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An Overview of the Affordable Care Act: What Does It Mean?

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- According to the Small Business Administration:
 - “Nearly 96% of all firms in the U.S. (5.8 out of 6 million) are exempt”
 - These firms have a monthly FTE of less than 50 and employ 34 million workers.

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ACA - Introduction

- MSUE's Role
 - Our objective is to provide educational resources to help individuals/families/employers to make management/planning decisions for their business and life situations.
 - We'll answer questions about "what" and "how" of the ACA and provide latest interpretation of information objective role and does not take a position/side dealing with the ACA.
- All information has been obtained from IRS/HHS/DOL sources. Some regulations may change and others have not yet been released.
 - Work with your tax/legal/insurance advisors before making any decisions with regards to the ACA.

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Affordable Care Act

- Today's outline (Specific times set for Q&A)
 - Definitions
 - General Rules of the ACA
 - Rules of Employer Shared Responsibility (ESR) Mandate
 - Rules for Counting Employees Under ESR
 - Employer Alternatives Under the ESR
 - Rules for the Small Business Health Care Tax Credit and Taxes
 - Rules for Health Insurance Marketplace/Exchange for Individuals and SHOP for Employers
 - Rules of Individual Shared Responsibility Mandate
 - Employer Requirements for 2013 to 2016
 - Closing Thoughts

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ACA Top Definitions

- Full-Time Worker
- Full-Time Equivalent
- Seasonal Worker
- Health Insurance Marketplace (HIM)
 - Exchange, Marketplace
- Small-Business Health Options Program (SHOP)
- Employer Shared Responsibility (ESR)
- Individual Shared Responsibility Provision

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ACA Top Definitions

- Full-Time Employee
 - 30 or more hours of service (includes personal days)
- Full-Time Equivalent (FTE)
 - All of the p/t employee hrs. that equate to full-time workers (2 part-time employees working 15hrs. a week = 1 FTE)
- Seasonal Worker
 - Works approx. 6 months or less, (Good Faith is applied)
- Health Insurance Marketplace (HIM); Exchange, Marketplace
 - On-line location that individuals use to purchase health insurance

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ACA Top Definitions

- Small-Business Health Options Program (SHOP)
 - On-line location that small businesses (less than 50 FTE's) use to purchase health insurance
- Employer Shared Responsibility (ESR)
 - The ACA provision that requires employers with 50 – 100 FTE's to provide health insurance to their full-time employees or pay a penalty beginning January 1, 2016*
 - FTE's 100 or more must provide 70% by Jan. 1 2015*; 95% by 2016
- Individual Shared Responsibility Provision
 - The ACA provision that requires all individuals to have health insurance for themselves and dependent children beginning January 1, 2014

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General Rules of the ACA

- ACA applies to all employers
 - Private, non-profit, and government employers.
- Agricultural employers included in all ACA provisions
- No exemptions in ACA for agricultural employers (seasonal worker provisions apply to all employers)
- Employer mandate/record-keeping provisions not required (no penalties) for 2014.
 - Transition Relief for some large employers may be available for 2015 (Must report using appropriate form)

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ACA for Employers: The 3 Key Questions

- **Key Question 1:** What is an employer's average monthly number of employees under ACA?
- **Key Question 2:** What are an employer's options for providing health insurance under ACA?
- **Key Question 3:** Is an employer eligible for the Small Business Health Care Tax Credit under ACA?

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Key Question 1: What is an employer's average monthly number of employees?

- **Employer Shared Responsibility Provision:**
Employers employing **less than 50** full time **or** full-time equivalent employees **are not required** to offer health insurance to their **full time employees**.

Employers employing a total of **at least 50** full-time **or** full-time equivalent employees **must either:**

- Offer "**affordable health coverage that provides a minimum level of coverage**" to **full-time employees** or
- Pay an Employer Shared Responsibility (ESR) payment

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	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Row 1 Number of full-time employees employed during the month. ⁽¹⁾												
Row 2 Number of hours of service by all non-full-time employees employed during the month. ⁽²⁾												
Row 3 Row 2/120 equals the number of full-time equivalents employed during the month.												
Row 4 Row 1 + Row 3 equals the number of employees employed during the month.												
	Sum of JAN to DEC Across Row 4 = ANNUAL TOTAL:											
	Annual Totals =											
	NUMBER OF EMPLOYEES:											

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Key Question 1: What is an employer's average monthly number of employees?

