TOTAL INSURANCE SERVICES, INC.

The "Total" Advisor

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Delays Announced for ACA Information Reporting Deadlines (Forms 1094 & 1095) and 'Cadillac Tax' on High-Cost Employer-Sponsored Health Coverage

Employers affected by two significant provisions of the Affordable Care Act (ACA) should take note of delays announced at the end of last month.

Deadlines Extended for 2015 ACA Information Reporting Requirements
IRS Notice 2016-4 **extends the due dates for the 2015 ACA information reporting requirements** under sections 6055 and 6056 of the Internal Revenue Code, as follows:

- **Forms 1094-B and 1095-B.** *Self-insuring employers* that are not considered applicable large employers, and other parties that provide minimum essential health coverage, must file the first IRS information returns no later than **May 31, 2016** (or June 30, 2016 if filing electronically), and furnish individual statements no later than **March 31, 2016**.
- **Forms 1094-C and 1095-C.** *Applicable large employers*—generally those with 50 or more full-time employees, including full-time equivalents or FTEs—must file the first IRS information returns no later than **May 31, 2016** (or June 30, 2016 if filing electronically), and furnish employee statements no later than **March 31, 2016**.
- Note: Employers subject to *both* reporting provisions (generally self-insured employers with 50 or more full-time employees, including FTEs) will satisfy their reporting obligations using Forms 1094-C and 1095-C. Form 1095-C includes separate sections for reporting under each provision.

These extensions **apply for calendar year 2015 only and have no effect on the requirements for other years or on the effective dates or application of the ACA "pay or play" provisions**. Employers or other coverage providers that do not comply with these extended due dates may be subject to penalties.

Cadillac Tax Delay
A new law **provides a two-year delay** of the ACA's excise tax on high-cost employer-sponsored health coverage (commonly referred to as the "cadillac tax" and governed by Internal Revenue Code section 4980I). Prior to the delay, the 40% tax was set to take effect in 2018 and would generally be imposed on plans that cost more than $10,200 (for self-only coverage) and $27,500 (for family coverage). **As a result of the new law, this tax will not be effective until 2020.**

Be sure to visit our Health Care Reform section to stay on top of the latest Affordable Care Act updates.

New Standard Mileage Rates and Changes to Transportation Tax Benefits

The 2016 optional standard mileage rate used to calculate the deductible costs of operating an automobile for business purposes is now in effect. Separately, a new law creates permanent parity for certain qualified transportation benefits provided to employees, retroactive to 2015.

2016 Optional Standard Mileage Rates
As of January 1, 2016, the standard mileage rate for the use of a car (also vans, pickups or panel trucks) is **54 cents per mile** for business miles driven. Use of the standard rate is subject to certain requirements and limitations explained in IRS Rev. Proc. 2010-51. Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates. Additional information, including the basis reduction amounts for taxpayers choosing the business standard mileage rate, is available in IRS Notice 2016-1.

Permanent Parity for Qualified Transportation Fringe Benefits
Federal law allows the exclusion of employer-provided "qualified transportation fringe benefits" from an employee's gross income, including transit passes and rides in a commuter highway vehicle between home and work. Under a new law, **the monthly exclusion for combined commuter highway vehicle transportation and transit passes is made equal to the limitation for qualified parking, effective retroactively to taxable years beginning after December 31, 2014**. Thus, for tax year 2015, an employer may generally exclude up to **$250 per month** each for transportation and qualified parking.

Additionally, for tax years after 2015, the monthly exclusion rate for combined commuter highway vehicle transportation and transit passes **is adjusted to the**

same rate as that for qualified parking. As a result, for tax year 2016, the monthly limitations for **transportation** and **qualified parking** are each increased to **$255**.

For more on employer-provided transportation benefits, please visit our section on Fringe Benefits.

Affordability and Penalty Thresholds Adjusted Under 'Pay or Play'

New IRS guidance clarifies certain aspects of the Affordable Care Act's "pay or play" provisions related to determining affordability of employer-provided coverage and calculating penalty amounts for calendar years 2015 and 2016.

Adjusted Affordability Threshold
Under the new guidance, the 9.5% threshold for determining whether employer-provided health coverage is affordable for purposes of "pay or play" (including for use of the affordability safe harbors) **is adjusted to 9.56% for plan years beginning in 2015, and 9.66% for plan years beginning in 2016**. Coverage will be considered affordable if the portion of the annual premium an employee must pay for self-only coverage does not exceed the applicable percentage of his or her household income.

