for starting a plan may reduce costs.
- A retirement plan can attract and retain better employees, reducing new employee training costs.

Employee Benefits

- Employee contributions can reduce current taxable income.
- Contributions and investment gains are typically not taxed until distributed.
- Contributions are easy to make through payroll deductions.
- Compounding interest over time allows small regular contributions to grow to significant retirement savings.
- Retirement assets can be carried from one employer to another.
- A special tax credit known as the "[Saver's Credit](#)" may be available.
- The employee has an opportunity to improve financial security in retirement.

Retirement Plan Resources from the IRS

The [Small Business Retirement Plan Resources](#) provided by the Internal Revenue Service include helpful information for choosing, operating, and maintaining your retirement plan. Here is a list of resources to help you get started:

- [Types of Plans](#) - Starting and maintaining specific types of retirement plans
- [Publication 560](#) - Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)
- [Publication 3998](#) - Choosing a Retirement Solution for Your Small Business
- [Publication 4222](#) - 401(k) Plans for Small Businesses
- [Publication 4333](#) - SEP Retirement Plans for Small Businesses
- [Publication 4334](#) - SIMPLE IRA Plans for Small Businesses
- [Publication 4587](#) - Payroll Deduction IRAs for Small Businesses

Newsletter provided by:

benefitsContinuum, Inc.

James M. Durkin, Chester, NJ, 07930

(908) 879-6744

jdurkin@benefitscontinuum.com

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