MARSH & McLENNAN AGENCY
Known locally as McGraw Wentworth

REFORM UPDATE

Issue One Hundred Eight | August 2015

August 3, 2015

INCREASED PENALTIES RELATED TO THE EMPLOYER REPORTING REQUIREMENTS

The Trade Preferences Extension Act of 2015 was signed into law on June 29, 2015 by President Obama. The Act addresses a number of issues, from promoting African growth to extending Trade Adjustment Assistance (TAA). It also increased the penalties associated with failing to file the 1095 B and C forms.

The reporting requirements were addressed in our *Reform Update* at http://www.mcgrawwentworth.com/Reform_Update/2014/Reform_Update_98.pdf. Many employers are currently developing their strategies for completing these forms.

The 1095 forms for the 2015 calendar year are required to be filed in 2016. The new penalties, which apply to the 2015 calendar year, have increased substantially:

Penalty Type	Initial Amount	Increased Amount
Failure to file/furnish an annual IRS return or to provide individual statements to all full-time employees	$100	$250
Annual cap on penalties	$1,500,000	$3,000,000
Failure to file/furnish when corrected within 30 days of the required filing date	$30	$50
Annual cap on penalties when corrected within 30 days of required filing date	$250,000	$500,000
Failure to file/furnish when corrected by August 1 of the year in which the required filing date occurs	$60	$100
Cap on penalties when corrected by August 1 of the year in which the required filing date occurs	$500,000	$1,500,000
Lesser cap for entities with gross receipts of not more than $5,000,000	$500,000	$1,000,000
Lesser cap for entities with gross receipts of not more than $5,000,000 when corrected within 30 days of required filing date	$75,000	$175,000

Penalty Type	Initial Amount	Increased Amount
Lesser cap for entities with gross receipts of not more than $5,000,000 when corrected by August 1 of the year in which the required filing date occurs	$200,000	$500,000
Penalty per filing in case of intentional disregard. No cap applies in this case.	$250	$500

Different penalties will apply based on the employer's intent and willingness to correct forms in a timely manner. The maximum penalties will apply if a health plan intentionally disregards its obligation to furnish these IRS forms/reports.

Nothing in this Act changes the intention of the IRS to honor good faith compliance efforts for 2015. In previous guidance, however, the IRS made clear that a health plan which intentionally does not provide these forms/reports will not be considered as acting in good faith.