Health Care Reform Guidance





The Affordable Care Act and It's Impact on HR: Critical Things Every HR Professional Needs to Know

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HR Women and Friends Group
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 - Personal Lines,
 - Employee Benefits,
 - Life and Financial Planning, and
 - Surety and Commercial Bonds







Largest Brokers of U.S. Business*

2014 Rank	2013 Rank	Company	2013 U.S. Broker Revenue	% Change		
1	1	Aon P.L.C.	\$5,561,106,600	4.6%		
2	2	Marsh & McLennan Cos. Inc.	\$5,521,500,000	5.2%		
3	3	Arthur J. Gallagher & Co.	\$2,111,340,000	10.7%		
4	4	Willis Group Holdings P.L.C.	\$1,743,840,000	7.3%		
5	6	BB&T Insurance Holdings, Inc.	\$1,582,443,400	6.9%		
6	7	Brown & Brown Inc.	\$1,355,502,535	14.0%**		
7	5	Wells Fargo Insurance Services USA Inc.	\$1,350,022,000	(14.3%)		
8	8	Lockton Cos. L.L.C.	\$826,448,280	12.4%**		
9	10	USI Holdings Corp.	\$782,207,827	9.8%		
10	11	HUB International Ltd.	\$768,865,200	21.5%**		

Ranked by 2013 brokerage revenues generated by U.S.-based clients.

Source: 100 Largest Brokers of US Business [www.businessinsurance.com] - Business Insurance July 21, 2014

^{** 2012} restated.







^{*} Companies that derive less than 50% of revenue from commercial retail brokerage or employee benefits are not ranked.

Client + BB&T = Partnership

- Extension of HR team
- Continuity of service team
- Support that scales beyond just insurance
- Flexibility in service model
- Dedicated wellness advisor
- Timely and specific client-centric information
- Proven track record
- Performance guarantees
- Like-minded organizations







Disclaimer

- The presentation provides general information.
 This is not legal advice.
- Guidance on many provisions of the Patient Protection and Affordable Care Act (PPACA or ACA) are outstanding. New guidance may be issued regarding PPACA, or more generally, changes to statutes, rules, or regulations may be forthcoming that change the content of this presentation or alter the answers to some questions.



Guidance and interpretations relating to these matters are being released on a regular basis. **BB&T Insurance Services is not providing legal or tax advice**. To ensure compliance with requirements imposed by the IRS, any discussion of U.S. tax matters contained in this communication (including any attachments) is not intended and cannot be used by anyone to avoid IRS penalties. This material is for informational purposes only.







Healthcare Reform

- A picture is worth a thousand words, or in this case, a seven-foot tall stack of new regulations with over 20,000 pages [as of March 2013]
- Projected to exceed 100,000 pages when the law is fully regulated, doubling all federal laws combined



Source: Senator Mitch McConnell, the GOP minority leader in the Senate, posted the photo to demonstrate the magnitude of the law

https://twitter.com/McConnellPress/statuses/311201887565271040







What We Will Cover Today

- Fun Facts
- Changing Landscape
- What's New Latest Guidance
- Mythbusters
- ACA Impact Timeline
- Employer Shared Responsibility
- Reporting: Where's the Data [Oh My!]
- •Q & A







Changing Landscape – Macro View

ACA Still one of the biggest HR challenges in 2015.

Future is still clouded with uncertainty.

New Republican Majority urging major revisions to the ACA.

Employer mandate, closely followed by the Employer Reporting requirements.

Another Supreme Court case threatening to undermine major part of the law.









What We Are Watching - The Courts

- The Supreme Court heard 84 minutes of oral arguments ... King v. Burwell on March 4, 2015
 - The case concerns tax subsidies that are central to the operation of the ACA. According to the challengers, those subsidies are not available in the 34 states that have decided not to run their own marketplace / exchanges.
 - If the challenges are right, millions of people receiving subsidies would be ineligible, destabilizing and perhaps dooming the law. Employers would avoid the employer shared responsibility provisions in these States; individual mandate is impacted as well.
 - Balance Constitutional role of States vs human and social loss
 - Matter of statutory authority, not constitutional authority, unlikely whole law to be struck down.