Definitions for counting employees:

- Full-time employees
- Full-time equivalent (FTE) employees
- Independent contractors/leased employees
- Seasonal employees

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Key Question 1: What is an employer's average monthly number of employees?

Definitions for counting employees:

- Full-time employees
 - 30 hours of service or more per week
- Full-time equivalent (FTE) employees
 - The total hours of service by all non-full-time employees (under 30 hours/ week) during the month (4-week) divided by 120 to equal the number of full-time equivalent employees
 - 2 part time employees each work 15 hours/week = 30 hour total divided by 30 = 1 FTE

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Who are full-time employees?

- An employee is counted as a full-time employee if he/she provides 30 or more hours of service per week on average.
 - For Hourly Employees: Count Actual Hours Worked!
 - For Non-Hourly Employees: Count
 - Actual Hours OR
 - Days Worked at 8 hours per day OR
 - Weeks Worked at 30 hours per week OR
 - 130 hours per month

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Who are non-full-time employees?

- An employee is counted as a non-full-time employee if he/she provides less than 30 hours of service per week on average.
- Employer must count all the hours worked by each non-full-time employees and total across all non-full-time employees.
- The total is then divided by 30 (hours) and the number that is derived is the Full-Time Equivalent for that week.

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Independent Contractors/Leased Employees

- The following workers are not counted in an employer's number of employees under ACA:
 - Those provided by a staffing agency (leased employees)
 - Those typically provided a 1099 (contractors)
 - **Common Law Rule** for employees: *A person who controls day-to-day activities of the employee, how job is completed, provides equipment, etc. may be considered the employer and the employee hours would be counted under ACA.*
 - **Anti-Abuse Rules** apply and may not allow an employer to claim the use of staffing agencies to avoid the ACA or providing health care insurance.

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Rehire & Break-in-Service Rules

- Break-in-Service
 - If an employee has a break in service and does not provide any service to the previous employer for at least 13 weeks then upon rehire they may be considered a newly hired employee vs. a continuing employee (exceptions for those in education/teachers).
- Rule of Parity
 - If an employee was employed for 4-weeks (or less) and no hours of service were credited to that employee for at least 4-weeks or more then the returning employee can be treated as a new hire.

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Determining Employer's Number of Employees

1. Determine monthly number of full-time employees
 - Employees working 30 or more hours per week
2. Determine monthly number of FTE employees
 - Employees working less than 30 hours per week
3. Add total full-time and FTE employees for each month and calculate monthly average
 1. If you have less than 50 employees (even at 49.9), you are not required to offer health insurance to any employees.
 2. If you have 50 or more employees, you are required to offer health insurance to full-time employees
4. ****2015 Transition Relief using '14 6 months vs. all 12.**

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Determining Employer's Number of Employees: Case: No Seasonal Workers.

John Doe operates Greenacre Farms/Resort with the following employees:

- Two paid employees each of whom works 40 hours/week and receives 2 weeks paid vacation/year
- Six paid employees each of whom works 15 hours/week for the entire year (total 360 hours month)

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	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Row 1 Number of full-time employees employed during the month. ⁽¹⁾	2	2	2	2	2	2	2	2	2	2	2	2
Row 2 Number of hours of service by all non-full-time employees employed during the month. ⁽²⁾	360	360	360	360	360	360	360	360	360	360	360	360
Row 3 Row 2/120 equals the number of full-time equivalents employed during the month.	3	3	3	3	3	3	3	3	3	3	3	3
Row 4 Row 1 + Row 3 equals the number of employees employed during the month.	5	5	5	5	5	5	5	5	5	5	5	5
Sum of JAN to DEC Across Row 4 = ANNUAL TOTAL:											60	
Annual Total/12 = NUMBER OF EMPLOYEES:											5	

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Seasonal Workers

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Seasonal Worker vs. Seasonal Employee

- Seasonal Worker
 - Relevant for determining whether an employer is an applicable large employer subject to the Employer Shared Responsibility provisions.
- Seasonal Employee
 - Relevant for determining an employee's status as a full-time employee under the look-back measurement method.
 - A seasonal employee means an employee who is hired into a position for which the customary annual employment is six months or less and for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter.

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Key Question 1: What is an employer's average monthly number of employees?

