



## Affordable Care Act Update

NH Government Finance Officers Association  
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## Agenda

- Provisions Already in Effect
- Individual Mandate and Health Insurance Marketplace/Exchange (2014)
- Employer Shared Responsibility (ESR) Penalties
- **Employer IRS Reporting Requirements (for 2015 in Early 2016)**
- ACA Funding Sources
  - **ACA Funding Sources Summary**
  - **Excise Tax on Certain High-Cost Plans (“Cadillac Tax”) (2018)**
- Medical Consumerism/SmartShopper
- Healthcare Reform Information/Resources



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## Provisions Already in Effect

- Coverage for Dependent Children to age 26
- Preventive Services without Patient Cost Sharing
- No Annual and Lifetime dollar limits for “essential health benefits”
- W-2 Reporting for employers with >250 employees
- Summary of Benefits and Coverage (SBC) Requirements
- Notice of Exchange/Marketplace – All New Employees
- Health FSA Contribution Limits
  - Employee salary reduction cannot exceed \$2,500 (\$2,550 for 2015) for plan year
  - Employer contributions cannot exceed \$500 (unless matching employee contribution)



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## Individual Mandate (effective 2014)

- Effective in 2014, most Americans must have “minimum essential” health insurance coverage or be subject to a penalty (“Individual Mandate”)
- “Minimum Essential Coverage (MEC)” includes basic medical coverage through:
  - Medicare or Medicaid (NH passed expansion in 2014)
  - Employer Group Health Plan;
  - Private individual health insurance market; or
  - New public Health Insurance Marketplace/Exchange
- Non-compliance penalties for individuals not obtaining MEC
  - Penalty of \$95 or up to 1% of income, whichever is greater, for 2014
  - Penalty rises to greater of \$325 or 2% of income for 2015, and
  - \$695 or 2.5% of income for 2016



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## Health Insurance Marketplace/Exchange

- Facilitates compliance with Individual Mandate by providing access to enrollment and coverage
- Available in each State as either:
  - Federally facilitated Exchange/Marketplace run either exclusively by US Health and Human Services (HHS) Department (**27 States**) or by HHS in partnership with State Insurance Departments (**7 States including NH**)
  - State established and run Exchange/Marketplace (**16 States + DC**)
- ACA Marketplace, began 1/1/2014, for qualified individuals (**Individual Exchange**) and small employer groups (**SHOP Exchange**) to purchase qualified health plans (**QHPs**) from participating private insurers
- Premium tax credits and cost sharing subsidies are available on the **Individual Exchange** for certain “Low and moderate income” individuals (100%-400% of Federal Poverty Level)



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## The NH Marketplace/Exchange

- New Hampshire has a Federal/State Partnership Exchange model; federal HHS (CMS) runs with assistance from NH Insurance Department
- Anthem was the only participating medical plan insurer on NH Marketplace/Exchange for 2014
- For 2015, four additional Insurers including Harvard Pilgrim, Minuteman Health, Assurant and Maine Community Health Options are participating
- Multiple insurers mean more plan options and broader provider network options for 2015 - 60 plans (42 individual, 18 SHOP)
- Over 40,000 enrolled in NH Marketplace in 2014 (7M nationwide) and 45,000 in 2015 NH (11.4M nationwide)
- Over 75% qualify for financial assistance (premium tax credits or subsidies)
- Average monthly premium for 2014 NH enrollees eligible for exchange premium tax credits was 74% lower (\$100 v. \$390 per month)



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## Recent Legislative and Court Developments

- **US Supreme Court Case (King v. Burwell)** to determine whether ACA subsidies/tax credits are available on Federally facilitated Exchanges (non-State established)
  - Oral argument on March 4, 2015 with decision expected in June 2015
  - Could seriously undermine ACA by denying subsidies and tax credits for individuals in **34 States (including NH)** with Federally facilitated Exchange coverage, and eliminating ESR penalties for Large Employers in those states
- Bills titled "Forty Hours is Full Time Act" and the "Save American Workers Act" have passed the US House in January and been introduced in the Senate to change the ACA's definition of full-time employment from 30 hours per week to 40
- Feb 3, 2015 US House again voted to repeal ACA (1 of 54 attempts to repeal or defund ACA since 2010)
- U.S. Rep. Frank Guinta, R-NH, has filed HR 879 - "Ax the Tax On Middle Class Americans" that would repeal the "Cadillac tax" provision



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# Healthcare Reform

## Employer Shared Responsibility (ESR) Penalties



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## Employer Shared Responsibility (ESR) Penalties – Overview

