

HOW THE AFFORDABLE CARE ACT AFFECTS INTERNATIONAL EMPLOYEES



Ministries providing medical coverage for United States citizens working outside their home country face additional administrative challenges in complying with the Affordable Care Act (ACA). This guide is designed to provide an overview of ACA compliance issues unique to expatriate employees and their employers as they fulfill their ministry missions around the globe.

INDIVIDUAL MANDATE

The individual mandate, passed in January 2014, requires most United States citizens and legal residents to purchase a basic level of coverage known as “minimum essential coverage” under the ACA. All GuideStone’s international plans meet the minimum essential coverage requirements.

Generally, if you have an employee that is a United States citizen working in a foreign country, they are exempt from the individual mandate if they meet the following criteria:

- They were physically present in a foreign country for at least 330 full days during any period of 12 consecutive months.
- They are a bona fide resident of a foreign country for an uninterrupted period that includes the entire tax year.
- They are a bona fide resident of a U.S. territory for at least 183 days (generally) during the tax year.

If your employee does not meet any of the above criteria, they may be required to comply with the individual mandate. The penalty associated with the individual mandate was reduced to \$0 as of January 1, 2019. The consequences for non-compliance, absent the penalty, have not been addressed by the IRS. Also, on December 18, 2019, a Fifth Circuit appeals court upheld a Texas district court’s decision that found that the ACA’s individual mandate was unconstitutional. For now, this court decision has no immediate day-to-day impact.

EMPLOYER MANDATE

Effective January 2016, the employer mandate requires employers with 50 or more full-time equivalent employees to provide health insurance to at least 95% of their full-time employees and eligible dependents or be subject to a penalty. Determining the number of hours worked by expat employees can be a confusing task for many employers.

Under Treasury Reg §54.4980H-1(a)(24)(ii)(C), hours worked outside of the United States are excluded only if the income earned comes from a foreign source. Hours worked by employees abroad – who receive compensation from a U.S.-based source – should be taken into consideration when determining an employer’s applicable large employer (ALE) status and an individual employee’s full-time status.

International Transfers

Ensuring that you are in compliance with the law may seem more complicated than it is regarding employees who worked part of the year in the United States and another part of the year in another country. Generally, expat and domestic employees are accounted for in the same manner if they receive income from a source based within the United States.

ACA REPORTING REQUIREMENTS

Internal Revenue Code Section 6055 and *Section 6056* outline your ministry's health plan reporting requirements. All ALEs are required to comply with these reporting requirements regardless of whether their employees are working domestically or abroad.

Code Section 6055 requires providers of minimum essential coverage to report coverage information to the IRS.

GuideStone®, as the plan provider, prepares and makes available *Form 1095-B* to all employees and *Form 1094-B* to the IRS as part of this mandate. GuideStone also provides to employers a summary report of the information from these forms.

Code Section 6056 requires all ALEs to file *Forms 1094-C* and *1095-C*. These forms report information to the IRS about the employee's salary and cost of health care coverage in order to help the IRS determine whether a full-time employee was offered coverage that meets minimum value. Minimum value coverage is coverage that is designed to pay at least 60% of the total cost of medical services and meets the affordability percentage as determined by the IRS each year.

GuideStone is your health care reform advocate. Since the passage of the ACA, GuideStone has provided resources and guidance to help you understand how this landmark legislation impacts your ministry and your family. Our industry experts are committed to providing you with the information and resources you need to comply with the law.

GuideStone welcomes the opportunity to share this general information. However, this information is not intended to be relied upon as legal advice. This information may be subject to interpretation or clarification over time, so we cannot guarantee its long-term accuracy or how it might be determined to apply in certain situations. However, we hope it will provide you a useful frame of reference as you endeavor to carry out your responsibilities and serve your employees.

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