News Alert – IRS Releases Draft Form to be Used for Reporting Employer Mandate

On July 24th, 2014, the Internal Revenue Service ("IRS") released drafts of the awaited forms, Forms 1095-C, 1094-C, 1095-B, and 1094-B, to be used for reporting minimum essential coverage under both the individual mandate and the employer mandate.

The draft forms, as provided by the IRS, can be found on their website, or by clicking here. Final versions of the forms, as well as official instructions, are expected later this summer. In the interim, the following is a brief reminder of who will need to report and when, using the aforementioned forms.

Small Employers Exempt from Reporting
As expected, given the recent delay of 'pay or play" for small employers (generally, less than 50 full-time employees), those employers generally will be exempt from reporting under the Employer Mandate. However, insurers and employers of self-insured plans (regardless of size) must report annually to both the IRS and any individual named in the report whether such individual had minimum essential coverage.

Streamlined Reporting
Larger insured plans and all self-funded plans will need to file reports. Employers that "self-insure" will have a streamlined way to report under both the employer and insurer reporting provisions. The IRS and Treasury have created this draft form (Form 1095-C), with 2 parts, to combine the employer reporting provisions and the insurer reporting provisions into one form.

Employers that are subject to employer responsibility but do not "self-insure" will complete only the top section of the combined form (Form 1095-C), with the insurance carrier responsible for the remaining portions.

Employers that are large enough to be subject to the employer responsibility provisions and that "self-insure" will complete both parts of the combined form for information reporting. The first report will be due in early 2016, to document the 2015 calendar year. Interesting enough, however, is that the IRS stated that reporting in 2015 for the 2014 calendar year is optional and voluntary, but encouraged to help the IRS with any "kinks" in the program.

Special Rule for "Qualified Offer"
For employers that provide a "qualifying offer" to any of their full time employees, the final rules provide a simplified alternative to reporting monthly, employee-specific information on those employees. However, to take advantage of the "alternative" reporting, what is a qualifed offer?

- A qualifying offer is two-fold:

    1) offering an employee self-only coverage that meets minimum value (60% of costs) and provides self-only coverage at a cost of no more

than 9.5% of the Federal Poverty Level, and

2) offering coverage for the employee's family, including spouses and children.

- For employees who receive qualifying offers for all 12 months of the year, employers will need to report only the names, addresses, and taxpayer identification numbers (TINs) of those employees and the fact that they received a full-year qualifying offer. Employers will also give the employees a copy of that simplified report or a standard statement indicating that the employee received a full-year qualifying offer.

- For employees who receive a qualifying offer for fewer than all 12 months of the year, employers will be able to simplify reporting to the IRS and to employees for each of those months by simply entering a code indicating that the qualifying offer was made.

- To provide for a phase-in of the simplified option, employers certifying that they have made a qualifying offer to at least 95% of their full-time employees (plus an offer to their families) will be able to use an even simpler alternative reporting method for 2015. Those employers will be able to use the simplified, streamlined reporting method for their entire workforce, including for any employees who do not receive a qualifying offer for the full year. Those employers will provide employees with standard statements relating to their possible eligibility for premium tax credits.

- The final regulations also give employers the option to avoid identifying in the report which of its employees are full-time, and instead to just include in the report those employees who *may be* full-time. To take advantage of this option, the employer must certify that it offered affordable, minimum value coverage to at least 98% of the employees on whom it is reporting.

As you can see, there are lots of moving parts to the reporting forms and simplified, alternative reporting schemes. We will continue to update you on this process. If you have any questions on this or would like to discuss this or other ACA provision, please let your account representative know.