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ACA UPDATE: WHY YOUR COMPANY SHOULD BE TRACKING EMPLOYEES' HOURS NOW

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Effective January 1, 2015, significant “play or pay” penalties may be assessed against a large employer (one with 100 or more full-time employees or “FTEs”) under the Affordable Care Act (“ACA,” also known as “Obamacare”). These penalties apply if a large employer fails to offer affordable and minimum value coverage to its FTEs and their dependents should an FTE happen to obtain coverage from a health insurance exchange and receive a tax credit or cost-sharing subsidy. (An FTE, generally, for ACA purposes, is an employee working at least 30 hours per week.) If a large employer wishes to use the “look-back” method to measure which of its employees are FTEs, it should begin tracking hours of service as of April 2, 2014 where it sponsors a calendar-year health plan. This is because, for 2015, certain transitional guidance permits FTE status to be determined by using a six-consecutive-month measurement period that begins no later than July 1, 2014, and ends no earlier than 90 days before the first day of the 2015 plan year.

Under the transitional guidance, the large employer can rely on that six-consecutive- month FTE determination for 2015 ACA penalty-testing purposes. In addition, coverage of current employees may be delayed for up to a ninety-day administrative period during which the employer is allowed to determine whether the employee satisfies the eligibility requirements for health plan coverage and is given the opportunity to provide notice of eligibility and process health plan enrollment. Therefore, tracking of hours of service should begin immediately (*i.e.*, April 2 – October 2 equates to 6 months and October 3 – December 31 equates to 90 days) in order for an employer to accurately identify those employees who are properly categorized as FTEs for ACA purposes by January 1, 2015 when using the look-back method while taking advantage of a maximum 90-day administrative period.

If you wish to discuss your company’s ACA compliance, for example, how to determine who may be an FTE or how the special rules concerning newly-hired employees work, please contact Dilworth Paxson at your convenience.