



ACA Reporting and Filing: What You Need to Know for 2017

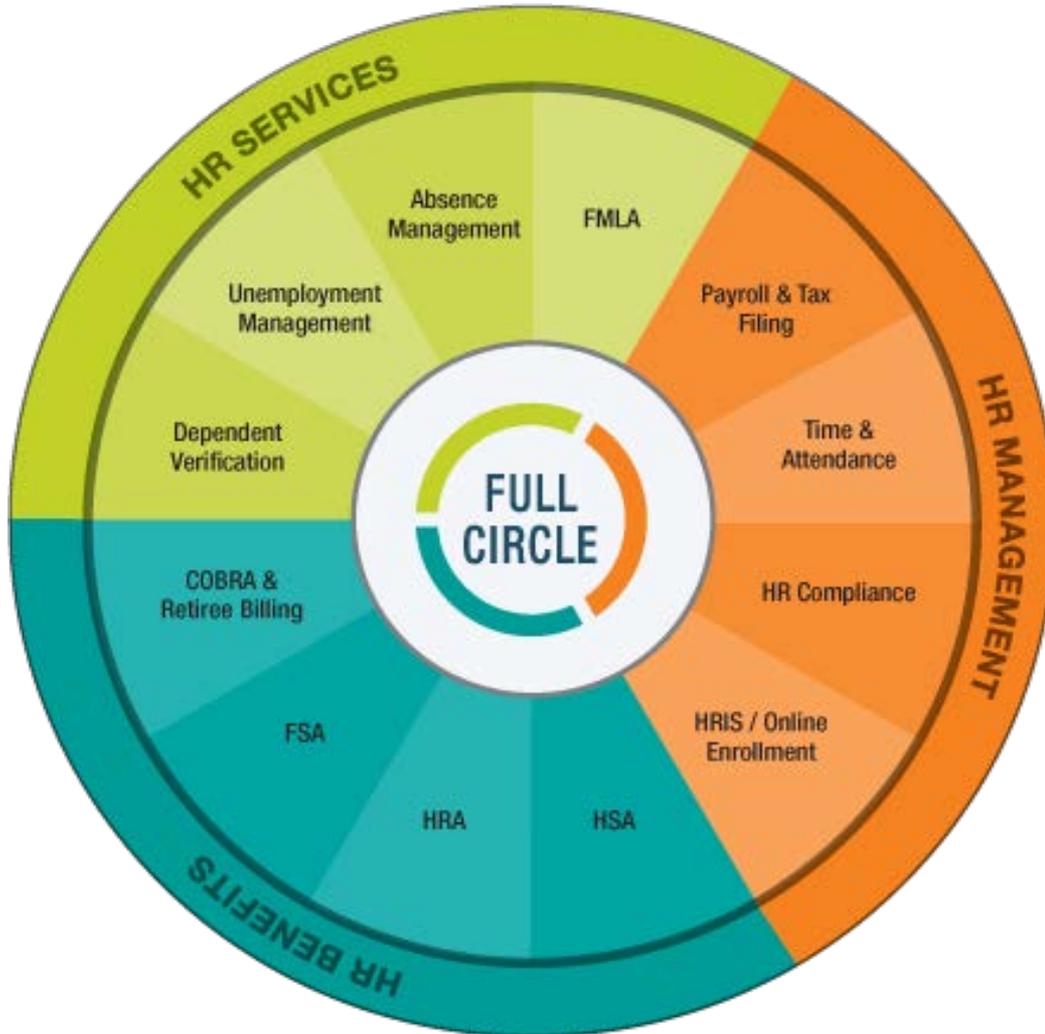
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- HR Benefits
- HR Management
- HR Services

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Marketplace Notice Appeals

Marketplace Notice Appeals



- You may have received notices from the Health Insurance Marketplace reporting that one or more of your employees enrolled in coverage on the exchange and received a premium tax credit
- This is not an IRS notice that you owe a pay or play penalty

Marketplace Notice Appeals



- What should you do?
 - You should appeal the notice if the employee was eligible for your health plan and your plan was of minimum value and affordable
- Why?
 - If the employee was eligible for your minimum value, affordable health plan, the employee is not eligible for a premium tax credit and will ultimately be required to repay
 - Correcting the error sooner rather than later minimizes this consequence for the employee