Definitions

- Seasonal Employees
- ACA: Employee that is not employed more than 6-months (Good Faith should be followed)
 - Employee performs labor/services on a seasonal basis, defined by Dept. of Labor under 29 CFR 500.2(s)(1)
 - Labor performed... is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.
 - A worker who moves from one seasonal activity to another while... performing agricultural labor, is employed on a season basis even though he may continue to be employed during a major portion of the year.

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Seasonal Employee and the Look-Back

- Look-Back Measurement Method for determining employee full-time status
 - An employer may determine an employee's status as a full-time employee during a period (referred to as the stability period), based upon the hours of service of the employee in a prior period (referred to as the measurement period).
 - The Look-back period may be no shorter than 3 months or longer than 12 months
 - The look-back measurement method includes special rules that apply to new employees who are seasonal employees.
 - A seasonal employee means an employee who is hired into a position for which the customary annual employment is six months or less and for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter.
 - Note that the look-back measurement method is not available for purposes of determining whether the employer is an applicable large employer.

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Key Question 1: What is an employer's average monthly number of employees?

- Look Back Period and Seasonal Workers
 - **Seasonal Employees** can be treated as **Variable Hour** employees to determine if they are full-time employee(s) and/or eligible for healthcare coverage.
 - As long as the seasonal employee leaves and does not provide work or receive benefits for at least 13-weeks they can then be treated as a new hire and can be required to go through the 12-month look back again.
 - Health Insurance does not need to be offered for those employees going through the initial 12-month look-back period.

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Key Question 1: What is an employer's average monthly number of employees?

Definitions

- Seasonal workers are exempt under ACA if
 - Employer's workforce is 50 or more full-time employees for 120 days or fewer during a calendar year AND
 - The Employees that are at the 50 or more were employed during that period of no more than 120 days were seasonal workers
 - FOR THIS PURPOSE ONLY 120 DAYS CAN BE THE EQUIVALENT OF 4 MONTHS.
 - IF all of the above is met then the seasonal workers are not included in the employers' number of employees`

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Determining Employer's Number of Employees: Case: Seasonal Workers.

John Doe operates Greenacre Farms/Resort with the following employees:

- Two paid employees work 40 hours/week
- Six paid employees 15 hours/ week
- 450 paid seasonal employees each of whom works 40 hours/week for 120 days/4 months of the year

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	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Row 1 Number of full-time employees employed during the month. ⁽¹⁾	2	2	2	2	2	2	2	2	2	2	2	2
Row 2 Number of hours of service by all non-full-time employees employed during the month. ⁽²⁾	Continual											
	360	360	360	360	360	360	360	360	360	360	360	360
	Seasonal											
	0	0	0	0	0	0	72,000	72,000	72,000	72,000	0	0
Row 3 Row 2/120 equals the number of full-time equivalents employed during the month.	Continual											
	3	3	3	3	3	3	3	3	3	3	3	3
	Seasonal											
	0	0	0	0	0	0	600	600	600	600	0	0
Row 4 Row 1 + Row 3 equals the number of employees employed during the month.	5	5	5	5	5	5	605	605	605	605	5	5
											Sum of JAN to DEC Across Row 4 =	
											ANNUAL TOTAL: 2460	
											Annual Total/12 =	
											NUMBER OF EMPLOYEES: 205	
SEASONAL EXEMPTION:	(1) Did employer's workforce exceed 50 full-time employees for 120 days (or four calendar months) or less?											If Yes to BOTH, then N = 5
	(2) Were employees in excess of 50 employed during that period as seasonal employees?											

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Questions?

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Key Question 2: What are an employer's options for providing health insurance under ACA?

Employer Shared Responsibility Provision:

Employers employing **less than 50** full time **or** full-time equivalent employees **are not required** to offer health insurance to their **full time employees**.

Employers employing a total of **at least 50** full-time **or** full-time equivalent employees **must either**:

(a) Offer **"affordable health coverage that provides a minimum level of coverage"** to **full-time employees** or
 (b) Pay an Employer Shared Responsibility (ESR) payment

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Key Question 2: What are an employer's options for providing health insurance under ACA?

