



Top Ten Misconceptions About the ACA Reporting Requirements

May 19, 2015

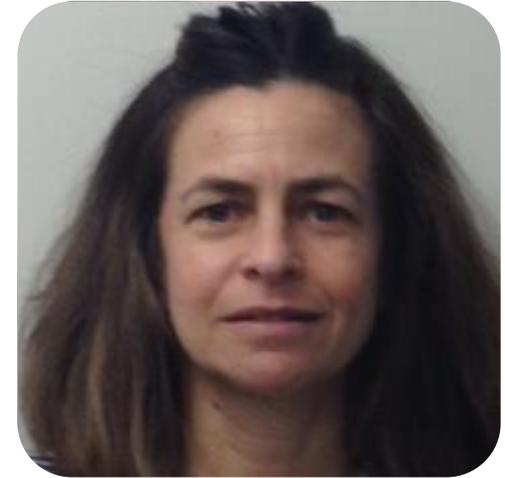
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The information contained in this presentation and any accompanying documents does not constitute legal advice; consult with your legal and tax advisors before applying this information to your specific situation.

Agenda

- Top ten misconceptions
 - Measurement of hours
 - Reporting
 - Administration
- Your top misconceptions



How far along in the process are you?

1. We are implementing a process to complete the reporting
2. We are still deciding on a reporting process/partner
3. No action yet. We are waiting to see if this will be repealed or delayed
4. Reporting? What reporting?
5. Reporting requirement doesn't apply to me

Select best answer

1. This reporting requirement
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- Supreme Court will throw out ACA
 - Decision impacts subsidy eligibility
 - Likely won't affect individual or employer “mandates” which drive reporting
- Congress will repeal reporting
 - “Horse trading” after Supreme Court decision
 - Trade subsidy eligibility for repeal of mandates
- IRS will delay the reporting again
- New administration will repeal or modify the law
 - Changes no sooner than 2017

2. We offer coverage to employees working 20 or more hours a week, so no need to determine who is full-time

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Full-time employee definition

- Employed an average of at least 30 hours of service per week or 130 service hours in a calendar month.

Form 1094-C (Part III – Columns (b) and (c))

- Must enter the number of full-time employees each month plus the total employee count.
- Employees working an average of 20 hours per week are not full-time employees – even if coverage is offered.
- Look carefully at data to determine full-time employee tracking.

Limited exception: 98% offer method

- If the employer certified that it was eligible for the 98% Offer Method by selecting box D, on line 22 of Form 1094-C, it is not required to complete column (b).

3. We can use the 98% offer method

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- Under the 98% Offer Method the employer is not required to identify which of the employees for whom it is filing are full-time employees
- To use this method the employer must:
 - Certify it is offering affordable, minimum value coverage to at least 98% of employees and dependents for whom it is filing a Form 1095-C
 - Affordability can be based on any of the 4980H affordability safe harbors
 - Include all full-time employees in the reporting
 - Satisfy this requirement for each month of the year
- This reporting method likely only viable for employers who use monthly measurement method and offer coverage to virtually all employees and have limited numbers of non-eligible employees like part-timers, interns, seasonal, and temporary employees.

IRS Example

- An applicable large employer has 100 employees
 - 60 are clearly full-time employees,
 - 30 employees who worked 27 hours per week, but could potentially exceed the 30-hour threshold (i.e., variable hour), and
 - 10 clearly part-time (clearly under 30 hours each week)
- An employer could report on the 60 full-time and 30 variable hour employees, if it offered affordable, minimum value coverage to 98% of the 90 employees (i.e., the full-time and variable hour) without identifying full-time employees
- The 10 clearly part-time employees can be excluded from the reporting
- Reporting is completed to the IRS without identifying or specifying the number of full-time employees

What special groups of employees do you have?

