How to Survive ObamaCare – Take Two Aspirin and Keep Reading
By Pete Kennedy, CPA, CVA

Ever since the Patient Protection and Affordable Care Act of 2010 (a.k.a. “ObamaCare”) was upheld by the Supreme Court in 2012, people have been waiting for an official diagnosis. Uncertainty around the implications of the Act has been enough to measurably raise the blood pressure of many folks who are charged with compliance. We’ve been getting many completely logical questions – “How and when will this impact my organization?” or “What changes will require compliance?” If thinking about the healthcare legislation gives you a migraine, take two aspirin and keep reading. This article will attempt to synthesize over 1,000 pages of legislation into some of the important aspects.

We will start with the good news. If your organization has fewer than 25 full-time equivalent (FTE) employees, an average salary of less than $50,000, and a qualifying healthcare plan that is at least 50% paid for by the employer, you have an excellent prognosis for getting money back. The provision that governs the Small Business Health Care Tax Credit has been in effect since 2010 and it is applicable to nonprofits, yet we continue to find small nonprofit employers who are missing the opportunity. We recently picked up a new client and calculated the credit at over $8,500 for one year – we will also be filing for back years. If you think you may qualify, but haven’t filed, contact your tax preparer (or Cover & Rossiter). You can still file for back years, but the clock is ticking and the ability to file for the 2010 credit will expire on 5/15/2014 for calendar year filers.

This credit will continue through tax-year 2013 before being replaced with Phase II, which allows a similar credit for small employers who subsidize insurance for their employees through the state-run exchanges (every state is required to establish an insurance exchange or set of coverages available to all state residents – intended to increase competition with traditional health insurance carriers).

Beginning 1/1/2014, many of the most significant provisions of ObamaCare will kick in.

If you are a small employer (fewer than 50 full-time equivalent employees), none of the significant regulatory changes apply to you – although you will probably want to think it over before you hire the fiftieth employee. If you are close to 50, you better crunch the numbers to be sure (use the instructions for IRS Form 8941 for calculations).

If you have over 50 FTEs and currently offer a qualifying healthcare plan to your employees at a cost to the employee of less than 9.5% of that employee’s income, your condition is stable – you do not need to make dramatic changes to be in compliance. You can continue offering the same benefits and not be subject to any penalties.

Employers with 50 or more FTEs may have a bitter pill to swallow. Those “large” employers are required to offer qualifying coverage at a cost of less than 9.5% of the employee’s adjusted gross income or face a
penalty. To figure the maximum penalty, take the number of FTEs, subtract 30 and multiply by $2,000. For example, if you have 130, the maximum financial pain is $200,000. That will almost certainly be less than half of what it costs to offer a qualifying plan to the same number of employees – which poses an interesting scenario.

One school of thought is that it would make more sense for employers to fix their costs by abandoning their traditional health plan arrangement, pay the maximum penalty, and also increase the pay of their employees to allow them to purchase insurance through the state-run exchange. Some experts have opined that this is precisely the goal of ObamaCare.

Many folks would like to begin crunching the numbers to see what might work best for them under the new rules, but it’s hard to crunch numbers that don’t yet exist. There are two major variables which make forecasting and decision-making extremely difficult – the cost of the State Exchange policies and the cost of continuing existing policies. The states are required to have their exchanges up and running by October 2013.

The direction of private insurance rates is difficult to predict. Several ObamaCare provisions will likely put a damper on future insurance rate hikes. In one, insurance companies must specifically validate any increases over 10%. In another, insurance companies are now required to issue a rebate to their policyholders when actual claims do not equal or exceed 80% or 85% of premiums paid, depending on the size of the plan. I was thinking “Yeah, and I’ll invest my rebate money in a unicorn ranch,” but we did have a client actually receive a check recently.

Obviously, there are many facets to ObamaCare that are not covered here. If you crave more details, the Kaiser Family Foundation (www.kff.org) does an excellent job of summarizing the significant aspects of ObamaCare from different perspectives.

If you are still under the weather just thinking about the upcoming healthcare changes, please contact Pete Kennedy, or any other member of our Nonprofit Practice team, at Cover & Rossiter at (302) 656-6632.

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