Myth Busters

- I have between 50 and 99 employees so I don't have to worry about any of this ACA stuff this year.
- I don't have do any reporting because I have between 50-99 employees.
- I can break-up my company into separate businesses (EIN's) to keep my employee count below 50 and the ACA won't apply to me.
- If I designate all my employees as part-time, regardless of the number of hours they actually work, I can avoid the ACA law.
- If one of my FTE's wants to work part-time, I can cancel their coverage and offer them COBRA – or can I?



ACA – Impact Timeline

2011	2012	2013	2014	2015 – 2018
No rescission except for fraud or intentional material misrepresentation			Individual mandate	Employer play or pay mandate
Child covered up to age 26			Health insurance exchanges for individual and small group market	Employer reporting due in 2016 for coverage in 2015
Coverage for children non- taxable up to age 26			Transitional reinsurance fee	
No cost sharing for preventive care*		HIPAA EDI compliance certified by ER's	Excise tax on health insurance companies	UNKNOWN / Delayed
Certain provider and ER care access restrictions prohibited*		Health FSA capped at \$2,500	No annual dollar limits on essential helath benefits	Automatic enrollment
Claims and appeals handling requirements*	Summary of Benefits and Coverage (SBC)	Additional FICA taxes on high wager earners	Waiting periods limited to 90- days	Nondiscrimination requirements for health plans
No lifetime (and limited annual) maximum dollar limits on essential health benefits	Medical Loss Ratio Refunds (MLR) – 80% SG, 85% LG	Elimination of deductibility of Medicare D subsidies	No pre-ex for any enrollee	Quality of care and transparency reporting
No pre-ex limitations for children up to age 19	W-2 reporting due 2013 for 2012 CY (>200+)	Excise tax on medical device manufacturers	Increased restrictions on wellness programs	
OTC medications restricted requires RX	Comparative Research (CER/PCORI) fee of \$1/pm due 2013 for 2012	CER/PCORI fee increases to \$2/pm due 2014 for 2013	Cost sharing limits \$6,350/\$12,700	<u>2018</u>
Excise tax on RX drug manufactures and importers	Women's preventive care benefits	Notice of health insurance exchanges and premiums distributed to members	No discrimination based on health status by providers	Cadillac Tax
COMPLETE	COMPLETE	COMPLETE	COMPLETE	FUTURE STATE







Cadillac Tax ~ 4980 I - 2018

- For tax years beginning in 2018, annual limit threshold will be:
 - \$10,200 individual
 - \$27,500 family
- A non-deductible 40% excise tax will be imposed on insurance companies, employers, and/or plans for amounts exceeding the threshold to include:
 - Aggregate cost of employee premiums (COBRA equivalents)
 - Takes into account pre-tax premiums and reimbursements from FSA, HRA, and contributions to HSA or medical savings accounts
 - Applies to self-funded and fully insured; will be reported on W-2
 - 60% of employers surveyed expect to trigger tax if they don't adjust plans (Towers Watson study Nov 2013)
- IRS Notice 2015-16— Feb 23, 2015 --- issued 25 page memo asking for comments determining cost coverage of SF plans, HRAs, on-site clinics...all to consider incorporating into final regulations







Employer Shared Responsibility – Review



Three Key Aspects of the ACA for Employers

- 1) As an ALE,
- Offer
 Minimum
 Value (at
 least 60%
 actuarial
 value), it
 must be
- Affordable
 Coverage
 (employees
 may not
 pay more
 than 9.5%
 of income)

- 2) Determine Full –Time Status
- 130 Hours of Service per Month
- Average 30/hrs per week or more
- Based on the look-back measurement period

- 3) Complete Employer Reporting
- File and
 Furnish
 coverage info
 to both the IRS
 and Full Time
 Employees
- 1094/1095 Forms



Determining Applicable Large Employer (ALE) Status

- Groups of 1-49 Not subject Employer Mandate
- ALE status determined by looking at FT and FTE employee count from prior year [look back]
- Make sure you check each year
- Aggregation rules and seasonal worker exception still apply



Source: Zywave Jan 20



Common-Law Employees & Control Groups

Health Care Reform Guidance



Under common-law rules, anyone who performs services for you is your employee if you can control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is you have the right to control the details of how the services are performed. § 414(b), (c), (m), or (o)

Separate businesses under common control are considered one business if determined by IRS rules –

These rules are very <u>complicated</u>. Generally requires 80% multishareholder control and/or 50% single shareholder control.

