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IRS Announces It Intends To Enforce Affordable Care Act Mandates, Both Individual and Employer

The IRS's Office of Chief Counsel has released four informational letters on employer shared responsibility and the individual mandate under the Affordable Care Act (ACA). Here are highlights:

No Waivers Under Code § 4980H. Two of the letters respond to questions about the application of the employer shared responsibility requirements under Code § 4980H (i.e., the pay or play penalty or employer mandate). As background, under the ACA, if an employer is an "applicable large employer" (i.e., it employed an average of 50 or more full-time employees (or equivalents) in the preceding calendar year), it is subject to potential penalties for failure to offer adequate health coverage to its full-time employees and dependents. The letters emphasize that no waivers of the employer mandate are available, including for financial or religious reasons. They also note that while the President's January executive order directed agency heads with responsibility under the ACA to minimize the law's "unwarranted economic and regulatory burdens," it did not change the ACA, and the ACA remains in force until changed by Congress.

Individual Mandate Continues to Apply. The other two letters respond to questions about the individual shared responsibility requirements (i.e., the individual mandate) under Code § 5000A. The letters explain that the law requires individuals to maintain minimum essential coverage for each month, qualify for a coverage exemption, or pay a penalty when filing their federal income tax return. Similar to the employer mandate letters, these letters state that the executive order directing the agencies to minimize the ACA's burdens does not change the application of the individual mandate, and taxpayers remain required to follow the ACA.

While the information letters do not break any new ground, they provide an important reminder that notwithstanding legislative efforts to repeal and replace, or administrative action to otherwise modify certain provisions of the ACA (including employer shared responsibility and the individual mandate), these requirements remain in place for now.

Please visit <http://www.moreton.com/category/compliance-updates/> for more information and to view other client alerts. This Client Alert was written by Carolyn Cox, Moreton & Company's in-house corporate counsel who provides our clients with compliance services. For additional questions, please contact Carolyn at 801-715-7110 or ccox@moreton.com.

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