ESR Provision Option (a) Definitions

- Affordable health coverage: Must not cost employee more than 9.5% (9.56% for 2015) of employee's household income/ W-2 Wages.
- Minimum level of coverage: A "Qualified Health Plan" must include all "Essential Health Benefits":
 - Ambulatory Patient Services Emergency Services
 - Hospitalization Maternity and Newborn Care
 - Prescription Drugs Laboratory Services
 - Mental Health and Substance Use Services (and Behavioral Health Treatment)
 - Rehabilitative and Habilitative Services and Devices
 - Preventative and Wellness Services and Chronic Disease Management
 - Pediatric Services, including Oral and Vision (until age 19)

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Affordability and Safe Harbors (9.5% Rule)

- W-2 Wages Safe Harbor
 - Use Box 1 of W-2
- Rate of Pay Safe Harbor
 - 9.5% (9.56% for 2015)* (Hourly rate of pay * 130 hours)
 - *In case of pay rate reduction mid-year use of the lowest monthly rate of pay to determine this may be required.
- Federal Poverty Line Safe Harbor
 - May use the most recently published poverty guidelines and no older than 6 months prior to, the first day of the plan year multiplied by 9.5% (9.56% in 2015) for a single individual

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Key Question 2: What are an employer's options for providing health insurance under ACA?

ESR Provision Option (b) Definitions

- Two forms of ESR payment penalties.
 1. Failure to offer health insurance coverage when required for 95%* or more of the full-time employees **OR**
 2. Failure to offer "affordable health coverage that provides a minimum level of coverage" to full-time employees.
- Employer required to offer health insurance coverage for child dependents, but are not required to share cost.
- Penalties are triggered when an eligible employee registers and receives either a subsidy or tax credit.

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Key Question 2: What are an employer's options for providing health insurance under ACA?

ESR Provision Option (b) Definitions

- Two forms of ESR payment penalties.
 1. Failure to offer health insurance coverage when required for 95%* or more of the full-time employees
 - Employer incurs penalty of \$2,000/year for each employee
 - (30* employees are excluded from payment penalty)
 - Monthly ESR Payment = Number of fulltime employees (-30) * (1/12 of \$2,000)
 - \$2,000 payment may increase based growth in cost of insurance premiums
 - *Employers with 100 or more FTE's may use the -80 number for the 2015 year only and 70% instead of 90%

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Key Question 2: What are an employer's options for providing health insurance under ACA?

ESR Provision Option (b) Definitions

- Two forms of ESR payment penalties.
 2. Failure to offer "affordable health coverage that provides a minimum level of coverage" to full-time employees.
 - Employer incurs penalty of \$3,000/year for each employee
 - Monthly ESR Payment = Number of employees certified as having received an applicable premium tax credit or cost sharing reduction for purchased insurance on the exchange * (1/12 of \$3,000)
 - Penalty capped at the maximum of the Option (b)(1) (prior slide)
 - The cost of the payment(s) to increase each year based growth in cost of insurance premiums

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Key Question 2: What are an employer's options for providing health insurance under ACA?

- Who must an employer cover if a monthly average of 50 FTE's is maintained?
 - Only required to offer to full-time employees (30 hrs./week)
 - Must offer to the employee, cannot cost the employee more than 9.5% (9.56% for 2015) of their household income (box 1 – W-2)
 - Must make it available for the employee to purchase health coverage for their dependent children (up to age 26)*
 - The employer does not have to pay anything towards the premium
 - The employer does not have to offer any option of healthcare coverage for a spouse of an employee.

*Large employers (100 or more) may not have to offer until 2016

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Key Question 2: What are an employer's options for providing health insurance under ACA?

- 26 Year Olds
 - Employer plans for health insurance coverage must offer coverage to employees under the age of 26.
 - Employer plans that offer dependent coverage must make coverage available until adult child reaches 26.
 - Children up to age 26 can stay on parent's employer plan even if they have another offer of coverage through their own employer.
 - Employers cannot limit dependent coverage based on financial dependency, marital status, school enrollment, residency or other factors.

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Key Question 2: What are an employer's options for providing health insurance under ACA?

- If an employer offers health insurance coverage to full time employees, must the employer offer it to a new employee on the first day of work?
 - A maximum of a 90 day waiting period is allowed before having to provide health care coverage for large employers (50 FTE's or more).

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Key Question 2: What are an employer's options for providing health insurance under ACA?

- If an employee is reasonably expected to work full-time and the employee is expected to be an on-going employee, the employer will not face an ACA penalty if the new worker is covered within 90 days of their start date*.
- The employee is permitted to obtain insurance on the Health Marketplace during the 3 month period.
- See: <http://www.fas.org/sgp/crs/misc/R41159.pdf>

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Key Question 2: What are an employer's options for providing health insurance under ACA?