Best advice - seek tax counsel.

Qs 6, 42



What if I grow to become an ALE?

- In the first year that an employer is considered a large employer, it has until April 1 of that year to offer affordable and minimum value coverage.
- This transition relief is only available once.
- If an employer drops below 50 employees for a year and then exceeds that number in subsequent years, coverage will need to begin immediately.





An ALE Meets Employer Shared Responsibility Mandate If:

- Coverage is offered to:
 - At least 70% in 2015 of full-time employees and their children under age 26 – phasing up to 95% in 2016. Spouses are not dependents.

70% 95% in 2016

- An employer offers coverage with minimum value if:
 - The proportion of cost of covered services paid by the plan is at least 60% of the expected cost for a standard population



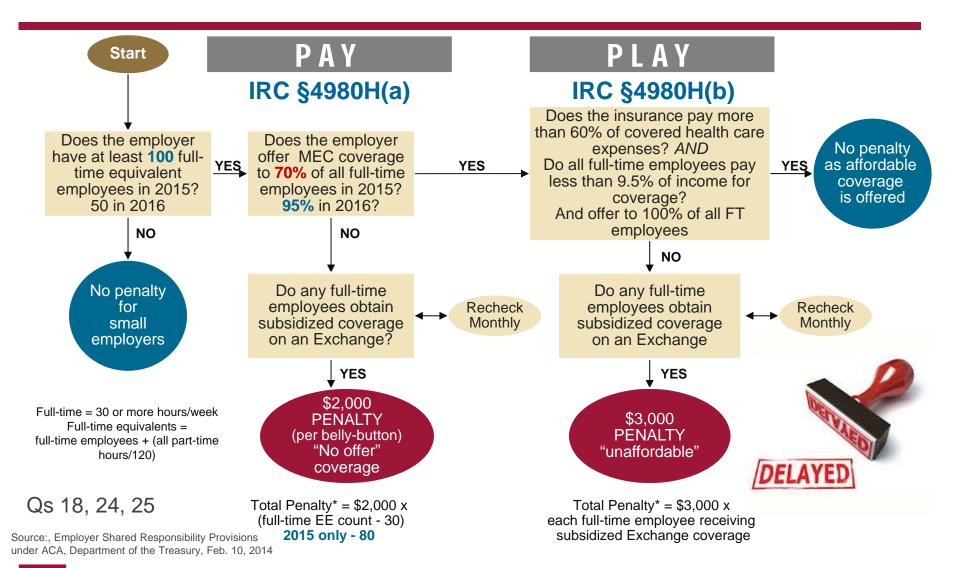
- An employer's coverage is affordable if:
 - The employee's share of the premium for self-only coverage is 9.5% or less of household income
 - Safe harbor affordability computations can be:
 - 1. 9.5 percent of the employee's W-2 wages
 - 2. The employee rate of pay per month (hourly rate x 130 or monthly salary), or
 - 3. FPL = Federal Poverty Level for a single individual



Qs 19, 20, 22, 34, 38 & 39



Employer Mandate – Pay or Play 2015 (100+)



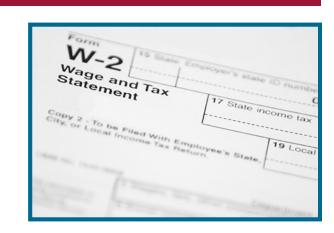
^{*} Penalties are calculated and assessed monthly (\$2,000 will be \$166.67/month, \$3,000 is \$250/month). The maximum penalty is the lesser of the two penalties. Penalties are expected to increase each year by the growth in insurance premiums.



Know Which Employees You Have

What kind of employee is each worker?