- aka “Employer Mandate” or “Play or Pay” rules
- **Effective 1/1/2015 (or 2016)\*, “Large Employers” (50 or more FTE employees\*)** may be subject to penalties unless the employer:
  - (a) **Offers** group health plan coverage to “**substantially all**” (at least 95%\*) of its “**Full-Time Employees**” (those averaging 30 hours or more per week) and their dependents; and
  - (b) the coverage is both “**affordable**” and provides “**minimum value**”
- Penalties could apply if one affected Full-Time Employee **purchases coverage from an Exchange and qualifies for a premium tax credit or subsidy**
  - *First potential penalty is not due until 2016 for CY2015*

*\* Subject to Transition Relief for 2015 under Final Regulations.*



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## ESR Penalties – “Large Employer” Definition

- ACA defines “**Large Employer**” as an employer that employed *an average of 50 or more Full-Time Equivalent Employees (FTEs)\** during the prior calendar year. ***For 2015 status, can use any 6 consecutive calendar months in 2014 under Transition Relief.***
- To determine status: **For each month in prior CY** (or 6 consecutive calendar months during 2014) add:
  1. Number of Full-Time Employees (30 hours/week or more), **plus**
  2. For Part-Time Employees (including Seasonal and Variable Hour), calculate total number of hours that ***all*** Part-Time employees work in a month (*but not more than 120 hours for any employee*) and divide by 120. **The total of 1 + 2 is the number of FTEs for the month.**
- **For average**, add monthly totals and divide by # of months used
- If average is 50 or greater, then you are a “Large Employer”.\*

*\* Special Transition Relief may apply for 2015 Plan Year if average is 50-99 FTEs during 2014.*



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## ESR Penalties – “Large Employer” Definition

- **Special Aggregation Rules for “Large Employer” Test**
  - Related employers (those in “controlled group” or “affiliated service group” under IRC Section 414) will be treated as a single employer
  - Likely to be “reasonable” if completed at EIN level, but towns/cities with libraries or special districts and multi-district SAUs with separate EINs should contact their attorney or tax advisor for guidance



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## If you are NOT an “Applicable Large Employer”

- Not subject to ESR Penalties
  - Not required to offer health coverage to full-time (or part-time) employees
  - Must complete Large Employer Test each year
- Other ACA Requirements still apply:
  - Summary of Benefits and Coverage
  - Notice of Exchange/Marketplace for ALL New Employees
  - IRS Reporting for Small Employers - Minimum Essential Coverage (MEC)
  - PCORI Fee and Transitional Reinsurance Fee
  - Cadillac Tax



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## ESR Penalties – “Full-Time Employee”

- ACA defines “**Full-Time Employee**” as an employee who works on average at least 30 hours of service per week (or 130 hours per month).
- Two methods for determining Full-Time Employee status
  - Monthly Measurement Period
  - Look-Back Measurement Method (available only for purposes of determining ESR penalties; not for determining Large Employer Status)
- Different rules for “Ongoing Employees” and “New Employees” (new Full-Time vs. new Variable Hour, Seasonal and Part-Time)
- New Full-Time Employees: If reasonably expected to work Full-Time (30 hours or more), must be offered coverage within 90 days.
- New Variable Hour Employees: If not reasonably known at date of hire whether employee will average 30 hours or more, can use Initial Measurement/Stability Period if using Look-Back Measurement Method. (Do not have to offer coverage immediately.)



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## ESR Penalties – “Full-Time Employee”

### ➤ Look-Back Measurement Method

- Employer will establish 3 to 12 consecutive calendar month “**Initial Measurement Period**” (for Variable Hour/Seasonal/Part-Time Employees) and “**Standard Measurement Period**” for all Ongoing Employees (**should establish and track in 2014 or 2015 if Transition Relief applies**)
- If employee meets “Full-Time” standard (averages 30 hours or more) during Measurement Period, employee will be considered “Full-Time” for a set “**Stability Period**” established by employer
  - **Stability Period** must be at least 6 months and at least as long as the Standard Measurement Period (may want to align with Plan Year for Ongoing Employees)
  - Employer may add an “**Administrative Period**” of no longer than 90 days between measurement period and stability period
- Employer may use different Measurement/Stability Periods for different categories of employees (e.g. salaried v. hourly, CBA v. non-CBA)



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## ESR Penalties – “Full-Time Employee”

- Special issues (*and still some unanswered questions*) for Variable Hour and Seasonal employees
  - Volunteer or On-call Fire
  - Parks & Rec employees
  - Elected and Appointed Officials
  - Common Law Employees v. Independent Contractors
  - Paraprofessionals
  - Substitutes (short and long-term)
  - Coaches and Athletic Trainers
- Final regulations define “**seasonal employee**” as an employee who is hired into a position for which the customary annual employment period is six months or less and that begins at approximately the same time each calendar year (such as summer or winter)
- Final regulations define “**part-time**” employee as a new employee who the “Large Employer” reasonably expects to be employed on average less than 30 hours per week during the initial measurement period, based on facts and circumstances at date-of-hire
- New seasonal and part-time employees are treated same as new variable hour employee for purposes of Look-Back Measurement Method (can use Initial Measurement Period – do not have to offer coverage immediately)