- Non-discrimination Rules
 - New regulation was supposed to take place 6 months following the signing of the ACA.
 - Employer cannot discriminate between employee class and the level of health care coverage offered/cost.
 - All group plans cannot favor the highly compensated individual
 - Tests both the eligibility and benefits that are provided
 - Shareholder plans/benefits are vulnerable to this rule
 - Guidance has not yet been issued but is being written.
 - This will cover all employers regardless of size.
 - Penalty?? Possibly \$100/day per employee

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Questions?

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Tax Credit, Taxes and Fees

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Key Question 3: Is an employer eligible for the Small Business Health Care (SBHC) Tax Credit?

- Available for 2014 and 2015 tax years (also see 2010-13).
- Available to employers with less than 25 full-time employees who are paid an average of less than \$50,000/year.
 - 70% of employees must accept the health insurance offer.
- Employer must pay 50% or more of premium costs.
- Credit up to 50% of employer's cost of employees' premium (35% for tax-exempt employers).
- Maximum credit for employers with less than 10 employees being paid an average of less than \$25,000/year.
- Insurance coverage must be purchased through the online Health Insurance Marketplace.

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Taxes

- Each of the following taxes (NIIT & Medicare) affects those with a Modified Adjusted Gross Income (MAGI) of
 - \$200,000 NOT Married Filing Single
 - \$250,000 Married Filing Jointly
 - \$125,000 Married Filing Single

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Taxes – What is MAGI?

- Modified adjusted gross income (MAGI) = Adjusted Gross Income (AGI) + certain deductions, if applicable:
 - Student loan interest
 - One-half of self-employment tax
 - Qualified tuition expenses
 - Tuition and fees deduction
 - Passive loss or passive income
 - IRA contributions, taxable social security payments
 - The exclusion for income from U.S. savings bonds
 - The exclusion under 137 for adoption expenses
 - Rental losses
 - Any overall loss from a publicly traded partnership
- MAGI may be the same as AGI

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Net Investment Income Tax & Medicare

- NIIT
 - 3.8% Tax on Net Investment Income
 - Began in 2013
 - If you don't pay SE Tax do you pay 3.8%??
 - Income from working capital?
 - After reasonable draws & Salaries, remaining "cash" kept in an account that draws income (i.e. Interest) is there 3.8% tax on it??
 - Land Rent between related business structures?
- Medicare
 - Began in 2013
 - .9% on all monies above the MAGI

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PECORI Fee

- Affects insurers and the self-insured
- HRA's and FSA's are also affected
- Funds best practices in research
- \$2.08 per person insured for plan years 10/1/2013 through 9/30/2014
- Due by July 31st of the calendar year following the last day of the policy/plan year
- Must use 2nd Quarter Form 720

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Excise Tax

- \$100 per day per person if the employer's plan breaks the rules
 - Coverage of preexisting conditions
 - No discrimination based on health
 - Coverage of preventative health services
 - No annual or lifetime dollar limits
 - Parity in mental health benefits

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High-Cost Coverage Excise Tax on Employer Sponsored Health Coverage aka: Cadillac Plan Tax

- Beginning in 2018 a 40% excise tax will be imposed on all health insurance plans (self-funded and fully insured, this includes FSAs, HSAs, and MSAs) that exceed the following thresholds (An equation must be followed to determine the exact amount of the excise tax with all possible adjustments):
 - \$10,200 for an individual
 - \$27,500 for a family

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High-Cost Coverage Excise Tax on Employer Sponsored Health Coverage aka: Cadillac Plan Tax

- Thresholds will be increased based on:
 - Medical inflation (between 2010 to 2018)
 - Age & Gender
 - Individuals in high-risk professions
 - Fire Protection Activities & Law Enforcement Officers
 - Those who provide out-of-hospital emergency medical care
 - EMT's, Paramedics, First Responders
 - Longshore work, Construction, Mining, **Agriculture** (not including food processing), **Forestry**, and **Commercial Fishing**
 - Employees engaged in repair or installation of electrical or telecommunications lines
 - Those retired from previously mentioned professions
 - Must have been in the profession for not less than 20 years and is at least 55 years of age and not eligible for Social Security or Medicare
 - Watch for further IRS guidance for Threshold adjustments and further information.

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Questions?

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What are the rules for the Health Insurance Marketplace (Exchange)?