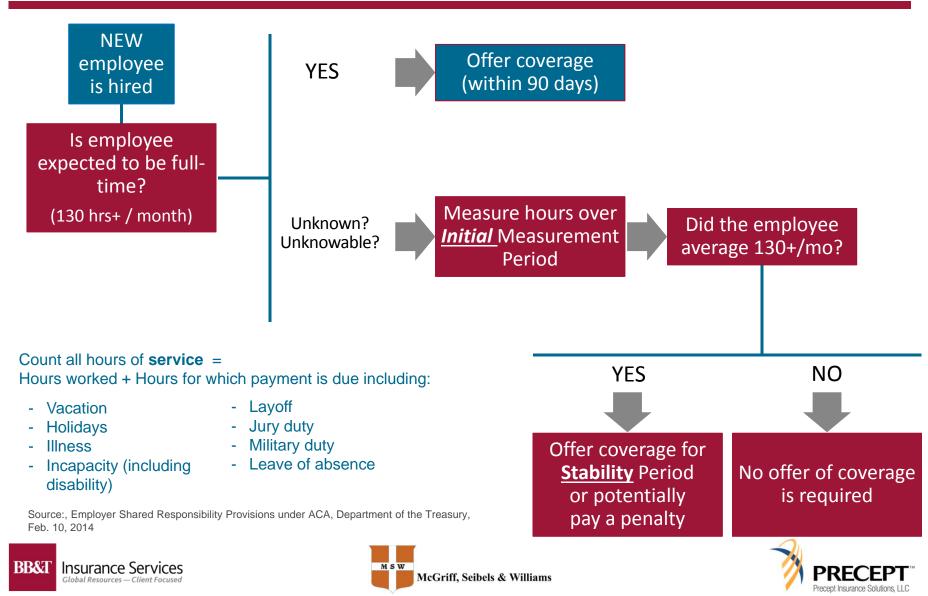
- Full-Time Benefit-Eligible = 30 hours of service
- Variable-Hour: Not reasonably expected to work on average at least 30 hours per week, uncertain or fluctuating hours



- Seasonal: For six months or less.
 - Ski instructors
 - Golf course workers
 - Resort and hospitality
- Part-Time Less than 30 hours, set/certain hours (e.g., will only ever work 25 hours)
- Temporary, Contractor, Other?



Full-Time Status Determination = 130/hrs per month



Determining Full-Time Status

Full-Time Employee: for any month, an employee who is employed, on average, at least 30 hours of service/week (130 hours per month). Must calculate actual hours of service for hours recorded as worked, and hours for which payment is due: vacation, holidays, illness, incapacity (including disability, layoff, jury duty, and leave of absence.

ALE Status

- Look at hours of service for each calendar month
- FT status based on hours of service, not classification

Offering Coverage

- Monthly measurement method
- Look-back measurement method
- Employees in same category treated the same

Source: Zywave Jan 20, 2015









Employer Reporting Requirements



ACA 6055 & 6056 Reporting

Employer Reporting Requirements

Generally ONLY Groups 50+ Unless Self-Funded under 50

Provision:	Employer reporting on value of health coverage	Employer requirement to inform employees of coverage options	Reporting of enrollment in health insurance coverage	Reporting of employer offer of minimum essential coverage
Applies to:	Employers who issue at least 250 W2 forms annually	Employers subject to the Fair Labor Standards Act	Self-Insured employers, insurers	Large Employers, ALEs
Submit to:	IRS	Employees	IRS	IRS
Effective:	1/31/2013	3/1/2013 Existence of Exchanges	1/1/2015* § 6055 Forms 1094 B, 1095 B	1/1/2015* § 6056 1094 C,1095 C

 To be reported in 2016 for all plan years starting after 12/31/14



2015 – Employers Prepared??

Changes to the Changes – ACA

- Only 51% of employers with at least 1,000 workers said they are ready to handle the health care reporting per an ADP survey
- PWC surveyed 480 employers in 36 industries and only 10% say they are tracking data
- 38% said they were ready for health exchange notice management and 40% for penalty management
- HR, payroll and finance and tax reporting all involved
- Integrate data on employee eligibility, FTE calculations, counting hours including new data elements like FMLA, jury duty, military leave, other absences





Section 6055 and 6056 Reporting

Reporting rules apply to:

- Providers of minimum essential coverage (6055) including self funded employers
- Applicable large employers (6056): 50 + AI Fs

Reporting entities must:

- File information returns with the IRS
- Provide statements to either full-time employees (6056) or
- Provide statements to covered individuals (6055)

Purpose of reporting:

- Help IRS administer employer and individual shared responsibility rules
- Determine whether an employee is eligible for a premium tax credit for Exchange coverage
- Show compliance with the individual mandate