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## ESR Penalties – “Full-Time Employee”

### ➤ Hours of Service means

- For **hourly employees**, actual hours for which the employee is **paid or entitled to payment** (including paid vacation, holiday or leave time)
- For **salaried (and other non-hourly) employees**, employer **may** calculate hours using either:
  - ☐ Actual hours **or**
  - ☐ 8 hours per day **or**
  - ☐ 40 hours per week
- **Excluded hours** - hours of service do not include hours worked as a “Bona Fide Volunteer”



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## ESR Penalties – “Full-Time Employee”

- Final Regulations provide that **hours of service do not include hours worked as a “Bona Fide Volunteer,”** which is defined as any volunteer of a government (or 501c tax-exempt) entity whose only compensation is either:
  - reimbursement or allowances for reasonable expenses, or
  - reasonable benefits (including length of service awards), and **nominal fees**, customarily paid to volunteers by similar entities
- If not paid – “true” volunteer, no need to count hours
- However, so-called volunteers who receive more than nominal compensation will not be considered “Bona Fide Volunteers” and hours **will** have to be counted for “Large Employer” and “Full-Time Employee” status
- **“Nominal fee”**, per FLSA, cannot be a substitute for compensation or tied to productivity; may be permissible if monthly or annual stipend or “per-call” amount is no more than 20% of what would otherwise be paid to hire the same service (coach or firefighter)
- Final Regs provide that employers must use a “reasonable method” for crediting hours of employees who have **“On-Call”** hours, and provide three examples of what is **not** reasonable (if paid, on premises, or substantial restrictions)



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## ESR Final Regulations 2015 Transition Relief

### ➤ Additional 1-Year Delay for Large Employers with 50-99 FTEs

ESR Penalties will not apply until 2016 Plan Year for Large Employer with fewer than 100 FTEs, if employer can certify the following conditions are met:

1. **Limited Workforce Size.** Employer averages between 50-99 FTEs during 2014 (can be based on any 6 consecutive calendar months in 2014).
2. **Maintenance of workforce size.** From 2/9/2014 through 12/31/2014, workforce size and overall hours of service are not reduced to qualify for this relief. (Reductions due to normal business activity are allowed.)
3. **Maintenance of previously offered health coverage.** From 2/9/2014 through end of 2015 Plan Year (12/31/2015 or 6/30/2016), employer does not eliminate or materially reduce coverage offered as of 2/9/2014.
  - The employer must continue to offer Minimum Value Coverage to same class or classes of employees offered coverage on 2/9/2014; and
  - Must continue to contribute to single (employee-only) coverage at least (a) 95% of dollar amount contributed prior to 2/9/2014 or (b) the same percentage of the cost as employer was contributing on 2/9/2014.



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## ESR Final Regulations 2015 Transition Relief for “No-Offer Penalty”

The following additional Transition Relief applies for 2015 for Large Employers with 100 or more FTEs (or that otherwise do not qualify for the one-year transition relief described on the prior slide):

### ➤ Modification to “Substantially All” standard for “No-Offer Penalty” for 2015

- To avoid ESR “No-Offer Penalty”, Large Employer must offer coverage to “Substantially All” Full-Time Employees (and dependents)
- “Substantially All” generally means **95%** of all Full-Time Employees
- Under Transition Relief, “Substantially All” now means **70% of Full-Time Employees for 2015 Plan Year**, and **95% for 2016 Plan Year and beyond**

### ➤ Reduction in Calculation of “No-Offer Penalty” for 2015

- “No-Offer Penalty” generally is calculated by multiplying the Large Employer’s total number of Full-Time Employees, **minus 30**, times \$2,000 annually.
- **For 2015 Plan Year only**, Large Employers with 100 or more FTEs may **subtract 80 Full-Time Employees** in calculating the penalty.



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## ESR “No-Offer Penalty”

### 1. Penalty for Not Offering Coverage (“Play or Pay”)

- If coverage is not offered to “Substantially All” (at least 70% for 2015\*, 95% for 2016 PY and beyond) Full-Time Employees (and their dependents) and one Full-Time Employee obtains Exchange coverage and qualifies for a tax credit,
- Large Employer will owe a **penalty of \$2,000 per year\*** (assessed on a monthly basis = \$167/ month) times total number of Full-Time Employees (minus 80 for 2015 PY\*\*, minus 30 for 2016 PY)

*\*Applies through 2015 PY based on applicable Transition Relief (if employer is subject to this penalty in 2015)*

*\*\*If employer has 100 or more FTEs*

*\* Penalty amount will be adjusted annually beginning for 2015;  
for 2015 the penalty is \$2,084 per year.*



