

# update

Compliance News for Multiemployer Plans

July 15, 2015

## Penalties Increased for Noncompliance with Reporting Requirements Under the Affordable Care Act

On June 29, 2015, President Obama signed into law the Trade Preferences Extension Act (Public Law 114-27<sup>1</sup>), which significantly increased the financial penalties for failing to comply with certain information reporting requirements under the Affordable Care Act.<sup>2</sup>

This *Update* provides background information on these reporting requirements and summarizes the penalty structure before and after enactment of Public Law 114-27.

### Background

Multiemployer plans will soon have new reporting requirements under the Affordable Care Act. In early 2016, multiemployer plans must complete Internal Revenue Service (IRS) forms, distribute them to participants and file them with transmittal returns with the IRS.<sup>3</sup> The data reported on the forms will cover the 2015 calendar year. Multiemployer plans are required to report plan enrollment of participants and their family members for each month of the calendar year.

### Penalties

The penalties that apply for noncompliance with these reporting requirements have been in the Internal Revenue Code for some time, and they also apply to various types of IRS filings, including W-2 forms.

The table at the top of the next page shows how the new penalties differ from the old penalties for various types of noncompliance.



#### Health Compliance News:

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**NEW!** On December 28, 2015, the IRS extended the due dates for employers' and health plans' Affordable Care Act reporting by several weeks.

<sup>1</sup> When Public Law 114-27 is available online, it will be accessible from the [Government Printing Office](#).

<sup>2</sup> The Affordable Care Act is the shorthand name for the Patient Protection and Affordable Care Act (PPACA), Public Law No. 111-48, as modified by the subsequently enacted Health Care and Education Reconciliation Act (HCERA), Public Law No. 111-152.

<sup>3</sup> For information on required reporting, see Segal Consulting's May 28, 2014 *Capital Checkup*, "[Multiemployer Overview of the Affordable Care Act's Reporting Requirements](#)."

### A Comparison of Old and New Penalties

Type of Failure	Old Penalty	New Penalty (Public Law 114-27)
Failure to provide form to employee, or for including incorrect or incomplete information	\$100 per form \$1.5 million annual maximum	\$250 per form \$3 million annual maximum
Failure to file form with the IRS, or for including incorrect or incomplete information	\$100 per form \$1.5 million annual maximum	\$250 per form \$3 million annual maximum
Reduced penalty if failure is corrected within 30 days	\$30 per form \$250,000 annual maximum	\$50 per form \$500,000 annual maximum
Reduced penalty if failure is corrected by August 1	\$60 per form \$500,000 annual maximum	\$100 per form \$1.5 million annual maximum
Penalty in case of intentional disregard	\$250 per form No annual maximum	\$500 per form No annual maximum

### Enforcement Approach for First Year

The IRS previously announced its enforcement approach for the first year of Affordable Care Act reporting.<sup>4</sup> Under that approach, plans will not be penalized for incorrect or incomplete information provided they act in good faith and file and distribute the required forms on time. This enforcement approach for 2015 reporting (due in early 2016) is not affected by the recent change in the penalty amounts. However, plans must make good faith efforts to comply with the law and must file and distribute the forms on time.

### Implications for Plan Sponsors

The recent increase in the applicable penalties underscores the importance of complying with these reporting requirements and doing so by the deadlines.<sup>5</sup> With 2015 well underway, plan sponsors need to act quickly to develop the needed capabilities or find outside service providers able to assist.

<sup>4</sup> This [guidance](#) is on the IRS website.

<sup>5</sup> Forms must be furnished to participants by February 1, 2016. Copies of those forms and the transmittal form must go to the IRS by March 31, 2016 (when filed electronically). 2015 draft forms are available at <http://www.irs.gov/Affordable-Care-Act/Employers/Affordable-Care-Act-Tax-Provisions-for-Large-Employers>.



## Segal Consulting

If you would like additional information about this news, please contact your Segal consultant or the Segal office nearest you. Segal can be retained to work with trustees and their fund counsel on compliance issues.

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