

If the past is predictive of the future, the IRS is getting ready to – or has already started – sending out ACA-related letters which assess penalties on employers for failing to meet the ACA’s employer shared responsibility requirements. **This issue of *Legislative Review* provides an overview of these letters and how employers should prepare and respond if they receive one.**

Employers should keep an eye out for the IRS Letter numbered 226J. Last year was the first time that Letters 226J were issued. At that time the letters were for the year 2015. Letters are expected currently for tax year 2016.

2016 Employer Shared Responsibility Payment Rules (ESRP)

The most important difference between the ESRD rules from 2015 to 2016 is the threshold for an employer to meet “applicable large employer” (ALE) status. **Transition relief that applied in 2015 which gave most employers with fewer than 100 full-time and full-time equivalent employees was no longer available in 2016. As a result, many employers who have not been aware of the IRS penalty letter efforts may receive Letters 226J for the first time.**

An ALE may owe an ESRP for 2016 if:

(a) The ALE does not offer coverage or offers coverage to less than 95 percent of its full-time employees (and their dependents), and at least one of the full-time employees receives a premium tax credit to help pay for coverage through a Marketplace;

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Letter from Karen Knippen

Many mid-size employers will be getting IRS Letter 226J for the first time. Brokers should alert their clients to be on the lookout for these letters.

Still other employers may find that the penalty assessed is much larger than they anticipated. This is due, in large part, to the fact that employers must meet the offer rate of 95% to avoid a penalty versus the lower transition relief threshold of 70%.

And, as with many things, the amounts of the “A” and “B” penalties are higher than 2015.

Sincerely yours,



Karen Knippen, RHU, REBC
Senior Vice President

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