Marketplace Notice Appeals



- While this is not an IRS notice of assessment of a pay or play penalty, if the employee receives the premium tax credit, the marketplace will report this information to the IRS
- This information may lead the IRS to assess an employer pay or play penalty
- Clearing this up now with the marketplace may make the imposition of a pay or play penalty by the IRS with respect to this employee less likely

Marketplace Notice Appeals



- On the other hand, if the employee was not eligible for your health plan or was eligible but waived and the coverage was not affordable, then the employee was eligible for a premium tax credit and you should not appeal
 - If you should not be subject to a penalty (for example, because you didn't offer coverage to an employee who is part-time), you should make sure you maintain records to demonstrate that the employee was not an ACA full-time employee

Marketplace Notice Appeals



- If you appeal, please note the following:
 - You should appeal using the prescribed form (see [HealthCare.gov/marketplace-appeals/employer-appeals](https://www.healthcare.gov/marketplace-appeals/employer-appeals))
 - The form is fairly straightforward

Marketplace Notice Appeals



- In Section 3 of the form there is a space for a narrative to explain why the employee should not be eligible for a premium tax credit and you can attach supporting documentation
 - For example, you could attach a copy of the election form or enrollment form showing that the employee was offered coverage
 - You should explain that the coverage constituted minimum value coverage (at least as good as a bronze plan on the exchange)

Marketplace Notice Appeals



- You can demonstrate minimum value coverage by attaching the schedule of benefits or the SBC
- You should explain that the coverage was affordable
- You should set forth the employee contribution for single coverage under your cheapest medical plan and also explain which one of the three affordability safe harbors you are relying on

Marketplace Notice Appeals



- You should attach a copy of the notice to the form and mail and/or fax it to the address/fax number provided

What's Next?



- IRS may issue a notice of assessment regarding pay or play penalties
 - The notice will not be issued until after the IRS issues guidance regarding the assessment process
 - Also, the notice will not be issued until after the individual files his or her tax return for the year at issue indicating whether the individual received a premium tax credit and the employer files its 1094-C and 1095-Cs with the IRS and the IRS obtains information from the exchanges regarding individuals receiving premium tax credits

What's Next?



- The employer will have an opportunity to respond before the IRS assesses penalties

What's Next?



- The first year for which employer pay or play penalties may be assessed is 2015
- The IRS has acknowledged that it is having difficulty determining if a penalty should be assessed – needs to integrate information from individual tax returns, exchange reports and employer 1095-Cs
- It appears that penalties must be assessed within 3 years of when the 1094-Cs and 1095-Cs were required to be filed



Update on 1094-C and 1095-C Filing

Update on 1094-C and 1095-C Filing



- Employers using the AIR system to electronically file their 1095-Cs have been frustrated with the error reports that do not explain whether the error relates to an employee's SSN or dependent's SSN
- Going forward the IRS will now indicate whether it is an employee or a dependent error but this still creates an issue and situations of multiple dependents on the 1095-C

Update on 1094-C and 1095-C Filing



- New draft reporting Forms 1094-B, 1095-B, 1094-C and 1095-C for 2017 released
- New draft instructions also released
- No substantive changes
- Transition relief that no longer applies is removed
- Union multiemployer plan relief continues
- Plan start month box still optional

Update on 1094-C and 1095-C Filing



- If erroneous cost error in Line 15 of 1095-C is under \$100 may not need to correct

Reminders From 2016 Forms



- Conditional offer to spouse
 - If spouse's offer of coverage is conditioned on not being eligible for other employer coverage, two new indicator codes for Line 14
 - If rely on qualifying offer in Line 14 can leave Line 16 blank or complete

Reminders From 2016 Forms



- COBRA
 - If FT employee terminates during the year and is offered COBRA, whether elected or not, reported for remaining months on 1095-C as no offer (Line 14-1H) and not employed (Line 16-2A)
 - If terminate during month, use 2B on Line 16 for month of termination
 - If reduction in hours and offered COBRA, complete Line 14 on 1095-C based on who is offered coverage (employee and only enrolled dependent(s))

Affordability



- There are 3 safe harbor methods for measuring for affordability (Box 1 W-2, rate of pay and federal poverty line)
- Coverage must be affordable to avoid employer pay or play penalties
- To be affordable, the premium cost for single employee coverage under the employer's cheapest medical option providing minimum value must be no more than 9.5% of the amount determined under one of the three safe harbors

Affordability



- The 9.5% figure is adjusted annually for changes in the cost of living
- The percentage does not necessarily go up annually