Self-funded plan sponsors that are ALEs must report under both sections, but will use a combined reporting method

Source: Zywave Jan 20, 2015

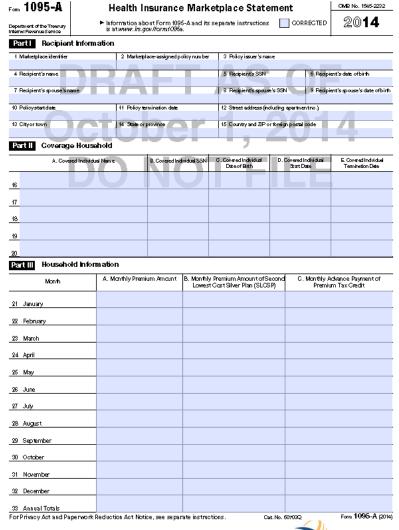






A, B, Cs

- Form 1095 A is a tax form sent to consumers enrolled in health insurance in the <u>Public Exchanges</u> in 2015
 - Employees will need to file along with form 1040 and form 8962 for the Premium tax credit (federal subsidy)
- B forms generally Insurers and Non ALEs Self funded
- C forms ALEs over 50 (self funded must complete Part III of 1095C for any employee enrolling or Form B for nonemployees enrolled ie; COBRA, retirees, etc.)









Section 6056: ALE Required Returns

Form 1094-C Department of the Treasury Internal Pevenus Service	Transmittal of Employer-Pr Coverage Ir ►Information about Form 1094 ○ and	nformation Retu	rns	CORRECTE	· -	12013 18 No. 1545-2251 20 14		201	4 fi	nal	in	str	JC.	tio	ns a	ava	ila	ble
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3 Street address (including room or suite no.)																		
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7 Name of person to contact	7 Name of person to contact 8 Confact telephone number						•				•					ı		
9 Name of Designated Governme	nt Britty (cnly if applicable)		10 Employer identification number	s (EIM)														
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				3 Street address (3 Street address (including apartment no.)						9 Street address (including room or suiteno.) 10 Contact teleph						ntacttelephon	e number
21 is ALE Membera memb	er of an Aggregated ALE Group?			4 City or town	City or town 5 State or province 6 Country and ZP or threign postal code 11 City or town		wn 12 State or province			13 Country and ZIP or foreign postal code								
If "No," do not complete 22 Certifications of High				Part II Em	art III Employee Offer and Coverage													
A Qualifying Offer M	_	od Transition Relief	C. Section 4980H Trai		All 12 Months	; Jan	Feb	Mar	Apr	May	June	Ju	h	Aug	Sept	Oct	Nov	Dec
Under penalties of perjury, I dec	lare that I have examined this return and accomp	anying documents, and to t	he best of my knowledge and belie	required code) 15 Employee Share of Lowest Cost Monthly Premium.	:													
Signature		Title		tor Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$		\$	\$	\$	\$
For Privacy Act and Paperwor	k Reduction Act Notice, see separate instructi	ions.	Cat. No. 61571A	16 Applicable Section 4980H Sate Harbor (enter code, if applicable)														
					ered Indiv	riduals												
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			17															
				18														
Source : Zywave Jan 20, 2015			19															



1095-C Indicator Codes

1095-C Line 14: Offer of Coverage

- 1A. Qualified Offer: Minimum Essential Coverage providing Minimum Value offered to full-time employee with employee contribution for self-only coverage equal to or less than 9.5% mainland single federal poverty line and Minimum Essential Coverage offered to spouse and dependent(s).
- 1B. Minimum Essential Coverage providing Minimum Value offered to employee only.
- 1C. Minimum Essential Coverage providing Minimum Value offered to employee and at least Minimum Essential Coverage offered to dependent(s) (not spouse).
- 1D. Minimum Essential Coverage providing Minimum Value offered to employee and at least Minimum Essential Coverage offered to spouse (not dependent(s)).
- 1E. Minimum Essential Coverage providing Minimum Value offered to employee and at least Minimum Essential Coverage offered to dependent(s) and spouse.
- 1F. Minimum Essential Coverage not providing Minimum Value offered to employee, or employee and spouse or dependent(s), or employee, spouse and dependents.
- 1G. Offer of coverage to employee who was not a full-time employee for any month of the calendar year and who enrolled in self-insured coverage for one or more months of the calendar year.
- 1H. No offer of coverage (employee not offered any health coverage or employee offered coverage not providing Minimum Essential Coverage).
- Qualified Offer Transition Relief 2015: Employee (and spouse or dependents) received no offer of coverage, or received an offer of coverage that is not a Qualified Offer, or received a Qualified Offer for less than all 12 Months.

