



HARRANG LONG
GARY RUDNICK P.C.
ATTORNEYS AT LAW



September 10, 2012

ALERT: HEALTH CARE REFORM

Navigating the Effects on Your Business

Now that the dust has settled around the constitutionality of the Patient Protection Affordable Care Act, it is time for business owners to focus energy on evaluating the impact of—and ensuring compliance with—the mandates of the Act. The effects of the Act are numerous and impact closely-held businesses differently, depending on the size and structure of each workforce. Below are several important features of the Act that may impact your business in the near future.

Play or Pay Mandate

Starting in 2014, “large employers” must provide adequate and affordable group health insurance to their full-time employees—or pay an annual penalty. Generally, a “large employer” is one with an average of 50 or more full-time equivalent employees (FTEs) during the preceding year.

Businesses with a workforce close to the 50-FTE threshold should be aware of the appropriate formula for calculating an FTE, as part-time positions can be combined to constitute one full-time position. Businesses qualifying as “large employers” may wish to conduct a cost-benefit analysis as to whether they will provide health insurance benefits to employees or opt to pay the annual penalty.

Reporting Requirements

Summary of Benefits and Coverage: Effective on the first day of open enrollment after September 23, 2012, insurers and group

The Closely-Held Business Team attorneys at Harrang Long Gary Rudnick are committed to serving the needs of business owners in a responsive and proactive manner. They understand the challenges and the opportunities provided by the law in today’s business climate, and are focused on the advancement of each client’s success in business.

Closely-Held Business Team:

Randy Duncan, Chair
Mark Amberg
Marjorie Elken
Kate Grado
Andrea Nagles
Arden Olson
John C. Rake
Pete Simons
Ted Simpson
Bob Steringer
Joshua Stump
Kate Watkinson Wright
John Witherspoon

Please Note

Nothing in this communication creates or is intended to create an attorney client relationship with you, constitutes the provision of legal advice, or creates any legal duty to you. If you are seeking legal advice, you should first contact a member of the Closely-Held Business Team with the understanding that any attorney client relationship would be subsequently established by a specific written agreement with Harrang Long Gary Rudnick P.C. To maintain confidentiality, you should not forward any unsolicited information you deem to be confidential until after an attorney client relationship has been established.

Manage Your Subscription

To [un]subscribe to *E-News* and *Alerts* please contact Kaitlyn Tepe at: kaitlyn.tepe@harrang.com.

Portland • Eugene • Salem
harrang.com • 800.315.4172

continued on next page ➔

health plans must provide enrollees with a written Summary of Benefits and Coverage (SBC) statement. Businesses should work with their plan administrators to ensure timely distribution of the SBC.

W-2 Reporting: Businesses that filed 250 or more W-2s in the preceding year must report the cost of covering each employee under the employer-sponsored group health plan on each employee's 2012 W-2 form. This reporting is informational only, and is not calculated as employee income. Employers subject to this requirement should follow IRS guidance regarding what expenses may—and may not—be included in the cost report.

Fiduciary Responsibilities

By offering health insurance, employers may find themselves in a fiduciary relationship with their employees. In an attempt to manage the cost of healthcare, the Act requires insurance plans to return certain unspent premiums. These rebates—called Medical Loss Rebates (MLRs)—may be paid directly to employers. Upon receipt of an MLR, an employer may have a fiduciary obligation under the Employee Retirement Income Security Act (ERISA) with respect to the appropriate distribution of the rebate funds.

Tax Implications

The Act carries various tax implications for businesses, both large and small. The Act currently offers a tax credit to certain small businesses that cover at least half of their employees' health care premiums. Effective January 2013, employers are required to withhold an additional .9% Medicare payroll tax on employee wages in excess of \$200,000 (single) or \$250,000 (married and filing jointly).



As always, if you have any questions about the mandates of the Patient Protection and Affordable Care Act, feel free to contact [Randy Duncan](#), [Kate Grado](#), or another member of our Closely-Held Business Team at 503-242-0000.