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*Tenacity, Creativity and Results are the three words that best describe Shaheen & Gordon's approach to addressing complex legal issues. Our health care team closely monitors the rapidly changing legal environment so that our clients are prepared to meet the challenges of today as well as tomorrow. Relying on a wealth of experience, we offer practical advice and assist in implementing recommendations tailored specifically to meet the needs of both large and small health care clients.*

On March 10, the Treasury Department and IRS published final regulations implementing information reporting for employers with 50 or more full-time equivalent employees under the Affordable Care Act (ACA). These requirements, which are designed to assist the IRS with enforcing the employer mandate and determining eligibility for premium tax credits, are scheduled to take effect in 2015 and will require annual reporting to both the IRS and individual employees, akin to the filing of Form W-2. (Employees can consent to receive annual statements electronically.) The forms will be due to employees and the IRS on the same filing schedule as Form W-2, and the first such returns will be due in early 2016, covering calendar year 2015. Both employers that self-insure and employers that do not will be able to use a single consolidated reporting form.

Employers will make a separate return for each full-time employee, accompanied by a single transmittal form for all of the returns filed for a given calendar year. The employee forms will be known as Form 1095-C, and the transmittal as Form 1094-C. The use of substitute forms will also be permitted, and the employer is permitted to furnish employees a statement, prescribed by the IRS, in lieu of furnishing a copy of the Form 1095-C filed with the IRS.

Employers who provide "qualifying offers" of health insurance to their full-time employees will be able to take advantage of simplified reporting requirements, known as an "alternative reporting method." "Qualifying offers" are for an offer of insurance that meets the ACA's minimum essential coverage and minimum value requirements and provides employee-only coverage at a cost to the employee of no more than 9.5% of the federal poverty level (approximately \$1,100), combined with an offer of minimum essential coverage for the employee's spouse and dependents. (Such offers are sufficiently inexpensive that an employee receiving them would not qualify for a premium tax credit.) For employees who received such an offer for all twelve months of the year, the employer will need to report only the employee's name, address, social security number, and the fact that the employee received a full-year qualifying offer. Under this alternative reporting method, the employer would not need to report the cost of coverage. For employees who receive a qualifying offer for fewer than all twelve months of the year, the employer will need to use the "general reporting method" discussed below for those months in which a qualifying offer was not received, for example, because the full-time employee was an employee for fewer than twelve months of the calendar year. However, see the alternative reporting method available for 2015, below.

For 2015 only, a streamlined alternative reporting method will be available for those employers that have made a qualifying offer to at least ninety-five percent of their full-time employees, combined with an offer of coverage for each such employee's family. Such employers need only furnish a statement to each full-time employee, as prescribed by the IRS,

and file Form 1095-C for each full time employee, providing the employee's name, address, and social security number, and confirming that a qualifying offer was made for all twelve months or for specific months of the calendar year, or that it was not.

There are several other forms of relief available. Employers who can certify on their transmittal form that they have made an offer of affordable minimum essential coverage to at least ninety-eight percent of their full-time employees will not need to specify whether each employee offered coverage is a full-time employee, nor will they have to specify the number of the employer's full-time employees. However, employers will still need to report by filing Form 1095-C for each full-time employee.

Those employers who are not eligible for an "alternative reporting method" will be required to use the "general method." (Employers eligible to use the alternative reporting method for some full-time employees may do so, and must then use the general reporting method for those full-time employees for whom an alternative reporting method is not available.) Under the general method, employers will need to report the name, address, and employer identification number of the employer; the calendar year for which the information is reported; the name and telephone number of the employer's contact person; a certification as to whether the employer offered its full time employees and their dependents the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, by calendar month; and the number of full-time employees for each calendar month. For each full time employee, the employer must report the name, address, and social security number of the employee; the months during the calendar year for which minimum essential coverage under the plan was available; the employee's share of the lowest cost monthly premium for self-only coverage providing minimum value offered to that employee under an eligible employer-sponsored plan, by calendar month; and the months, if any, during which the employee was covered under an eligible employer-sponsored plan.

Other information, such as whether the employer is a member of an "aggregated group" of employers for purposes of the employer mandate, will also need to be reported. (Note that each large employer member of an "aggregated group" of employers is required to file a separate return with respect to its full-time employees for a calendar year, and reporting cannot be combined.) Much of the above information will be reported through use of an "indicator code" on the form rather than being written or spelled out in detail.

In addition, like health insurers, employers that self-insure will need to report the names and taxpayer identification numbers for all individuals enrolled in employer-sponsored health plans, including dependents of employees. This requirement, which is fulfilled by insurers for those employers that do not self-insure, is so that the IRS can ensure compliance with the individual mandate.

Finally, while employers with at least 50 full-time equivalent employees but fewer than 100 full-time equivalent employees are exempt from the employer mandate for 2015, the reporting requirements will still be in effect. That is, such employers must report on and to each employee, and must certify on their transmittal form that they meet the eligibility requirements for the exemption, even though they are not yet required to provide coverage or pay a penalty for not doing so.

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