DOUGLAS • MCCARTY Insurance Services, LLC
An Employee Benefits Consulting Company

HCR FAQ
New Taxes, Fees and Penalties

Q. What new taxes, fees and penalties are employers facing under the ACA?

A. There are several new taxes and fees that will apply; some have already been implemented. See the table below for a quick at-a-glance review.

Tax/Fee	Party Responsible for Remitting	Effective Date	Amount
PCORI Fees— Used to fund the Patient-Centered Outcomes Research Trust Fund, a private, nonprofit corporation supporting clinical effectiveness research	Insurers of fully-insured health plans Plan sponsors of self-funded health plans	First fees due as early as July 31, 2013 Applies for 7 plan years.	$1.00 multiplied by the average number of covered lives (not just number of employees) in the first plan year $2.00 per covered life in second plan year Indexed by medical inflation thereafter
Transitional Research Fee— Designed to fund re-insurance payments to health insurance issuers that cover high-risk individuals in the individual market	Insurers of fully-insured health plans Plan sponsors of self-funded health plans	A three year program for 2014-16	$5.25/month ($63.00/ year) per covered life
Health Insurance Co. Fee— A fee allocated to all health insurers to help fund premiums subsidies and Medicaid expansion	Health insurers only, but many carriers are expected to shift the cost to those buying policies, by increasing their needed premium to cover risk retention	First payable September 30, 2014	Depends on the carrier's market share of all health insurance policies as among insurers with total premiums of $25 million or more Largest carriers expect fees of 2-3% of premium
Additional Medicare Payroll and Investment Taxes	Employer is responsible for withholding the Additional Medicare Tax from wages or compensation it pays to an employee in excess of $200,000 in a calendar year.	Goes into effect 2013	0.9 percent Additional Medicare Tax applies to an individual's wages, Railroad Retirement Tax Act compensation, and self-employment income that exceeds a threshold amount based on the individual's filing status. The threshold amounts are $250,000 for married taxpayers who file jointly, $125,000 for married taxpayers who file separately, and $200,000 for all other taxpayers.
Excise tax on high-cost (Cadillac) employer plans	Fully Insured: Employers calculate and insurers pay Self-funded: Employers calculate and pay	Goes into effect 2018	Excise tax on the aggregate value of employer-sponsored health coverage that exceeds certain thresholds Generally, tax will equal 40% of the aggregate value in excess of $10,200 for individual coverage and $27,500 for family coverage

Q. What is the Patient-centered Outcomes Research Institute (PCORI) fee?

A. The Affordable Care Act (ACA) established a private, nonprofit corporation called the Patient-Centered Outcomes Research Institute (Institute). The Institute's task is to help patients, policymakers and health care providers make informed health decisions by advancing evidence-based medicine through comparative clinical effectiveness research. ACA requires health insurance issuers and sponsors of self-insured health plans to pay fees to help finance the Institute's research. The final regulations require issuers and plan sponsors to pay the PCORI fees once a year on IRS Form 720 (Quarterly Federal Excise Tax Return). Form 720 and full payment of the research fees are due by July 31 of each year. It generally covers plan years that end during the preceding calendar year. The PCORI fees apply for plan years ending on or after Oct. 1, 2012, which in some cases, the earliest deadline is July 31, 2013.

Q. Does my company need to comply?

A. The PCORI fees generally apply to insurance policies providing accident and health coverage and self-insured group health plans. The final regulations contain some exceptions and special rules for HRAs and Health FSAs to this rule and also clarify how the PCORI fees apply to certain types of health coverage arrangements. It is the responsibility of the issuers of fully-insured plans or self-insured plan sponsors to pay the fee, which will be treated like an excise tax by the IRS and not tax-deductible. Under the IRS proposal, third parties cannot file the Form 720 or pay the fee to the IRS on behalf of plan sponsors.

Q. What is the fee?

A. The fee is equal to the average number of covered lives for the plan/policy year times the applicable dollar amount.

- For years ending on or after Oct. 1, 2012, and before Oct. 1, 2013 - the applicable dollar amount is $1.
- For years ending on or after Oct. 1, 2013, and before Oct. 1, 2014 - the applicable dollar amount is $2.
- For years ending in any fiscal year beginning on or after Oct. 1, 2014 - the applicable dollar amount is the prior fiscal year's dollar amount plus an adjustment for medical inflation.

The fee phases out by Oct. 1, 2019.

Q. How do I calculate the fee for my company?

The PCORI fees are based on the average number of covered lives under the plan or policy. This generally includes employees and their enrolled spouses and dependents. The IRS has provided several methods to calculate the fee, ranging from using regulatory filings that contain estimate the number of covered lives, to an actual count of the number of lives that are covered on each day of the policy year or on a quarterly basis.

Q. What is the Health Insurer Assessment Fee?

A. Beginning January 1, 2014, Section 9010 of PPACA imposes an assessment on health insurers (including HMOs). In 2014, the total assessment is $8.0 billion, increasing to $14.3 billion in 2018. After 2018, it will continue to increase with premium growth. Each insurer is assessed based on its premium market share and is applicable to insured business only.