- HIM is a (virtual online) location that an individual or small business can purchase insurance.
- All health plans sold on the HIM must be Qualified Health Plans that provide Essential Health Benefits
- Individuals, families, and small business employers/ employees can purchase health insurance on HIM

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What are the rules for the Health Insurance Marketplace (Exchange)?

- Plans sold on the HIM will provide levels of coverage
 - Bronze: 60% insurer/40% customer
 - Silver: 70%/30%
 - Gold: 80%/20%
 - Platinum: 90%/10%
- Plan(s) must cover at least 60/70/80/90% of the plan's total cost of incurred benefits.
- Individuals and families must purchase health insurance on the HIM to be eligible for tax credits or cost-sharing subsidies.

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What are the rules for the Health Insurance Marketplace (Exchange)?

- Minimum level of coverage: A "Qualified Health Plan" must include all "Essential Health Benefits":
 - Ambulatory Patient Services
 - Emergency Services
 - Hospitalization
 - Maternity and Newborn Care
 - Prescription Drugs
 - Laboratory Services
 - Mental Health and Substance Use Services (and Behavioral Health Treatment)
 - Rehabilitative and Habilitative Services and Devices
 - Preventative and Wellness Services and Chronic Disease Management
 - Pediatric Services, including Oral and Vision (until age 19)

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What are the rules for the Health Insurance Marketplace (Exchange)?

- What is included in pediatric services?
 - Coverage ends at age 19. Eligibility for benefits ends at the end of the coverage year after the age deadline is reached.
 - Plans sold on the Marketplace can exclude pediatric dental coverage if pediatric coverage is included in a stand-alone dental plan offered on the Marketplace.
 - Vision service at least partially covers vision care (e.g., eye exams and glasses). Coverage can be offered as part of a comprehensive medical plan or as a "stand-alone" plan. Stand-alone vision plans may not be offered through the Marketplace.

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What are the rules for the Health Insurance Marketplace (Exchange)?

- What can an individual do if his/her insurance coverage status changes during the year?
 - Future enrollment period will be October 1 to December 31 for the following year.
 - An individual can apply to an exchange for special enrollment if he/she loses health insurance coverage due to a "triggering event."
 - Triggering events include (a) changes in employment status, citizenship, permanent geographic location, or family status (marriage, divorce, birth, or adoption), (b) errors in Medicare enrollment, and (c) changes in eligibility for a premium tax credit.

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What are the rules for the Health Insurance Marketplace (Exchange)?

- Small Business Options Program (SHOP): Employers with less than 50 employees can purchase group plan insurance on the HIM in 2014 (100 in 2016, states' option for all employers after 2016).
- To be eligible for the Small Business Health Care Tax Credit, employers must purchase employee coverage on the SHOP.

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Questions?

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Tax Credits & Cost-Sharing Subsidies

- Advance Premium Tax Credit (APTC) and cost-sharing subsidies are available to some individual(s) and families based on income level.
 - Enrolled in a qualified health plan (QHP)
 - Not have access to employer-sponsored health insurance that meets ACA criteria
 - Not be eligible for government-sponsored health insurance (CHIP, Medicare, Medicaid, TRICARE, etc.)
 - Have a household income of at least 100% of poverty but not more than 400%
 - Not be claimed as a dependent by another taxpayer AND
 - File a joint tax return if married

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Tax Credits & Cost-Sharing Subsidies

- Cost Sharing Subsidies
 - Available to those with income levels below 250% of the Federal Poverty Line.
 - Designed to reduce the out-of-pocket expenses of health insurance coverage (i.e. deductibles, co-payments, co-insurance)

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Tax Credits & Cost-Sharing Subsidies

- Individuals and families with the following household incomes may be eligible for an APTC.
 - Up to \$45,960 for individuals
 - Up to \$62,040 for a family of 2
 - Up to \$78,120 for a family of 3
 - Up to \$94,200 for a family of 4
 - Up to \$110,280 for a family of 5
 - Up to \$126,360 for a family of 6
 - Up to \$142,440 for a family of 7
 - Up to \$158,520 for a family of 8
- *Based on 2013 estimates, 2014 likely will be higher

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What are the rules for the Individual Shared Responsibility Provision (Mandate)?

- ISR Provision: Individuals must (a) maintain health insurance coverage for themselves and dependents or (b) pay an ISR Payment.
- The ISR Penalty for a tax year is capped at:
 - The national average premium of a bronze level of coverage for the taxable year.