Year	Percentage
2015	9.56%
2016	9.66%
2017	9.69%
2018	9.56%

Affordability



- The IRS previously indicated that employers who provide additional compensation to employees who opt out of group health coverage may be required to include that amount when measuring for affordability for pay or play penalty purposes



- Under most recent guidance the IRS says:
 - This rule will not apply for opt-out arrangements in effect on or before December 16, 2015
 - In addition, this rule will not apply to opt out arrangements which require employees to provide reasonable evidence that the employee, spouse and dependents have other group health coverage for period during which coverage is being waived

Reporting Penalties



- IRS can assess \$250 penalty per return for late, incomplete or incorrect forms
- IRS granted relief for incomplete or incorrect returns for prior years if good faith effort
- IRS has not indicated it will extend good faith relief to 2017 reporting (due in first quarter of 2018)

Correcting Forms



- IRS expects a corrected 1095-C to be prepared and furnished/filed for any of the following errors:
 - Individual's name or Social Security Number
 - Employer's EIN
 - Indicator code in Lines 14 or 16
 - Cost in Line 15
 - Information about enrollees in Part III (where self-funded)

Correcting Forms



- If incorrect 1095-C has not already been filed with IRS:
 - Prepare corrected form
 - Write “corrected” on top
 - Redistribute to employee
 - File with IRS by the deadline
 - Original incorrect Form 1095-C is not filed

Correcting Forms



- If incorrect 1095-C was filed with the IRS:
 - Prepare corrected form
 - Enter “X” in corrected check box
 - Redistribute to employee
 - File all corrected 1095-Cs with IRS along with 1094-C transmittal form
 - Do not check corrected check box on 1094-C
 - Do not check as authoritative transmittal and complete only Part I of 1094-C

Correcting Forms



- IRS expects a corrected 1094-C to be prepared and filed for any of the following errors:
 - Employer's name or EIN
 - Number of 1095-Cs filed
 - Information regarding ALE group
 - Line 22 relief
 - Any column of Part III except total employee headcount

Correcting Forms



- If incorrect 1094-C was filed with IRS:
 - Prepare corrected form (all parts)
 - Enter “X” in corrected check box
 - Mark as authoritative transmittal
 - Do not include 1095-Cs
 - File with IRS

Deadline Reminder



- 1095-Cs must be distributed to employees by the first business day on or after January 31
- The 1094-C and 1095-Cs must be filed with the IRS
 - By the first business day on or after February 28 if filing by mail
 - By the first business day on or after March 31 if filing electronically
- IRS not expected to grant delayed deadlines as was the case for 2015 and 2016 reporting

Deadline Reminder



- The 1095-Cs must be furnished to employees by January 31
- The 1094-C transmittal form and 1095-Cs must then be filed with the IRS by February 28 (if by mail) or by first business day on or after March 31 (this year April 2) if filing electronically
- Employers can file for an automatic 30-day extension for filing the 1094-C and 1095-Cs with the IRS

Hope?



- Commonsense Reporting Act of 2017
 - Bipartisan Senate Bill
 - Beginning in 2019, reporting would be voluntary rather than mandatory for large employers
 - Reporting would occur at the beginning of the year (rather than after the year ends) to determine individuals' eligibility for premium tax credits
 - Employers could use DOBs (rather than SSNs) and electronically transmit to individuals (rather than by mail)

Maintain Employer Size Records



- An employer must report for a calendar year IF it had an average of 50 or more full-time employees and full-time employee equivalents during the prior calendar year
- Employers under 50 must continue to maintain records to demonstrate not a large employer

Maintain Records to Prove Who Isn't Full-Time



- IRS will assume all your common-law employees are full-time unless you can demonstrate otherwise
- Two options:
 - Monthly measurement period
 - Look-back measurement period
- Records to demonstrate testing?

Count All Hours in Measuring for Full-Time Status



- **Must credit:**
 - All hours worked and paid
 - All hours paid but not worked (e.g., PTO)
 - All unpaid hours not worked due to FMLA, USERRA or jury duty

Count All Hours in Measuring for Full-Time Status



- IRS Notice 2015-87 clarifies hours crediting rules
- An employee's hours of service:
 - Do not include hours paid solely to comply with state workers' compensation or disability laws
 - Do include hours paid under an employer-provided short or long-term disability plan unless the benefit is solely paid with employee after-tax dollars

Make Sure SPD and Administrative Practice Align with Reporting



- For any employees not classified as full-time but who are credited with minimum hours during a measurement period, will you offer coverage?
 - What coverage-medical only or all benefits?
 - Same terms as full-time?
- If part-time employee or leased employee is transferred to/hired into a full-time position, will you credit past service toward waiting period?