Q. How will the Health Insurer Assessment Fee impact rates?

A. Premiums are estimated to increase 2% – 2.5% in 2014 and an additional 3% – 4% in future years.

Q. What is the Transitional Reinsurance Program?

A. The transitional reinsurance program will assess fees on the individual and group (including self-funded) health insurance markets. This program was designed to lessen the impact of high-risk individuals entering the individual market. The funds will be used to make reinsurance payments to the individual insurance market during calendar year 2014 through 2016. A portion of the funds will go directly to the Department of Treasury.

Q. What is the estimated cost impact with the Transitional Reinsurance Program?

A. In 2014, employers will be assessed a $63 per plan participant fee per year ($5.25 per month). In 2015, it is estimated to decrease to $40-$45 per plan participant per year and in 2016 decrease to $25-$30 per plan participant per year. This fee is tax deductible.

Q. Who is responsible to pay the Transitional Reinsurance Program Fee?

A. If your plan is insured, your insurance company is responsible for the transitional reinsurance fee. If your plan is self-funded, employers are responsible for payment; however your plan administrator may be able to make the payment on your plan's behalf.

Q. What is the Cadillac Tax?

A. The Cadillac tax is an excise tax scheduled to take effect in 2018. It is a 40% permanent annual tax on employers that provide high-cost benefits through an employer-sponsored group health plan.

Q. Who is responsible to pay the Cadillac Tax?

A. For Fully Insured plans, the employer must calculate the tax and report it to the plan administrator, who pays the tax to the Internal Revenue Service.

B. For Self Funded plans, the employer is responsible to calculate and pay the tax to the Internal Revenue Service.

Q. How is the Cadillac Tax calculated?

A. The tax is 40% of the cost of plans that exceed predetermined threshold amounts.

B. Cost includes the total premiums paid by both employers and employees, but not cost-sharing amounts such as deductibles and copays when care is received.

C. For planning purposes, the thresholds for high-cost plans are $10,200 for individual coverage, and $27,500 for family coverage.

D. These thresholds will be updated for 2018 when final regulations are issued and indexed for inflation in future years.

E. The thresholds will also be adjusted for:

- High-risk professions such as law enforcement and construction.
- Group demographics including age and gender.

F. For pre-65 retirees and individuals in high-risk professions, the threshold amounts are $11,850 for individual coverage and $30,950 for family coverage.

Q. How is a plan's cost determined?

A. The tax is based on the total cost of each employee's coverage above the threshold amount. The cost includes premiums paid by employers and employees plus:

- Employer and employee contributions to Health Care Flexible Spending Accounts, Health Reimbursement Accounts and Health Savings Accounts.
- The cost of Employee Assistance Plans with counseling benefits, onsite medical clinics and wellness programs.

Q. How will the tax be paid?

A. IRS Forms and instructions for paying the tax are not yet available.

Q. What penalties are associated with non-compliance with the ACA?

A. See chart below.

Mandate	Who Administers	When?	Penalty
ACA Mandates **Currently delayed for Notice of Exchange and Non-discrimination Requirements**	IRS	This general penalty requires employers to correct compliance failures within 30 days of discovery. This tax must be self-reported annually on Form 8928 no later than the deadline for filing the entity's federal income tax return, with no extensions.	Employers that sponsor or maintain group health plans are required to pay a tax of $100 per day during the noncompliance period with respect to each individual to whom a violation relates (although the tax is limited in cases of unintentional failure, and small employers (at least two but no more than 50 employees) are exempt to the extent they provide coverage through a health insurance issuer and the failure is solely due to the health insurance coverage offered by such issuer).
Individual	IRS	Pro-rated based on the number of months during the year that an individual is not covered by health insurance, although there is no penalty if an individual is not covered for less than three months.	For the tax year 2014, the penalty for the entire year will be $95 per adult and $47.50 per child, up to a family maximum of $285 or 1 percent of the family's income, whichever is greater. In 2015, these amounts increase to $325 per adult, $162.50 per child, and a family maximum of $975 or 2 percent of the family's income. For 2016 and subsequent years, the full penalties will be $695 per adult, $347.50 per child, and a family maximum of $2,085 or 2.5 percent of the family's income.
Employer Mandate	IRS	Employer (50+) Not Offering Coverage: Starting in 2015	A large employer who does not offer coverage will be subject to a penalty if any of its full-time employees obtain coverage through an exchange and receive a premium tax credit. The monthly penalty assessed to an employer who does not offer coverage will be equal to the number of its full-time employees minus 30 (the penalty waives the first 30 full-time employees) multiplied by one-twelfth of $2,000 for any applicable month. After 2015, the penalty payment amount will be indexed by a premium adjustment percentage for each subsequent calendar year.
Employer Mandate	IRS	Employer (50+) Offering Coverage that is not Affordable or Minimum Value: Starting in 2015	If a penalty is assessed in 2015, the monthly penalty assessed to an employer for each full-time employee who receives a premium credit will be one-twelfth of $3,000 for any applicable month. However, the total penalty for an employer is limited to the total number of the firm's full-time employees minus 30, multiplied by one-twelfth of $2,000 for any applicable month. After 2015,the penalty amounts are indexed by a premium adjustment percentage for each subsequent calendar year.