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What are the rules for the Individual Shared Responsibility Provision (Mandate)?

- ISR monthly penalty is 1/12 of the greater of:
 - A flat dollar amount equal to \$95 for the taxable year 2014, \$325 for 2015, \$695 for 2016 and adjustment for cost of living thereafter (1/2 for children). This is limited to \$285 for 2014 Tax year. **OR**
 - A percentage of income amount equal to 1.0 percent for the taxable year 2014, 2.0 percent for 2015, and 2.5 percent for 2016 and thereafter) above the taxpayer's household income threshold.
- ISR payment assessed and collected in the same manner as other penalties under the IRS Tax Code.

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ISR Penalty Example

- For example, a single adult under age 65 with household income less than \$19,650 (but more than \$10,150) would pay the \$95 flat rate. However, a single adult under age 65 with household income greater than \$19,650 would pay an annual payment based on the 1 percent rate.

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Can an Individual be Exempted from the ISR?

- An individual can be exempted from an ISR payment for the following purposes:
 - Religious Conscience
 - Membership in a health care sharing ministry
 - Incarceration
 - Membership in a Native American Indian Tribe
 - Hardship

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How is Insurance Premium Cost Determined?

- Whether a plan/coverage covers an individual or family
- Geographic rating are in the state
- Age (within a ratio of 3:1 for adults over 21)
- Tobacco use (within a ratio of 1.5:1)

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Catastrophic Health Coverage

- Available to:
 - Those that have not attained the age of 30 prior to the first day of the plan or policy year.
 - Those who have obtained a hardship exemption for the ISR
- Plan is required to cover:
 - 3 Primary care visits per year at no cost
 - Preventative benefits at no cost
 - List of benefits can be found at: <https://www.healthcare.gov/what-are-my-preventive-care-benefits/>

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Health Savings Accounts, Catastrophic Coverage, Flexible Spending Accounts (FSA's), Health Reimbursement Arrangement (HRA)

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Penalty or Not?

- When using any type of HSA, FSA, HRA type of accounts you must be very careful that it needs to meet all the necessary requirements and in many cases must be an option offered in conjunction with a health insurance plan that meets all of the ACA Individual Mandate requirements. If the plan does not meet the requirements there could be an excise tax of \$100 per day per person.

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Can Health Savings Accounts be used after 2013?

- To be eligible to have contributions made to an HSA, an individual must be covered under a high deductible health plan (HDHP) and have no other health coverage except permitted coverage.
- Anyone can contribute to an individual's HSA.
- An Individual cannot be enrolled in Medicare or be claimed as a dependent by another person.
- An HDHP is a plan with minimum annual deductible of \$1,250 (individual, \$2,500 family) and maximum annual out-of-pocket expenses of \$6,250 (\$12,000 for family).

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Can Health Savings Accounts be used after 2013?

- An HDHP can provide preventive care and certain other benefits with no deductible or a deductible below the minimum annual deductible.
- An HDHP does not include a plan if substantially all of the coverage is for accidents, disability, dental care, vision care, or long-term care.
- An HDHP cannot be insurance that you are permitted to have in addition to an HDHP.

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Can Health Savings Accounts be used after 2013?

- Individuals/families with an HSA generally cannot have health coverage other than an HDHP, except for insurance that provides benefits for:
 - Liabilities under workers' compensation laws, tort liabilities, or liabilities arising from the ownership or use of property;
 - A specific disease or illness; or
 - A fixed amount per day (or other period) of hospitalization.
- Coverage (through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.
- See <http://www.irs.gov/pub/irs-prior/i8889--2013.pdf>

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Transition Relief

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Transition Relief Highlights

- January 1, 2015
 - Employers with 100 or more FTE's must provide health Insurance coverage to 70% (95% in 2016) or pay an ESR payment
 - May use a 6 month look-back for determining Employer Status in the 2014 year instead of 12 months
- January 2015 - 2016
 - Employers with 50-99 FTE's: ESR mandate delayed until 2016 if appropriate IRS form is filed, >100 FTE's delayed until 2015. In both Situations 2014 should be used for planning purposes – what kind of record-keeping needed, what kind of costs on the HIM, etc.

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Important Dates

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What was the October 1, 2013 Requirement?

