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IRS Ramps Up Effort to Collect Employer Shared Responsibility Payments

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The IRS has recently started sending letters to businesses asserting tax penalties under the Affordable Care Act (ACA), also known as "Obamacare". These letters advise that the business owes an Employer Shared Responsibility Payment (ESRP) penalty as a result of failing to comply with certain provisions of the ACA.

Under the ACA, all employers with 50 or more full-time employees are required to offer health insurance coverage that is affordable and provides minimal essential coverage to at least 95% of their full-time employees (and dependents) or risk paying an ESRP penalty. Employers are required to send the IRS information about offers of health insurance coverage and employee enrollment each year using Forms 1094-C and 1095-C. The IRS relies on the information submitted on Forms 1094-C and 1095-C to calculate the ESRP penalty.

If your business receives one of these letters, do not panic, in many cases the amount of the ESRP penalty is overstated because of incorrect information reported on Forms 1094-C and 1095-C. In these cases, the ESRP penalty may be greatly reduced or even eliminated by a careful review and correction of the information on Forms 1094-C and 1095-C. In addition, to help offset the impact of the ACA taking effect in 2014, there is special transition relief available for the 2015 tax year that can have a significant impact on the ESRP penalty.

We know it is frustrating to receive a letter from the IRS stating you owe money, but do not respond without a careful review of the information contained in the letter. We are happy to help prepare a response to the IRS and discuss what options you may have to reduce or eliminate the ESRP penalty. Contact one of our business attorneys to discuss your particular situation further.

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