The guidance also addresses how certain HRA contributions, flex credits, or opt-out payments are taken into account for purposes of determining whether an employer has made an offer of affordable minimum value coverage under an eligible employer-sponsored plan.

Adjusted Penalty Amounts
In addition, the new guidance confirms that **for calendar year 2015**, the adjusted $2,000 dollar amount used to calculate the penalty (for employers not offering coverage) **is $2,080**, and the adjusted $3,000 dollar amount (for employers offering coverage that is not affordable or does not provide minimum value) **is $3,120**. **For calendar year 2016, the adjusted $2,000 dollar amount is $2,160, and the adjusted $3,000 dollar amount is $3,240.**

Our Pay or Play Affordability and Penalty Calculators can help employers determine their potential liability.

Further Guidance on ACA Compliance for HRAs and Employer Payment Plans

IRS Notice 2015-87 provides further guidance on the application of key market reforms of the Affordable Care Act (including the preventive services requirements and annual dollar limit prohibition) to certain health care arrangements, including employer payment plans and health reimbursement arrangements (HRAs). Under prior agency guidance, employer payment plans and most stand-alone HRAs do not comply with the ACA and therefore may be subject to a **$100/day excise tax per applicable employee**.

Employer Payment Plans
An "**employer payment plan**" is an arrangement under which an employer **reimburses** an employee for **some or all** of the premium expenses incurred for an individual health insurance policy, or uses its funds to **directly pay** the premium for an individual health insurance policy covering the employee.

Among other things, the IRS notice provides that **an employer arrangement reimbursing the cost of individual market coverage offered under a cafeteria plan is an employer payment plan** (whether or not funded solely by salary reduction or also including other employer contributions, such as flex credits), **and cannot be integrated** with the individual market coverage. Accordingly, such an arrangement will generally fail to satisfy the ACA market reforms applicable to group health plans.

Health Reimbursement Arrangements
An HRA that is "**integrated**" with a group health plan—under either of two integration methods described in prior agency guidance—will comply with the ACA if the group health plan with which the HRA is integrated is compliant. Stand-alone HRAs (except for retiree-only HRAs and HRAs consisting solely of excepted benefits), and HRAs used to purchase coverage on the individual market do not comply with the ACA market reforms.

The IRS notice provides further guidance related to HRAs and integration, including clarifying that, **subject to transition relief, an HRA is permitted to be integrated with an employer's group health plan only as to the individuals who are enrolled in both the HRA and the employer's group health plan**. If an employee's spouse and/or dependents are not enrolled in the group health plan, the coverage of these individuals under the HRA cannot be integrated with the group health plan, and the HRA coverage generally will fail to meet the ACA market reform requirements.

Review our section on Cash for Premium Payments & Other Employer Payment Plans for more.

5 Employee Retention Resolutions for the New Year

While employee retention may not immediately come to mind as you plan for the new year, it's important to recognize that employee turnover can have a significant impact on your bottom line. Now is a great time to make some employee retention resolutions that will pay off all year long:

1. **Hire Smart.** Taking the time to draft job descriptions, recruit candidates, and interview thoroughly will pay off. You'll find employees who are a good fit for the position and the unique culture of your company or organization.
2. **Offer a Fair and Competitive Compensation Package.** Know the norm for the position, your industry, and your area of the country. Do your research ahead of time as you hire employees and, to the greatest extent you can, offer an attractive benefits program, including items such as medical insurance, a 401(k) or other retirement savings plan, or even perks such as subsidized health club memberships.
3. **Mentor Your Employees and Offer Regular Feedback.** Help your employees set goals and provide support to help them get there. This can include formal training as well as opportunities to participate in professional organizations or industry seminars. In addition, offer regular feedback throughout the year on performance rather than waiting for a formal review. Acknowledge employee achievements and contributions that go over and above regular job performance.
4. **Provide Leadership Opportunities and Foster Teamwork.** Leadership opportunities are great motivators for empowering employees and increasing satisfaction. Give your employees the chance to take ownership of projects and to be engaged at higher, strategic levels when possible. You can also engage in formal team-building training at work, or coordinate outside opportunities such as a company softball league or recreational outings.
5. **Promote Work/Life Balance.** Work-life balance can take the form of flexible work hours or even the ability to work at home for some positions. As you structure your paid time off policies, make sure to allot discretionary time that employees can use to manage personal issues, in addition to complying with applicable law.

While it may not be practical to implement all of these retention strategies at your workplace, anything you do to make employee retention a priority will pay off in a more engaged, satisfied, and loyal workforce. Our section on Retaining Employees offers additional strategies for increasing retention.

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