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## ESR “No-Offer Penalty “

- Employer not required to pay premium, only to offer coverage to all Full-Time Employees (and dependent children up to age 26 – but not spouses)
- Employer not required to offer coverage to Part-Time Employees (less than 30 hours per week)
- Health plan options offered may or may not be “Minimum Value” for purposes of this penalty. Minimum Value means:
  - Plan expected to pay 60% or more of the costs of covered medical services; employee non-premium cost sharing (copays, deductibles etc.) not to exceed 40%
  - All HealthTrust plan options tested to date meet Minimum Value requirements



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## ESR Penalty if Coverage is Not “Affordable”

### 2. Penalty for not offering “Affordable” or “Minimum Value” Coverage

- Effective 1/1/2015\* or 2016 plan year\*\*, if Large Employer **offers** coverage to “Substantially All” (at least 70% for 2015, 95% for 2016 PY and beyond) Full-Time Employees, **but**
  - the coverage is either not “Affordable” or does not provide “Minimum Value”, **and**
  - a Full-Time Employee obtains Exchange coverage and qualifies for a tax credit or subsidy, **then**
- Large Employer will owe a **penalty of \$3,000 per year\*** (assessed on a monthly basis = \$250/month) for each such Full-Time Employee
  - This penalty is assessed **only** with respect to each Full-Time Employee who obtains subsidized Exchange coverage (*not all Full-Time Employees*) and may not exceed the maximum “No-Offer Penalty” applicable to employer

*\*If employer has 100 or more FTEs or is otherwise subject to this penalty*

*\*\* If 2015 Transition Relief applies (50-99 FTEs in 2015)*

*\* Penalty amount will be adjusted annually beginning for 2015;  
for 2015 the penalty is \$3,126 per year.*



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## ESR Penalty if Coverage is Not “Affordable”

- **Affordable** = the employee’s contribution for the employer’s lowest cost single (employee-only) coverage **does not exceed 9.5% of the employee’s household income** (if exceeds 9.5%, then not affordable)
- Final Regulations continue to allow **three safe harbors** (instead of family income) in determining the affordability of employer coverage; employer can use 9.5% of
  - Employee’s W-2: (Box 1 for year)
  - Employee’s Rate of Pay: (Monthly salary or hourly rate times 130 hours), or
  - Federal Poverty Line: (For single individual= \$11,770 in 2014; Eg. 9.5% of \$11,770=\$1,118.15 ÷ 12=\$93.18/month)



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# Healthcare Reform

## Employer IRS Reporting Requirements (for 2015 in Early 2016)



### Employer IRS Reporting Requirements

- Intent is to help IRS administer and enforce the Individual Mandate, ESR Penalties and premium tax credit eligibility
- Reporting applies to **all size employers** with initial reporting due in early 2016 for **CY2015, regardless of plan year**; applies even if Applicable Large Employer has 2015 Transition Relief from ESR Penalties
- Final Regulations issued 3/10/2014 (79 Federal Register at 13231); IRS has issued Final 2014 **Forms 1094 and 1095 (B and C series)** and Instructions
- **All employers** participating in a self-insured multiple employer health plan (including employers participating in HealthTrust or other RSA 5-B pools) must report to the IRS and each covered employee about individuals enrolled in **Minimum Essential Coverage (MEC)** from the employer by month
- **Applicable Large Employers (ALEs)** (50 or more FTEs) must also report additional information about offers and cost of coverage, etc. for full-time employees
- Potential penalties for failure to report



## Employer IRS Reporting Requirements

### Minimum Essential Coverage (MEC) Reporting (IRC Section 6055)

- Why required: To verify compliance with the Individual Mandate by confirming that **individuals enrolled** in employer group health plan are receiving MEC
- Who must file: **All employers who provide MEC** through a self-insured health plan (all HealthTrust groups, regardless of size)
- What coverage is reported: In general, major medical coverage provided by employer through a group health plan (MEC)
- What coverage is NOT reported: Excepted Benefits (for example dental plans, Health FSAs), plans that supplement major medical coverage (Medicomp, integrated HRAs) and HSAs are not MEC, and therefore are not reported
- When is reporting due: Annually; 1<sup>st</sup> reports due to employees by 1/31/2016 and to IRS by 2/28/2016 (or 3/31/2016, if filing electronically – required for employers with 250 or more returns) for coverage provided during CY2015, regardless of plan year



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## Employer IRS Reporting Requirements

### Minimum Essential Coverage (MEC) Reporting (IRC Section 6055)

- To Whom & How Reported:
  - To IRS: by **Small Employer (less than 50 FTEs) on Form 1094-B** (with 1095-B forms attached); by **Applicable Large Employer (ALE) on Form 1094-C** (with 1095-C forms attached)
  - To Enrolled Employee or other "Responsible Individual" (COBRA beneficiary, under age 65 retiree, or public official): by Small Employer on Form 1095-B; by ALE on Form 1095-C (Part III); on paper by mail unless employee consents to electronic format
- What is reported:
  - Name, address, EIN, contact person and phone number for Employer
  - Name, address, and SSN of employee (or other "responsible individual")
  - Name and **SSN of each covered dependent\*** (DOB if a SSN is not available) under the employee's coverage
    - \*If SSN of a covered dependent has not been provided, initial and follow-up requests must be made before using DOB.
  - The months for which each covered individual was enrolled in coverage. For this purpose, coverage of only one day in a month counts as a full month of coverage.