1. Retirees
2. Multiemployer plan employees
3. Staffing or leasing agency employees
4. Independent contractors
5. None of the above
6. Doesn't apply to me

Select all that apply

4. Our multiemployer plan will handle all the reporting for union employees

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- Multiemployer plan is required to complete the 6055 reporting
 - Multiemployer plans will use the 1095-B for 6055 reporting
 - Part III of 1095-C is left blank by employer
- Employer can take “credit” for multiemployer coverage for the employer mandate
 - If coverage (1) provides minimum value, (2) is affordable using one of the safe harbors and (3) offers coverage to children to end of month the child reaches 26
 - Line 16 of 1095-C includes special coding
- Employer still needs to report on eligibility for coverage
 - Employer will need to report eligibility and contribution information for union employee
 - Line 14 and 15 of 1095-C

5. I don't need to worry about my staffing agency employees

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- Common law employees
 - For purposes of the shared responsibility requirements, an employee is a worker who is considered an employee under generally applicable common-law principles
 - Generally individuals whose work is directed and controlled by an employer and for whom an employer would be required to report and pay employment taxes
- In a staffing agency or PEO relationship, who is the employer?
 - In some cases, it is clear that the worker is the employee of the staffing agency or professional employer organization (PEO) – and the employer client is not responsible for complying with the employer shared responsibility provisions
 - In other cases, the employee may be considered the common law employee of the employer client – and thus – the employer client is responsible for the shared responsibility requirements
 - Look at all the relevant facts and circumstances – consult with counsel

5. I don't need to worry about my staffing agency employees

- Relief for client employer - under certain circumstances
 - If the client employer is the common law employer, then an offer of coverage by a staffing firm or PEO that maintains a health plan may be treated as an offer of coverage made by the client employer if:
 - The fee the client employer would pay to the staffing firm for an employee enrolled in health coverage under the plan is higher than the fee the client employer would pay to the staffing firm for the same employee if the employee did not enroll in health coverage under the plan

If the client employer is the common law employer – then it must file the Form 1095-C for the employee and include them in its Form 1094-C employee count

6. I don't have to worry
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- Dependent SSNs – has a 'reasonable' effort been made to obtain them?
 - IRS defines 'reasonable effort' as three separate solicitations over two years
- Part I of Form 1095-C requires inclusion of SSN of the employee
- Part III of Form 1095-C does allow for DOB to be listed, if the "reasonable effort" has been made by the employer to obtain dependent SSN
- Elevated non employee owners of medical coverage (e.g. surviving beneficiary or child/ren who have aged out of coverage eligibility) should receive a form, and SSN may not be available
 - Xerox solution is automated identification of all non-employees and completion of Form 1095-B; Form 1095-B allows for the date of birth to be populated in Part I of the form if SSN is not available



7. Our retirees and retiree health reimbursement accounts (HRAs) are not subject to reporting

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- Reporting is generally required for former employees (and dependents) who are enrolled in coverage
 - Pre-Medicare retirees and dependents
 - COBRA beneficiaries
 - Reporting is not required for coverage that supplements Medicare
- HRAs are health coverage that is subject to reporting
 - If HRA coverage is limited to purchasing Medicare or Medicare supplement coverage then reporting is not required
- It may be easier to report Medicare retirees as well due to requirement to report pre-Medicare dependents who have coverage

How are you planning to complete reporting?

1. We are using our payroll vendor
2. We are using our current benefit administration, HRIS, or similar system
3. We are using a new third party vendor
4. We are building in-house
5. We are still investigating options
6. Doesn't apply to me

