Health care reform

How recent changes in regulations will impact your business

INTERVIEWED BY ROGER VOZAR

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In February, the IRS issued some final regulations relating to the Affordable Care Act (ACA), basically delaying full implementation. One major change was allowing employers with 50 to 99 employees until Jan. 1, 2016, to comply with the mandate to either provide health insurance or pay excise taxes in certain circumstances.

"In effect, smaller employers have another year to determine how they are going to approach this," says Ted Ginsburg, CPA, J.D., a principal at Skoda Minotti.

Smart Business spoke with Ginsburg about the recent changes to the ACA regulations and how they affect small and midsize companies.

What significant changes have occurred?

For companies with 100 or more full-time equivalent (FTE) employees, the IRS diminished the level of coverage required. If you have 100 or more FTEs, instead of having to cover 95 percent of your full-time employees, you only have to offer health insurance to 70 percent of your full-time employees in 2015. So companies still have to comply with the ACA effective Jan. 1, 2015, but this helps them begin to get into compliance with the law.

There also were minor changes on how you count FTEs and hours to determine if an employee is full time. A person who is a FTE might not be a full-time employee — so that person would count in the calculation of whether you are subject to the ACA, but might not be a person who you would need to offer insurance to.

But employers have to recognize that they need to deal with this — the ACA is not going away. The issues remain the same — do you offer what is deemed affordable health insurance that provides a minimum level of coverage? If you don't, you might be subject to an excise tax of $2,000 per employee, subject to some limits.

If you provide coverage, but it doesn't meet ACA minimum standards and/or isn't affordable, you face a $3,000 excise tax for each employee who goes to the exchange, purchases insurance and receives a government subsidy.

What steps should employers be taking now?

If you have fewer than 100 FTEs, make sure that's correct and you will not be subject to the employer mandate on Jan. 1, 2015. Companies with 100 FTEs or more need to realize that the decision about whether to offer health insurance needs to be made well ahead of Jan. 1. The decision date is really when you start open enrollment for health insurance, usually in September or October.

What strategies are companies formulating?

There are many, but they all revolve around two issues — finances and HR.

On the numbers side, some are deciding not to provide insurance, letting employees purchase it through a broker or the exchange, and maybe providing some wage increases to compensate. The problem with that approach is that it's not tax-effective because the money goes on employees' W-2 forms before health insurance premiums are paid, so they pay additional taxes. The employer also pays additional FICA and other payroll taxes. That approach is a knee-jerk reaction of frustration with the ACA.

Other employers are evaluating using a professional employer organization (PEO) to handle payroll and benefits. PEOs have buying power with insurance companies and can negotiate for better rates. This strategy generally works for companies with 30 to 200 employees. After that point, it's more cost-effective to have an internal HR group.

We also see clients trying to change employee's schedules and cut back hours so they don't have to provide insurance. For companies facing the mandate in 2015, that needs to be done now because the ACA looks back to what was done in 2014.

But this approach also gets into HR issues. A client planning to cut employees back to 29 hours would have to add 33 percent more employees to have the same number of hours worked by the employee group, making it difficult for management, and risk losing employees who can't support themselves on reduced pay from a shorter work week. Some employers want to avoid the ACA at all costs, but don't consider costs of an operational nature such as employee turnover.

Most large employers are already ACA compliant. But many smaller ones, those with less than 500 employees, haven't started thinking about it and need to be prepared. ●