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## Employer IRS Reporting Requirements

### Applicable Large Employer (ALE) Reporting (IRC Section 6056)

- Why required: To verify ALE compliance with Employer Shared Responsibility (ESR) requirements by confirming offers and cost of coverage to Full-Time Employees; Also to verify individual's eligibility for premium tax credits
- Who must file: All Applicable Large Employers (50 or more FTEs), even if 2015 Transition Relief from ESR Penalties applies to ALE
- What type of Offer of coverage is reported: In general, whether major medical coverage (MEC) was offered (or not offered) to **each full-time employee**
- What coverage is NOT considered an "Offer" of MEC: Excepted Benefits (for example dental plans, Health FSAs), plans that supplement major medical coverage (Medicomp, integrated HRAs) and HSAs are not MEC
- When is reporting due: Annually; 1<sup>st</sup> reports due to employees by 1/31/2016 and to IRS by 2/28/2016 (or 3/31/2016, if filing electronically – required for employers with 250 or more returns) for coverage provided during CY2015, regardless of plan year



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## Employer IRS Reporting Requirements

### Applicable Large Employer (ALE) Reporting (IRC Section 6056)

- To Whom & How Reported:
  - To IRS: on Form 1094-C (Transmittal) with 1095-Cs attached
  - To All Full-Time Employees (IRS Definition 30 hours or more) and any other Individuals (PT Employees, COBRA, early retirees) enrolled in employer MEC plan: on Form 1095-C (or Alternative Statement if Qualifying Offer Method); on paper by mail unless employee consents to electronic format
- What is reported:
  - To IRS on Form 1094-C (Transmittal):
    - Name, address, EIN, contact person and phone number for Employer
    - Designated Government Entity contact information (if applicable)
    - Total # Form 1095-Cs Submitted with Transmittal
    - Aggregated ALE Group information (if applicable)
    - Eligibility Certifications (if applicable) –for Qualifying Offer Methods, 4980H (ESR) Transition Relief, and 98% Offer Method
    - By month: MEC Offer indicator, FT Employee and Total Employee counts, and applicable indicators for Aggregated Groups and 4980H (ESR) Transition Relief



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## Employer IRS Reporting Requirements

➤ What is reported (continued):

- To Employees on Form 1095-C :
  - Name, address, and SSN of employee
  - Name, address , EIN, contact phone number for Employer
  - Part II - By month: Offer of Coverage code (Line 14), FT Employee's share of lowest cost monthly premium (Line 15), Section 4980H (ESR) Safe Harbor code if applicable (Line 16)
  - Part III - **Covered Individuals** "MEC Reporting Information" (6055):
    - Name and SSN of the employee and each covered dependent\* (DOB if a SSN is not available)  
\*If SSN of a covered dependent has not been provided, initial and follow-up requests must be made before using DOB.
    - The months for which each covered individual was enrolled in coverage. For this purpose, coverage of only one day in a month counts as a full month of coverage.



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## Employer IRS Reporting Requirements Form 1094-C, Part III

Part III		ALE Member Information - Monthly					
		(a) Minimum Essential Coverage Offer Indicator		(b) Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Section 4980H Transition Relief Indicator
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28	May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	



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## Employer IRS Reporting Requirements Form 1095-C, Part II

Part II	Employee Offer and Coverage												
<b>14</b> Offer of Coverage (enter required code)	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
<b>15</b> Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage													
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>16</b> Applicable Section 4980H Safe Harbor (enter code, if applicable)													



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## Employer IRS Reporting Requirements Form 1095-C, Part III

Part III		Covered Individuals													
		If Employer provided self-insured coverage, check the box and enter the information for each covered individual. <input type="checkbox"/>													
(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 Months	(e) Months of coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



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## IRS Reporting Example A – FT Enrolled in Coverage – All Year

Jordan:

- Ongoing FT employee.
- Enrolled in employer's family coverage option with spouse and children.
- Lowest Cost Single Plan Coverage offered is split 85/15
  - Employee Cost (Jan – June) =  $\$7,892 * 15\% / 12 = \$98.65/\text{month}$
  - Employee Cost(July – Dec) =  $\$8,195 * 15\% / 12 = \$102.44/\text{month}$



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## IRS Reporting Example A – FT Enrolled in Coverage – All Year

Part II Employee Offer and Coverage													
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)	1E												
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$98.65	\$98.65	\$98.65	\$98.65	\$98.65	\$98.65	\$102.44	\$102.44	\$102.44	\$102.44	\$102.44	\$102.44
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)	2C												

1E: MEC providing Minimum Value offered to employee and at least MEC offered to dependent(s) and spouse.

