

## **Attention Employer: Are You ACA Compliant?**

September 18, 2013

As part of the Patient Protection and Affordable Care Act (ACA), you are required to provide a notice to your workers on or before October 1, 2013 to inform them about the new Health Insurance Marketplace. All full- and part-time employees must receive the notice. Employees hired after October 1 must receive the notice within 14 days of their start date.

**What must the notice say?** The notice needs to inform your employees about the following: A new Health Insurance Marketplace (referred to in the ACA as the "Exchange") exists to help them acquire health insurance. The notice must also include a brief description of the Marketplace and instructions about how to contact it. If you offer coverage that does not meet certain requirements (i.e., it covers less than 60% of the total allowed cost of their health benefits), then your employees may be eligible for a credit to help defray the cost of purchasing a policy through the Marketplace. If they choose to purchase a policy through the Marketplace, then your employees may be risking any contribution that you would have otherwise helped them to pay for their employer-sponsored insurance policy, and this contribution may have been partially or fully excluded from taxes. The notice must be written in a manner designed to be easily understood by your employees, and it should be delivered by first-class mail. Alternatively, the notice can be provided electronically if the Department of Labor's safe harbor requirements for electronic disclosure are met. The Department of Labor has released model language that may be used in the notice. You can access it at [www.dol.gov/ebsa/healthreform](http://www.dol.gov/ebsa/healthreform). Two different versions are available, one if you currently offer health insurance benefits and one if you do not.

**Who is required to send the notice?** According to the Department of Labor, if you are subject to the Fair Labor Standards Act (FLSA) then you must send out the notice. This means you have one or more employees, you are engaged in, or produce goods and services for interstate commerce, and you generate at least \$500,000 annually.

**What happens if you do not comply?** Although the Department of Labor has stated that FLSA employers must send out the notice by October 1, 2013, no penalties will be assessed for employers that fail to do so. For more information, review the DOL's Technical Release 2013-02, available at [www.dol.gov/ebsa/newsroom/tr13-02.html](http://www.dol.gov/ebsa/newsroom/tr13-02.html).

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