Don't Overlook Impact of Transfer to Part-Time Status



- If you measure for full-time status based on look-back measurement period, a full-time employee must continue to be reported as full-time for entire plan year even if mid-year transfer to part-time status
- Options upon transfer:
 - Terminate coverage and offer COBRA
 - Subsidize COBRA cost so affordable
 - Continue medical coverage until end of plan year

And Don't Forget About Leaves of Absence



- Same issues as part-time employee transfer situation
- IRS requires employee on leave to continue to be reported as full-time unless terminated
- This rule is not just for FMLA leaves but any employer-allowed leaves of absence



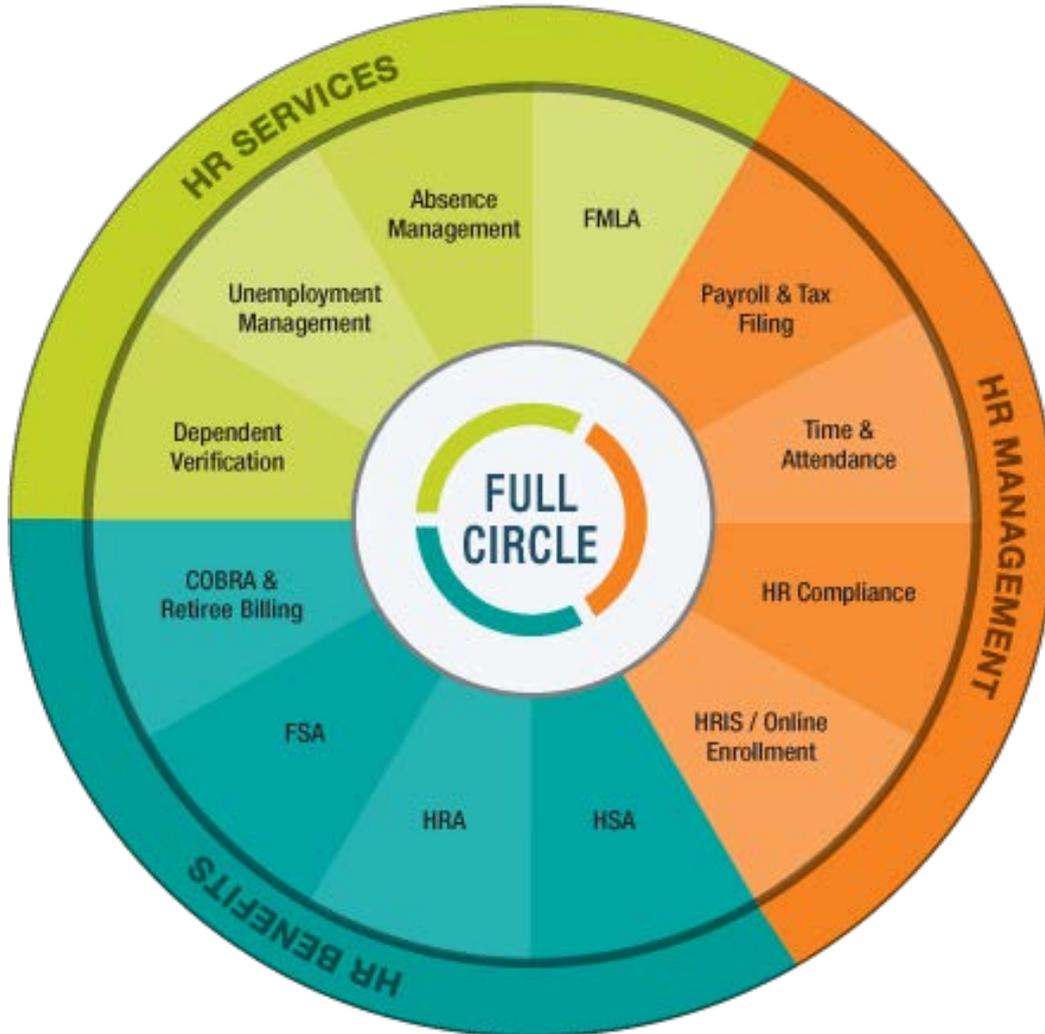
Questions



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