2C: Employee enrolled in coverage offered.



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## IRS Reporting Example A – FT Enrolled in Coverage – All Year

<b>Part III</b>		<b>Covered Individuals</b>														
		If Employer provided self-insured coverage, check the box and enter the information for each covered individual. <span style="float: right; background-color: yellow; border: 1px solid black; padding: 2px;">☑</span>														
(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 Months	(e) Months of coverage												
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
17 Jordan Smith	00-111-2222		☑	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
18 Mary Smith	11-222-3333		☑	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
19 Junior Smith	22-333-4444		☑	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
20			☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
21			☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐



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## IRS Reporting Example B – FT Enrolled in Coverage Through June, then Terminates

Rickie:

- FT employee; enrolled in employer's MTB20 family coverage option with spouse and children from January 2015 – June 2015.
- Lowest Cost Single Plan Coverage offered (MTB SOS Deductible Plan) is 100% Employer Paid
- Rickie terminated employment on June 14, 2015; COBRA offered at full cost but declined



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## IRS Reporting Example B – FT Enrolled in Coverage Through June, then Terminates

Part II Employee Offer and Coverage													
14 Offer of Coverage (enter required code)	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
		1A	1A	1A	1A	1A	1A	1E	1E	1E	1E	1E	1E
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$							\$682.90	\$682.90	\$682.90	\$682.90	\$682.90	\$682.90
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)		2C	2C	2C	2C	2C	2C	2A	2A	2A	2A	2A	2A

1A: MEC providing MV offered to employee, with employee contribution for self-only equal or less than 9.5 % of FPL, and at least MEC offered to dependent(s) and spouse.

1E: MEC providing MV offered to employee and at least MEC offered to dependent(s) and spouse.

2C: Employee enrolled in coverage offered

2A: Employee not employed during the month.



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## IRS Reporting Example C – New Hire – Declines Coverage

Bubba:

- New FT employee hired August 15, 2015
- Coverage available 1<sup>st</sup> of the Month following DOH; but Bubba declines to enroll in coverage
- Lowest Cost Single Plan Coverage offered is split 80/20
  - Employee Cost (July – Dec) = \$8,587.60 \* 20%/12 = \$143.11/month
- 2015 Rate of Pay = \$3,500/month



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## IRS Reporting Example C – New Hire – Declines Coverage

Part II Employee Offer and Coverage		All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)			1H	1H	1H	1H	1H	1H	1H	1H	1E	1E	1E	1E
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$										143.11	143.11	143.11	143.11
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)			2A	2A	2A	2A	2A	2A	2A	2D	2H	2H	2H	2H

1H: No offer of coverage - employee not offered any health coverage or employee offered coverage not providing MEC. *(not employed)*

1E: MEC providing MV offered to employee and at least MEC offered to dependent(s) and spouse.

2A: Employee not employed during the month.

2D: Employee in a section 4980H(b) Limited Non-Assessment Period. *(waiting period)*

2H: Section 4980H affordability rate of pay safe harbor.



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## Employer IRS Reporting Requirements

### Steps to Prepare Now for 2015 IRS Reporting Requirements

- ☐ Review the IRS Guidance, Q&As and 2014 Final Forms and Instructions
- ☐ Determine which reporting requirements apply - Large Employer (50 or more FTEs) vs. Small Employer status
- ☐ Begin strategizing and develop procedures on how you will collect, store and report the required information – review your HR or Payroll software and speak to vendors, tax or payroll professionals
- ☐ Develop procedures for collecting Dependent SSNs based on IRS rules
  - IRS requires employers to make up to three separate requests (an initial request and two annual requests) for SSN information in order to avoid penalties.
  - First request may be made upon initial enrollment for new enrollees. For current enrollees, an initial request should be made in early 2015 (before or during next Open Enrollment).
  - As needed, follow-up requests must be made per IRS rules.
- ☐ For Large Employers, develop procedures for determining and documenting each employee's full-time (30 hours or more) or non-full-time status and offers/coverage by month



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# Healthcare Reform

## Funding Sources



## ACA Funding Sources Summary

- **Indoor Tanning Tax:** 10% of cost of service
- **Medical Equipment/Device Tax:** 2.3% of selling price
- **Comparative Effectiveness Research (PCORI) Fee** (2012-2018 Plan Years):
  - \$1 per covered life (1<sup>st</sup> Year); \$2 per covered life (2<sup>nd</sup> Year and then indexed)
- **Transitional Reinsurance Program Fee** (CY2014-CY2016):
  - \$63 per covered life (2014)
  - \$44 per covered life (2015)
  - \$27 per covered life (2016)
- **Annual Health Insurance Provider Fee:**
  - Estimated 2.5% of premium (2014); expected to increase in later years
- **Federally Facilitated Exchange Fee:**
  - 3.5% of premium on individual and small group (SHOP) Exchange plans
- **\$100-a-Day Penalties for General Non-Compliance with ACA Provisions**
  - Violations of 90-Day Waiting Period Limit;
  - Failing to provide timely notices
- **Excise Tax on Certain High Cost Plans ("Cadillac Tax")** (2018)
  - 40% tax on "excess benefit" over annual limits



