Health care reform: 3 challenges for nonprofits and how to address them

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Health care reform has been looming for some time, and numerous elements of the groundbreaking legislation are already in place. For not-for-profit organizations, a number of provisions of health care reform — such as the so-called employer mandate to offer coverage and the Cadillac plan tax — are causing many nonprofits significant anxiety.

What happens if your organization does not offer adequate coverage to employees?

The employer mandate — if adequate coverage is not offered, excise taxes must be paid — begins Jan. 1, 2015. It applies to any "applicable large employer," which is an employer that had an average of 50 or more full-time and full-time equivalent (FTE) employees during the preceding calendar year.

Things to keep in mind:

- A full-time employee is one who works on average 30 or more hours per week.
- To determine if an employer has 50 or more employees, add the number of full-time employees to the FTE number of part-time employees for each month. Then, add the numbers for all 12 months, and divide by 12 in order to determine the average for the year.
- To convert part-time employees to FTEs for a given month, calculate the aggregate number of hours of service in a month for all employees who are part-time, then divide that number by 120 (30 hours x 4 weeks).

Challenge #1: You face steep excise taxes if you fail to offer coverage to 95% of full-timers.

Solution: Sharpen your pencil and make sure you are offering coverage to 95% of full-time employees, following IRS definitions of full-time employees.

Questions every organization should ask about health care reform

- Do we have a process to ensure that we offer health care coverage to at least 95% of our full-time employees, or that we make a conscious decision to not offer coverage?
- Do we have a process to determine which employees are full-time employees?
- Have we determined that our health care benefit program will meet the minimum value and affordability criteria to avoid potential exposure to an excise tax?

The IRS provisions are clear: If you are below 95% — even by a tiny percentage — your organization will be required to pay an annualized excise tax of $2,000 per full-time employee (minus the first 30 employees). This tax applies if just one employee — it only takes one — decides to purchase his or her health insurance through a federal or state exchange and has income low enough to qualify for a premium tax credit. You should assume this will happen, since you can't control your employees' decisions, and you could have employees with income levels low enough to qualify for the premium tax credit.

Simply put: Don't risk falling below this 95% threshold, and don't assume this tax won't apply to you. For nonprofits with more than a handful of employees, the risks associated with falling below the 95% threshold — excise taxes of $2,000 for every full-time employee — are too great to take chances. Devote the time to thoroughly understand all the regulation details regarding the identification of full-time employees. The regulations are complex, and with complexity comes the chance of misunderstanding, misinterpreting and making errors. A few details may make all the difference between reaching and falling below the 95% threshold. Note that the requirement is to offer coverage — employees do not have to accept the coverage for the employer to have met the requirement.

To fully appreciate the complexity, employers should review all the individuals to whom they have issued Forms W-2 or Forms 1099 to determine who are "employees" under the health care reform regulations.

Challenge #2: You meet the 95% threshold, but

your coverage does not meet certain value and affordability requirements.

A second excise tax applies to organizations that offer coverage to 95% of employees if that coverage fails to meet certain standards for minimum value and affordability. Minimum value refers to how much of an individual's health costs are paid by the plan versus paid out of pocket by the employee. In order to meet the minimum value requirement, the plan needs to pick up at least 60% of the cost, such that employees are left with 40% or less in deductibles and copays. Minimum affordability standards require that premiums paid by employees for self-only coverage cost no more than 9.5% of their income.

Solution: Determine whether your plans meet the minimum requirements; if not, decide whether to "pay or play."

If plans don't meet the minimum requirements — though the plans maintained by most nonprofits likely will — it may be a judgment call whether to "pay or play." That is, you can pay the excise tax, or "play" — incur the potentially high costs to adapt your plans to qualify. This second excise tax is much lower than the first excise tax, so avoiding it is not necessarily essential for all organizations. Those that must pay this tax will be required to pay $3,000 per year per employee, but only for those employees who decide to purchase their insurance through a health insurance exchange and who quality for a premium tax credit. If the organization's plan meets the affordability and minimum value tests, however, the organization is not liable for this second excise tax, even if employees decide to purchase their insurance through an exchange.

Potential excise taxes for failing to offer coverage to at least 95% of full-time employees		
Total number of full-time employees	5% threshold	Excise tax per year
100	5	$140,000
250	12	$440,000
500	25	$940,000
1,000	50	$1,940,000
5,000	250	$9,940,000
10,000	500	$19,940,000

This tax is intended to encourage organizations to offer affordable and valuable plans to employees. Allowance is made because some employees decide to purchase insurance through an exchange, ostensibly because the exchange is more affordable, especially when taking into account the premium tax credit available when making the purchase. The tax credit is offered to individuals who purchase coverage through an insurance exchange if the family household income is between 100% and 400% of the poverty level.

Challenge #3: Your plan's value exceeds thresholds, making it subject to an excise tax on high-cost plans (the Cadillac plan tax).

Organizations are subject to the Cadillac plan tax beginning in 2018 if the value of their plans exceeds certain thresholds. This is a 40% excise tax on high-cost health coverage, which is applied to the amount by which the value of a plan is higher than the thresholds. The initial annual threshold amounts for the tax are these:

- $10,200 for self-only coverage
- $27,500 for coverage other than self only

An employer must include not only the value of the underlying health care benefits, but also the value of any employer contributions made to a medical flexible spending account, a health reimbursement arrangement or a health savings account, as well as employee contributions made to a medical flexible spending account or health savings account through payroll deduction. An employer can exclude from the calculations stand-alone vision and dental programs, and those programs paid by the employee exclusively with after-tax dollars.

Solution: Project the value of your plans today, and apply a health care inflation factor to convert 2013 dollars to 2018. Then determine if your plans will be above the thresholds.

Encouraging cost management is the objective of this tax. Even though it's obviously not possible to currently know the cost of plans in 2018, it's critical for organizations with high-value plans to manage them now to reduce the costs. The longer you wait to start planning, the harder it will be to get under the threshold in time.

The tax is determined by an employer and allocated to the insurer, if insured, or to the party that administers the plan if self-funded. Ultimately, the plan sponsor will bear the cost of the tax unless it is passed along to the employee.

Ready, set, comply

The time is now for your not-for-profit organization to get serious about compliance with health care reform. Complexities abound with the new rules, and not-for-profits can't afford to get hit with large excise taxes.

Tax credit and program opportunities for small businesses

Small not-for-profit organizations may be able to qualify for the Small Business Tax Credit and the Small Business Health Options Program (SHOP).

- If you have up to 25 employees, pay average wages below $50,000 and provide health insurance, you may qualify for a tax credit of up to 25% for not-for-profit organizations.
- Starting in 2014, the tax credit goes up to 35% for nonprofits that qualify.
- Starting in 2014, small employers will be able to participate in SHOP, a program designed to simplify the process of finding health insurance for small employers.
- There will be new limits on the higher premiums that insurers can charge businesses with older employees or large claims.
- The health insurance plans available in SHOP will be run by private health insurance companies.

See more at: http://www.grantthornton.com/issues/library/articles/nfp/2013/09-Health-care-reform-challenges-Adkins