- Employers that are subject to the Fair Labor Standards Act (FLSA) must notify their employees about Health Care options and the *Marketplace*.
 - FLSA applies to those that employ "one or more employees that are engaged in, or produce goods for, interstate commerce."
 - "For most firms, a test of not less than \$500,000 in annual dollar volume of business applies"
 - Also includes: hospitals and healthcare industry, education, and government agencies.
 - Even if the employer does not provide health benefits notification must be provided.

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What was the October 1, 2013 Requirement?

- After October 1, 2013
 - Employee Notification of Health Benefits and the Marketplace at the time of hire (within 14 days)

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What was the October 1, 2013 Requirement?


- U.S. Dept. of Labor
 - The Technical No. 2013 – 02 notice can be found on their website.
 - <http://www.dol.gov/ebsa/newsroom/tr13-02.html>
 - Developed two templates to be used by employers:
 - Employers that *do not* provide health care benefits
 - <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>
 - Employers that *do* provide health care benefits
 - <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>
 - Templates are also located at the MSUE Farm Management Website: http://firm.msue.msu.edu/affordable_care_act_aca

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Timeline of Significant Dates for 2014-2017

- November 15, 2014
 - Open Enrollment begins for the 2015 year (Oct. 1 each year thereafter).
- February 15, 2015
 - Health insurance enrollment closes for 2015 year (Dec. 31st for each year thereafter).
- January 1, 2015
 - Employers with 100 or more FTE's must provide health Insurance coverage (70% in 2015; 95% in 2016) or pay an ESR payment




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Timeline of Significant Dates for 2014-2017

- January 2015/2016
 - Employers with 50-99 must file a form to push back ESR for a year (not having to provide insurance to full-time employees until Jan 1. 2016) or pay ESR payment
- January 1, 2016
 - SHOP open for employers with 100 employees or less.
- January 1, 2017
 - States have option to open SHOP to all employers.




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Closing Thoughts

1. Employers with 50-99 FTE's: May be eligible for transition relief from the ESR mandate until 2016, >100 FTE's delayed until 2015. In both Situations 2014 should be used for planning purposes – what kind of record-keeping needed, what kind of costs on the HIM, etc.
2. Employers < 25: the Small Business Tax Credit should be considered for 2014 and 2015 Tax Years.
3. All employers: Decisions about reducing employees hours, changing crop production, business reorganization, etc. should be made cautiously.



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Closing Thoughts

4. All employers: Decisions about labor usage should be based on the total labor management picture, not just health care.

- If you cut hours to part time, can you *really* find additional employees?
- If you eliminate health care for employees, will your competitors in the labor market do so?
- Are you ready for an end to "job lock"?

5. Your existing insurance agent should be able to help you work through your options. And above all...

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Other News:

- S.1188, June 19, 2013 "Forty Hours is Full Time Act"
 - Introduced by Senators Susan Collins (R-ME) and Joe Donnelly (D-IN)
 - Would raise the ACA definition of Full-Time from 30 hours a week to 40 and from 130 hours per month to 174.
- H.R. 2752, July 19, 2013
 - Introduced by Rep. Rodney Alexander (R-5-LA)
 - Would change the Seasonal Employees definition of those who are counted in FTE's from those that work 120 days or fewer to exclude seasonal employees from being added into the calculation at all
- H.R. 5213, July 28, 2014 (A.K.A. The Stars Act)
 - Introduced by Rep. Renacci
 - Merge definition of Seasonal Worker and Employee; Exception for Seasonal Worker.
- Don't Get your hopes up, use the Boy Scouts Motto!
- **BE PREPARED!**

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Links

- U.S. Dept. of Labor - Seasonal Status:
 - http://www.dol.gov/dol/cfr/Title_29/Chapter_V.htm
- U.S. Dept. of Labor – Notice to Employees (Oct. 1, 2013)
 - Technical Release No. 2013 – 02
 - <http://www.dol.gov/ebsa/newsroom/tr13-02.html>
 - Template for Employers Providing Health Care Benefits
 - <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>
 - Template for Employers **NOT** Providing Health Care Benefits
 - <http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>
- Phone Numbers
 - The General SHOP Call Center line: 1-800-706-7893 TTY: 711
 - The Cancellation Call Center line: 1-866-837-0677 TTY: 711
 - The ACA Employer Call Center line: 1- 800-355-5856 TTY: 711
- MSU Farm Information Resource Management
 - <http://firm.msue.msu.edu>
 - http://firm.msue.msu.edu/affordable_care_act_aca

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