## Excise Tax on High-Cost Plans (“Cadillac Tax”) (2018)

- IRC Section 4980I (aka “Cadillac Tax”) effective 1/1/2018; **Expected to bring in \$80 - \$149 Billion in tax revenue through 2025**
- **No regulations to date; IRS Notice 2015-16 issued 2/23/2015:**
  - Notice is preliminary “Guidance” that identifies issues and potential approaches which could be incorporated in future proposed regulations, and requests comments by May 15, 2015 on those approaches.
  - Focuses on the following issues in determining aggregate cost of applicable employer sponsored coverage provided to an employee:
    - Definition of “**applicable coverage**” and determination of **cost** of each applicable coverage
    - Application of the annual statutory dollar limits to the cost of applicable coverage (including adjustments to the limits for retirement status, high risk professions, or age and gender)
- The IRS expects to issue another Notice addressing other excise (Cadillac) tax issues, including the procedures for the calculation and assessment of the tax.



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## Excise Tax on High-Cost Plans (“Cadillac Tax”) (2018)

### What is the Excise Tax?

- **The Excise Tax is a 40% tax** on the “**excess benefit**” of high cost employer sponsored coverage for employees and former employees (retirees)
- “**Excess Benefit**” is the **total aggregate “cost of applicable coverage”** for each covered employee/retiree above the following annual per employee statutory limits (2018):
  - **Standard annual limit: \$10,200** for single coverage/**\$27,500** for other than single coverage (2-Person or Family)
  - **Higher limits: \$11,850/\$30,950** for early retirees (age 55-65) and **plans with majority** of employees in high-risk occupations (police and fire)
  - Initial 2018 limits may be increased based on actual medical inflation and age and gender adjustment; starting in 2019 limits will be indexed for inflation (CPI)



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## Excise Tax on High-Cost Plans (“Cadillac Tax”) (2018)

### What is “Applicable Coverage”?

- “**Applicable Coverage**” for employees and former employees (retirees) includes:
  - **Primary medical plan (major medical) coverage** – “Cost” includes **total premium**  
*(both employer and employee share)*
  - **Health FSAs** – “Cost” includes **total of both employer and employee salary reduction contributions**
  - **HSAs** – “Cost” includes **total of both employer and employee salary reduction contributions** – *but not employee “after-tax” contributions*
  - **HRAs** – “Cost” determination subject to further guidance (IRS has suggested three alternatives for comment, but clearly recognizes that it’s wicked hard!)
  - *Should **not** include (i) cost of dental plan coverage or (ii) any costs attributable to the excise tax.*



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## Excise Tax (“Cadillac Tax”) (2018)

### Who is responsible to pay the Excise Tax?

- Liability to pay tax is on “**Coverage Provider**,” which means
  - The insurer for fully insured group health plans
  - The employer for Health Savings Account (HSA) plan contributions
  - The “person that administers the plan benefits” for other employer sponsored group health plan coverage

### Who is responsible to calculate the Excise Tax?

- **Employers** will be responsible to calculate excess benefit subject to tax for each covered employee or retiree

*Much uncertainty remains; awaiting further guidance*



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## Excise Tax (“Cadillac Tax”) (2018)

If the 2018 premium is greater than the numbers below, there will be a 40% excise tax on the excess\* for each affected employee

Contract Type	Annual Premium Threshold	Monthly Premium Threshold
1-Person Contract	\$10,200.00	\$850.00
2-Person or Family Contract	\$27,500.00	\$2,291.67

\* 40% excise tax calculated only on the amount exceeding the threshold.  
(e.g. Dollar Difference x .40)

**Note:** Police and firefighters, as well as retirees over 55, may have higher 2018 annual thresholds of \$11,850.00 and \$30,950.00.

**“Premium”** is the amount that **both the employer and employee pay** for coverage. Will also include contributions/cost of Health FSAs, HRAs and HSAs.



