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Employee Benefits | Life Insurance | Risk Management

TO: Clients of Sitzmann Morris & Lavis Insurance Agency

RE: Pay or Play Delay – Guidance Issued

On July 9, 2013, the IRS released its formal [notice \(2013-45\)](#), confirming the one-year delay on IRS reporting requirements, but providing limited new guidance. It is interesting to note that the Notice encourages employers to comply voluntarily with the Pay or Play Mandate in 2014, but does not require any “good faith” efforts. The IRS expects to issue proposed rules describing the information requirements later this summer. We also expect additional clarification on the use of safe harbors, measurement periods, and other vexing matters.

Recap:

- 1. What Has Changed?** Only three specific ACA requirements (all of which involved amendments to the Internal Revenue Code) are affected by this delay.
 - Originally, employers with self-funded plans, insurers, and other providers of health coverage would have been required to submit a detailed report to the IRS concerning the health coverage it provided and the individuals to whom the coverage was provided. They also would have been required to distribute the same information to the individuals who were listed on the IRS reports. **Due to the one-year delay, no such reports will be required in 2014.**
 - Also, large employers (at least 50 full-time equivalent employees) would have been required to submit a detailed report to the IRS concerning the health coverage it offered to its full-time employees. Large employers would also have been required to distribute the same information to their full-time employees who were listed on the IRS report. **Due to the one-year delay, no such reports will be required in 2014.**
 - Under the ACA, large employers would have been subject to penalties if they failed to offer affordable, minimum-value health coverage to all of their full-time employees. These so-called “pay-or-play” penalties were to begin accruing in 2014. **Due to the one-year delay, no such penalties will be assessed for 2014.**

2. What Has Not Changed?

Plan Design and Eligibility Changes

- No more annual or lifetime benefit maximums;
- No more pre-existing condition limitations;
- Limitations on co-pays and out-of-pocket maximums;
- Waiting periods for eligibility cannot exceed 90 days;
- Plans must produce and distribute Summary of Benefits and Coverage (SBC) documents.

Other Unchanged Matters

- The individual mandate and individual penalties;
- The opening of the exchanges;
- The availability of subsidies (also known as “premium tax credits”) for some of those who purchase coverage through an exchange;
- The obligation to report and pay PCORI fees by July 31, 2013;
- Coverage for certain clinical trials;
- Reinsurance fees; and,
- W-2 Reporting (employers with 250 or more W-2s).

Finally, we still need answers on the impact on Medicaid as well as the applicability of transitional relief for certain fiscal year plans. Will that relief no longer apply? Stay tuned. We will provide you with more detail as it becomes available. As always, contact your SML Account team if you have any questions.

The information provided in this legislative update for our clients and colleagues is for general guidance only and is not intended to be, and does not constitute, tax or legal advice. We recommend that you consult with your tax and legal advisors for the interpretation or application of any laws for your particular circumstances and situation.