1095-C Line 16: Safe Harbor Codes

- 2A. Employee not employed during the month.
- 2B. Employee not a full-time employee.
- 2C. Employee enrolled in coverage offered.
- 2D. Employee in a section 4980H(b) limited non assessment period.
- 2E. Multiemployer interim rule relief.
- 2F. Section 4980H affordability Form W-2 safe harbor.
- 2G. Section 4980H affordability federal poverty line safe harbor.
- 2H. Section 4980H affordability rate of pay safe harbor.
- 2I. Non-calendar year transition relief applies to this employee.

Source: IRS 2014 Instructions for Forms 1094-C and 1094-C dated 2/4/15



Reporting Deadlines

Rules effective for 2015 coverage

- 2015 coverage information will be reported in 2016
- Employers must collect information during 2015

Annual deadlines:

- Individual statements due by Jan. 31
- IRS returns due by Feb. 28 (March 31 if filed electronically)

• 2016 dates:

- Employee statements: Feb. 1
- IRS returns: due Feb. 29
 (March 31 for electronic filing)



Source: Zywave Jan 20, 2015







Employer Reporting Distribution

- Final 2014 version released and instructions on Feb 8
- Distribution: 1095 C: Paper US mail (may distribute with the Employees W2)
 - Hand delivery or intra-office mail may not satisfy delivery requirements
- Electronic: Employees must Opt In. Posting to a website, employees must be separately notified. Having an electronic opt-in for other electronic forms does NOT equal an opt-in for electronic delivery of the 1095C employee statements.
- Data Collection: Only the SS# of the FT EE is reported by ALE
- Self Funded plans (and Insurers) need to make "reasonable attempts" of outreach (defined as three) to obtain SSN/TIN of each employee or subscriber or their dependents whose SSN/TIN you don't have. If you still don't have after three attempts, you may use date of birth for any of those covered individuals

Source: Zywave, Thompson Reuters





Penalties

- Penalties for violations of reporting requirements
 - \$100 per violation, up to \$1.5M per year
 - May be increased or decreased, depending on circumstances
- Short-term relief from penalties
 - Available for reporting related to 2015 coverage
 - IF reporting entity shows good faith effort to comply
 - Applies to incorrect/incomplete information reported or other failures due to reasonable cause

Source: Zywave Jan 20, 2015









What Can You Do Now?

- Identify who will be responsible for reporting and who will be involved in that reporting (HR, IT, Finance, Tax, etc.).
- Review ACA IRS forms and instructions for an understanding of what information must be reported and where applicable data resides.
- Identify which vendor(s) will assist with compliance [ACA Compliance Solution].
- Start collecting SSN/TIN for employee and, if applicable, for dependents.
- Determine approach & tools for tracking ACA eligibility and annual IRS reporting. Set affordability computation.
- Consider if an alternate "simplified " reporting method makes sense for your organization – read instructions carefully to assess if fits.
- Save hours served data, offer of coverage notifications, waive of coverage documents, etc. Anticipate how you will respond to marketplace notices and/or an audit.







Educational Web Meetings Health Care Reform

- http://insurance.bbt.com/business/employeebenefits/education-center.asp
- The Top 5 NLRB Issues Facing Non-Union Employers
 - April 16, 3:00pm EDT
- New ACA Employer Reporting Requirements
 - April 22, 3:00pm EDT
- Getting a Handle on FMLA Abuse
 - May 5, 12:00pm EDT
 - May 21, 3:00pm EDT
- ACA: Common Mistakes and Misconceptions (Including Measurement Periods)
 - May 11, 3:00pm EDT
 - May 28, 3:00pm EDT
- HR Lessons from Today's Headlines: How Do They Impact Your Business
 - June 3, 12:00pm EDT
 - June 18, 3:00pm EDT











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