Keeping you informed...

LAMB & BARNOSKY, LLP
ATTORNEYS AT LAW

MEMORANDUM

TO: OUR CLIENTS

FROM: LAMB & BARNOSKY, LLP

RE: AFFORDABLE CARE ACT IMPLEMENTATION CHECKLIST

DATE: MAY 30, 2013

Over the past few months, many of our clients have expressed concern about the daunting task of implementing the Affordable Care Act's requirements. As we have previously advised, the Affordable Care Act's "pay or play" penalties go into effect on the first day of the first plan year beginning on or after January 1, 2014. Thus, employers must begin preparing now.

To assist with this process, this memo provides employers with a checklist of "big picture" items. These items should be completed well before the effective date of the "pay or play" penalties. If you require any assistance with this process, please contact us if you have any questions.

THIS MEMORANDUM IS MEANT TO ASSIST IN GENERAL UNDERSTANDING OF THE CURRENT LAW. IT IS NOT TO BE REGARDED AS LEGAL ADVICE. THOSE WITH PARTICULAR QUESTIONS SHOULD SEEK THE ADVICE OF COUNSEL.

TAX ADVICE DISCLOSURE: THIS WRITTEN COMMUNICATION IS NOT INTENDED OR WRITTEN TO BE USED, AND IT CANNOT BE USED BY ANY TAXPAYER, FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON THE TAXPAYER. THE FOREGOING LEGEND HAS BEEN AFFIXED PURSUANT TO U.S. TREASURY REGULATIONS GOVERNING TAX PRACTICE.

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EMPLOYER'S AFFORDABLE CARE ACT IMPLEMENTATION CHECKLIST

- ☐ Determine your overall goals for compliance with the Affordable Care Act
- ☐ Brainstorm about how to coordinate the implementation of the look-back measurement method with your existing health care benefits administration framework
  - ☐ When does your plan year begin?
  - ☐ When is your open enrollment period?
  - ☐ Do you want an administrative period?
  - ☐ Do you want your administrative period to coincide with your open enrollment period?
- ☐ Determine the best date on which to begin your standard measurement period
  - ☐ Run sample scenarios using standard measurement, administrative (if any) and stability periods of differing durations. In each scenario:
    - ☐ Calculate the total number of full-time employees
    - ☐ Determine whether at least 95% of the full-time employees have been offered the opportunity to receive individual and dependent coverage through your plan
- ☐ Determine the best date on which to begin your transitional measurement period for purposes of starting your first stability period in 2014
  - ☐ Run sample scenarios using standard measurement and administrative periods (if any) of differing durations. In each scenario:
    - ☐ Calculate the total number of full-time employees
    - ☐ Determine whether at least 95% of the full-time employees have been offered the opportunity to receive individual and dependent coverage through your plan

- ☐ Based upon your sample scenarios, determine the durations of the standard measurement, administrative (if any) and stability periods which work best for your goals. For example, an employer may wish to use a standard measurement period that yields the lowest number of full-time employees.

- ☐ Determine whether your open enrollment period needs to be changed in order to implement your selected standard measurement, administrative (if any) and stability periods. If it does, contact your insurance carrier.

- ☐ Via resolution for public employers and policy for private employers, designate the following:

  - ☐ Standard measurement, administrative (if any) and stability periods for ongoing employees

  - ☐ Measurement and administrative (if any) periods for purposes of starting your first stability period in 2014

  - ☐ Initial measurement, administrative (if any) and stability periods for new variable hour employees

- ☐ Using the number of employees who have been determined to be full-time in your designated standard measurement period, determine whether you have offered at least 95% of your full-time employees the opportunity to receive individual and dependent coverage through your health plan

  - ☐ If no, determine your potential IRS Section 4980H(a) liability (assume that at least one full-time employee will purchase insurance on the exchange and receive a subsidy).

  - ☐ Compare your potential Section 4980H(a) liability to the cost of providing individual and dependent coverage to the additional number of employees required to meet the 95% threshold

- ☐ Using the number of employees who have been determined to be full-time in your designated standard measurement period, compare each employee's earnings to his/her required contribution toward individual coverage in your least expensive plan

  - ☐ Determine which employees are receiving unaffordable coverage

- ☐ Determine your potential Section 4980H(b) liability (assume that all employees who are receiving unaffordable coverage will purchase insurance on the exchange and also receive a subsidy)

- ☐ Compare your potential Section 4980H(b) liability to the cost of increasing your contribution for each of the employees who are receiving unaffordable coverage

☐ Based upon your potential liability:

- ☐ Determine whether you want to make any changes regarding which employees are offered coverage and/or the required employee premium contributions. If you want to make any changes for employees covered by a collective bargaining agreement, contact the union representative to commence negotiations.

- ☐ Determine whether you want to offer a new plan to some or all of your full-time employees

☐ Prepare a form to be signed by each full-time employee that will memorialize your offer of health insurance and the contribution rate. This form should be completed once before the beginning of each plan year.

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