Select best answer

8. We can build this in house

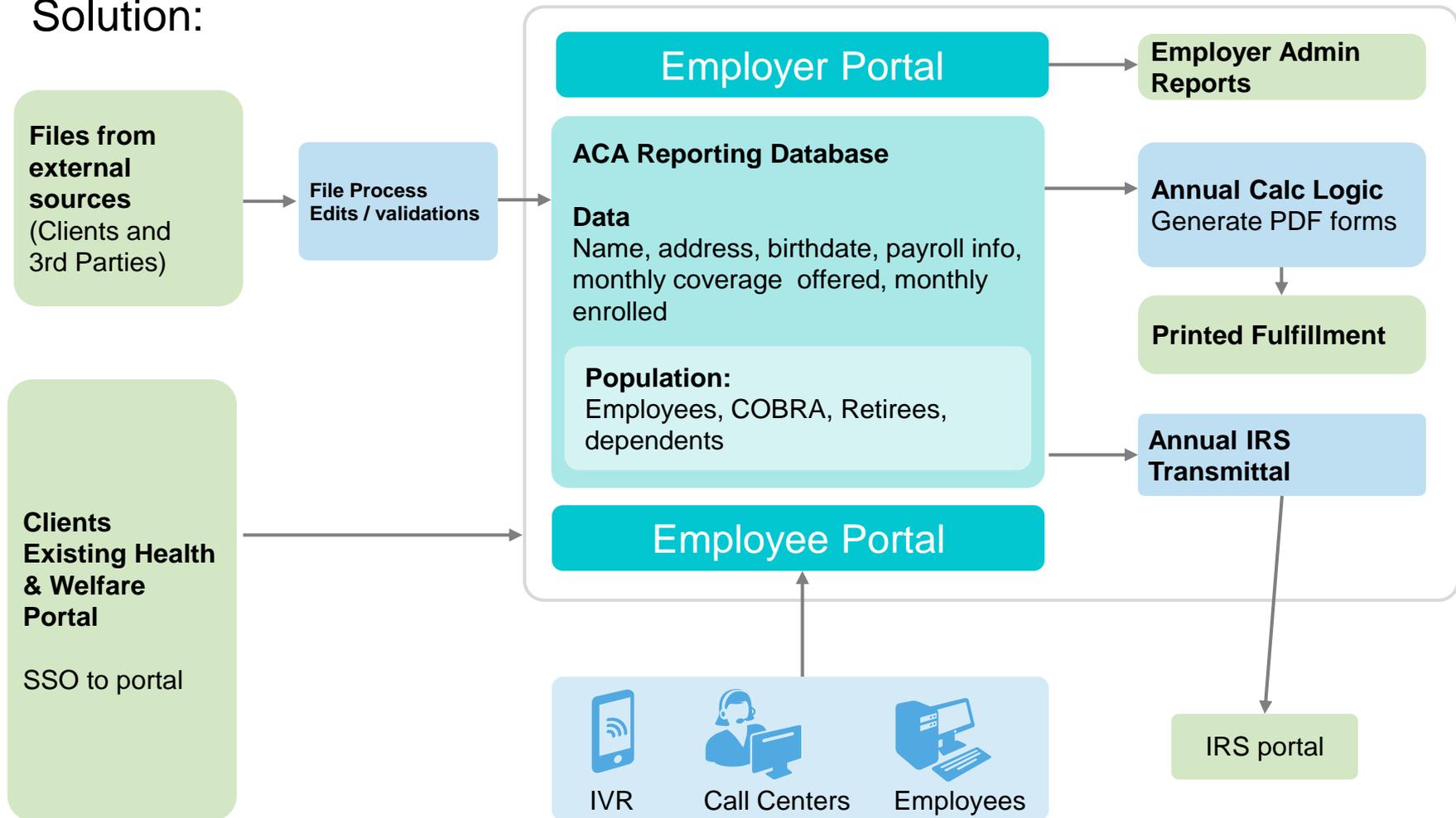
8. We can build this in house

Reporting is complex

- For many employers, requires collection of enrollment and offer of coverage data maintained in multiple systems or with multiple providers, per Active, COBRA, and Retiree coverage
- Because a single form must be produced from an individual employer – COBRA, retiree, and active data must be aggregated quickly to have forms prepared by end of January – and updated to reflect retroactive enrollments requiring updated forms
- For employers of a Controlled Group with a large number of EINs, complexities can arise with identification by month which EIN of the control group the member should be affiliated with for reporting
- Consideration must be given for acquisitions and divestitures. All are not structured the same way. Need to determine which firm will be responsible for reporting.
- COBRA, Retiree and New-Hire enrollments are inherently retroactive – current requirements indicate that updated forms must be produced when eligibility or enrollment changes

