

# STATUS OF ACA THE RASH THAT WON'T GO AWAY

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# Latest Proposals In Congress

- Republican Proposals
- Democrat Proposals

# Republican Proposals

- Congressional Republicans – Repeal and Replace, Repeal and Replace, Repeal and Replace
- Executive Orders

## Executive Orders

- Association Health Plans
- Short-Term Limited Duration Insurance
- Health Reimbursement Arrangements
- Contraceptive / Abortion Services
- Cost-Sharing Reduction Payments

# Democratic Party Solution

- Fix ACA
- Medicare for All Act of 2017

# Growing Up To Be A Large Employer

- 4 Step Analysis
- Determination Based on Prior Year Analysis
- Controlled Group Rules Apply
- Professional Employer Organizations

## ACA Penalties

- 1094 / 1095 Reporting and Disclosures
- Electronic Reporting
- Common Law Employer

# Form 1094 / 1095 Reporting Deadlines

- 1095-C to Employees – 1/31/18
- Paper Filing with IRS – 2/28/18
- eFiling with IRS – 4/2/18



# ACA Assessments and Error Reports

- IRS Letter 5699
- Acceptance with Errors

# ACA Reporting Penalties

Description	Old Penalty Amount	New Penalty Amount
Penalty for filing incorrect returns (per return)	\$100	\$250
Penalty for incorrect returns if corrected within 30 days (per return)	\$30	\$50
Penalty for incorrect returns if corrected by August 1 (per return)	\$60	\$100
Penalty for intentionally disregarding to file timely and correct returns	\$250	\$500
Maximum penalty per calendar year	\$1,500,000	\$3,000,000
Maximum penalty per calendar year if corrected with 30 days	\$250,000	\$500,000
Maximum penalty per calendar year if corrected by August 1	\$500,000	\$1,500,000

# Non-Compliant Employer Penalty Examples

Example 1 – No Compliance – 110 Employees

Not Intentional = \$55,000 per year  
(\$250 x 110 x 2 years)

Intentional = \$110,000 per year  
(\$500 x 110 x 2 years)

# Non-Compliant Employer Penalty Examples

## Example 2 – Filed But Insurance Is Not “Affordable”

No reporting penalties since employer filed with IRS and provided the 1095-C to the employees.

## 2018 Rates and Penalties

- Affordability – 9.56%
- Poverty Safe Harbor - \$96.08
- Employer Mandate “A” Penalty - \$2,320
- Employer Mandate “B” Penalty - \$3,480

# IRC 4980H Penalty Analysis

## 2017 Calendar Year Analysis

- 110 Full-Time Employees
- 3 Employees Receive Subsidized Insurance

“A” Penalty - \$180,800

“B” Penalty - \$10,170

Cheaper to offer unaffordable insurance rather than no insurance.

# ASSESSMENT/PAYMENT OF PAY OR PLAY PENALTY

- Assessments are Coming
- IRS Letter 226J
- IRS Letter 227
- Notice CP 220J