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IRS Employer Mandate Enforcement Efforts Forthcoming

Given all the talk about repeal and reform, and the lack of any significant enforcement efforts by the IRS, employers may think that potential penalties under the ACA's Employer Mandate are a dead issue. However, a recently issued report by the Treasury Inspector General for Tax Administration (TIGTA) suggests otherwise

On April 7, 2017, TIGTA issued an "Assessment on the Efforts to Implement the Employer Mandate under the Affordable Care Act." In this report, TIGTA explained that the IRS has developed the "ACA Compliance Validation (ACV) System", which will be used to identify potentially non-compliant Applicable Large Employers (i.e., employers with 50 plus FT or FTE employees) and to calculate the appropriate penalty for such non-compliance. The IRS has been working on the ACV System since July 2015, with an intended implementation date of January 2017. Due to various issues, however, implementation has been delayed to May 2017.

In addition, because of the challenges with the ACV System, the IRS is developing an automation tool outside of the ACV System to identify non-filers and Applicable Large Employers subject to the Employer Mandate's Section 4980(a) penalty, i.e., the penalty imposed on Applicable Large Employers who do not provide benefits to 95% of their full-time workforce. This tool is set to deploy by March 2017. Similarly, the IRS is developing an automation tool to identify non-filers and Applicable Large Employers subject to the Section 4980(b) penalty (i.e., the penalty imposed on employers that provide benefits to the majority of its workforce but such benefits are either not affordable within the meaning of the ACA or do not provide adequate actuarial value), which is also set to deploy by March 2017. These automation tools will allow the IRS to more easily identify noncompliant employers.

TIGTA's report indicates that while the process has been delayed, the IRS intends to go forward with enforcement of the ACA's Employer Mandate. Until the Employer Mandate is repealed, to avoid risk, employers should continue to comply with the Mandate's requirements. Stay tuned for further information.

Please visit <http://www.moreton.com/events/> for more information and to view other client alerts. This Client Alert was written by Carolyn Cox, Moreton & Company's in-house corporate counsel who provides our clients with compliance services. For additional questions, please contact Carolyn at 801-715-7110 or ccox@moreton.com.

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