The Xerox[®] HealthAct Compliance Solution

Solution:



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9. I can report on a controlled group basis and don't need to worry about separate EINs

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Aggregation Rules

- The entities within the aggregated group are referred to as Applicable Large Employer (ALE) members.
- All employees of all ALE members within the aggregated group are taken into account in determining whether any member of the aggregated group is an applicable large employer
- Under the regulations, the filing and furnishing requirements are applied on a member-by-member basis to each ALE member
- Each ALE member must file return and furnish employee statements using its own employer identification number

Review Form 1094-C: Part IV: Other ALE Members of Aggregated ALE Group

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- Aggregation of hours and coverage data by month and EIN may take time to capture, evaluate and test against standard set of validations to ensure data integrity well before individual 1095 Forms must be generated
- For employers sponsoring both fully insured and self insured plans, special targeted communications may be desired to alleviate confusion with receipt of two forms – 1095-C and 1095-B
- New IRS guidance continues to be released
 - Example: Publication 5165 (Early Draft) released by IRS April 27th, 2015
 - Prescribed for 1st time detailed definition of XML size limits 100 MB/ approximately 10K records.
 - Defined required XML file structure
- Xerox Solution – Conduct project kick off meeting by mid June to afford ample time for requirements gathering, configuration, testing, and deployment by reporting deadlines to individuals and transmission of AIR to the IRS

Xerox Sample IRS Reporting Milestones*

Deliverable	Target Completion Date	Owner
Project Kickoff Meeting	Early June	Xerox
Detailed Project Plan	June 22, 2015	Xerox
FTE Determination BRD Approved	June 24, 2015	Xerox, Client
Data BRD for Hours & Active HW Offer of Coverage & Enrollment Data Finalized	June 24, 2015	Xerox, Client
Data BRD for COBRA Finalized	June 30, 2015	Xerox, 3 rd Party Vendor
IRS Reporting BRD Approved	July 10, 2015	Xerox, Client
HealthAct Portal BRD Approved	July 17, 2015	Xerox, Client
Test Data Received, Testing Completed (2-3 rounds)	Mid September 2015	Client, 3 rd Party
Setup and Configuration Complete	End of September 2015	Xerox
User Acceptance & Client Acceptance Testing of Portal for E-Delivery Consent	Early November 2015	Xerox, Client
Portal Live (Participant Portal for E-Delivery Consent)	Mid November 2015	Xerox

* *Timeline will be refined and finalized upon project schedule review & approval*

Xerox Sample IRS Reporting Milestones*

(cont.)

Deliverable	Target Completion Date	Owner
User Acceptance Testing	Early December 2015	Xerox
Test Data Received, Testing Completed (2-3 rounds)	Mid September 2015	Client, 3 rd Party
Setup and Configuration Complete	End of September 2015	Xerox
User Acceptance & Client Acceptance Testing of Portal for E-Delivery Consent	Early November 2015	Xerox, Client
Portal Live (Participant Portal for E-Delivery Consent)	Mid November 2015	Xerox
Client Acceptance Testing	Mid December 2015	Client
Production Data Loaded	Mid December 2015 – Early January 2016	Xerox
Final Production Data Received for Original 1095-C/B Forms	January 8, 2016	Xerox, Client, 3 rd Party
Production Forms 1095-C/B Approval	January 22, 2016	Client
Forms Printed, Mailed, & Posted to HealthAct Portal	January 29, 2016	Xerox
Forms 1094-C/B , XML Files by EIN Generated	End of February 2016	Xerox
Approved, Signed 1094-C/B, XML Files Transmitted to IRS or Client	By March 31, 2016	Xerox

* *Timeline will be refined and finalized upon project schedule review & approval*

Your Top Misconceptions?

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