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## Excise Tax (“Cadillac Tax”) (2018)

Projecting 2015 monthly rates that might invoke the excise tax in 2018

Renewal Year	Enter Current Monthly Premium** 2015	2016	2017	2018**	Monthly Tax Owed per Employee**	Enter Avg # Employees	Estimated Monthly Excise Tax	Estimated Annual Excise Tax
1-Person	\$809.34	\$861.95	\$917.97	\$977.64	\$51.06	12	\$612.68	\$7,352.18
2-Person	\$1,618.69	\$1,723.90	\$1,835.96	\$1,955.30	No Tax	16	No Tax	No Tax
Family	\$2,185.23	\$2,327.27	\$2,478.54	\$2,639.65	\$139.19	25	\$3,479.81	\$41,757.73
							<b>Estimated Annual Plan \$ Excise Tax: 49,109.91</b>	

\* Final figures may vary slightly due to compounding within formulas.

\*\* 6.50% is Estimated Annual Percentage Rate Increase in medical premiums. Many variables will impact future rates and actual percentage increases. Employer may want to use different rate based on past group experience and future projections.

**1-Person Contract Threshold: \$10,200 Annually; \$850 Monthly**  
**2-Person or Family Contract Threshold: \$27,500 Annually; \$2,291.67 Monthly**

Note: You can enter your current rates and Estimated Annual Percentage Rate Increase (6.50% is only an estimate) in the yellow boxes to estimate if plan will be subject to the 40% Excise Tax in 2018. If the boxes and the numerals turn to **RED** the 2018 thresholds will be exceeded and an excise tax will be owed.



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## Excise Tax (“Cadillac Tax”) (2018)

Example of lowest 2015 rates that will let you avoid the excise tax in 2018

	Enter Current Monthly Premium** 2015	2016	2017	2018**	Monthly Tax Owed per Employee**
1-Person	\$703.00	\$748.70	\$797.36	\$849.19	No Tax
2-Person	\$1,406.00	\$1,497.39	\$1,594.72	\$1,698.38	No Tax
Family	\$1,757.70	\$1,871.95	\$1,993.63	\$2,123.21	No Tax

\* Final figures may vary slightly due to compounding within formulas.

\*\* 6.50% is Estimated Annual Percentage Rate Increase in medical premiums. Many variables will impact future rates and actual percentage increases. Employer may want to use different rate based on past group experience and future projections.

**1-Person Contract Threshold: \$10,200 Annually; \$850 Monthly**

**2-Person or Family Contract Threshold: \$27,500 Annually; \$2,291.67 Monthly**



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## Healthcare Reform

### Information/Resources



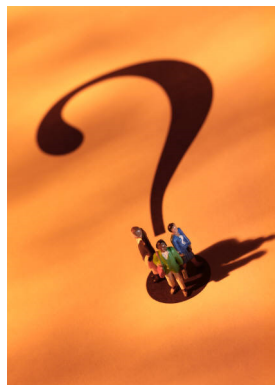
## Healthcare Reform Information/Resources

- **HealthTrust maintains Healthcare Reform website resources at** <http://healthtrustnh.org/Resources>
- **Employer Shared Responsibility Penalties**
  - ESR Final Regulations (79 Federal Register at 8544)  
<http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf>
  - ESR Questions & Answers on Final Regulations  
<http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act>
- **Employer IRS Reporting Guidance and Final 2014 Forms and Instructions**
  - IRS Reporting Final Regulations: <http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-05050.pdf> and Q & As on Section 6055 <http://www.irs.gov/uac/Questions-and-Answers-on-Information-Reporting-by-Health-Coverage-Providers-Section-6055> and Section 6056: <http://www.irs.gov/uac/Questions-and-Answers-on-Reporting-of-Offers-of-Health-Insurance-Coverage-by-Employers-Section-6056>
  - Form 1094-B: <http://www.irs.gov/pub/irs-pdf/f1094b.pdf>; Form 1095-B: <http://www.irs.gov/pub/irs-pdf/f1095b.pdf>; Forms 1094-B and 1095-B Instructions : <http://www.irs.gov/pub/irs-pdf/i109495b.pdf>
  - Form 1094-C: <http://www.irs.gov/pub/irs-pdf/f1094c.pdf>; Form 1095-C: <http://www.irs.gov/pub/irs-pdf/f1095c.pdf>; Forms 1094-C and 1095-C Instructions : <http://www.irs.gov/pub/irs-pdf/i109495c.pdf> ; Publication 5196, Understanding Employer Reporting Requirements of the Health Care Law: <http://www.irs.gov/pub/irs-pdf/p5196.pdf>
- **Section 4980I — Excise Tax on High Cost Employer-Sponsored Health Coverage - Notice 2015-16**  
[\\vcfp02\Units\HealthTrust\\_Operations\Federal\Healthcare\\_Reform\Cadillac\\_Tax](\\vcfp02\Units\HealthTrust_Operations\Federal\Healthcare_Reform\Cadillac_Tax)
- **Official government web sites:**  
[www.healthcare.gov](http://www.healthcare.gov) <http://cciio.cms.gov/>  
<http://www.irs.gov/uac/Affordable-Care-Act-Tax-Provisions-Home>



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## QUESTIONS?



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