White Paper

ACA Compliance – Whose Job is it, Anyway?

Every key department and function within an organization has a defined role.
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Executive Summary

Despite decades of alternative approaches, health care costs are skyrocketing. In fact, per capita costs have risen faster than inflation every single year since 1965. These expenditures now account for 20 percent of the U.S. GDP.¹

The latest, and by far the most epic, approach to U.S. Health Care Reform – the Affordable Care Act (ACA) – has created an unprecedented environment of compliance complexity. In effect, the ACA has rewritten the rules of U.S. workforce management – transforming what was once an annual enrollment event into a monthly process of tracking and reporting extensive data points for every employee within an organization, across multiple functional areas and systems. Moreover, noncompliance carries the potential of significant penalties.

For business owners and executives, a core ACA-related necessity involves investing in solutions to help their companies comply with the law – systems, processes and service-based solutions that provide requisite flexibility, especially as the extended implementation of the law is likely to spawn new rules and requirements out over several years. Meanwhile, strategic decision makers must remain focused on driving their business, managing their workforce, and investing in strategies that will accelerate top-line growth.

Interestingly, there is still some confusion about the ACA law including who, within the company, is responsible for ACA compliance. In many organizations, responsibility for ACA compliance has not yet been completely clarified and is often seen as someone else’s responsibility. However, an ADP² survey of midsized and large organization decision makers reveals:

- Most C-level decision makers – including chief executive officers and presidents – are heavily engaged in decision making regarding ACA compliance.
- A majority of decision makers surveyed indicated that “fast and easy access to employee data” is “extremely important” to ACA compliance, acknowledging the fact that accurate payroll and HR data are essential to crucial computations that drive ACA-related compliance.
- While Benefits and HR staff appear to be most involved in ACA solution implementation, other key staff functions – including Payroll – are playing definable roles.
- Although most survey respondents are either “extremely confident” or “very confident” that their companies are currently compliant with ACA requirements, up to 27 percent of midsized and 28 percent of large company respondents indicated that they are only “somewhat confident,” in their current ACA compliance posture.

In addition to sharing highlights of study results, this white paper offers function-specific suggestions on how organizations can navigate the complexities of Health Care Reform by proactively engaging and coordinating the expertise of internal departments, from IT and Human Resources to Payroll and Legal.

For organizations that prefer to purchase service-based solutions, partnering with a third party to help with ACA compliance is an attractive option, because it opens the door to leveraging existing expertise that comes with flexible systems, proven processes, and best practices.

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The cost of health care benefits is one of the most significant items on an organization’s balance sheet. The passage and implementation of the Affordable Care Act (ACA) not only has added to direct health care benefits costs, but also indirect costs driven by ACA compliance mandates. The most obvious are ACA penalties for noncompliance, which are actually taxes that the Internal Revenue Service (IRS) can levy upon employers. These penalties can easily reach into seven figures for businesses with as few as 1,000 employees.

However, introducing new platforms, processes, and practices to help coordinate data and information needed to help with ACA compliance carry just as much, if not more, weight among C-level executives surveyed by ADP. As an example, most decision makers involved in ACA compliance cited “fast and easy access to employee data” as “extremely important” in driving their selection of a solution to assist with ACA compliance. Other key factors also revolved regarding gaining “administrative relief.” The study revealed the ACA-related decision making of ADP clients and non-clients in organizations, across various industries, with head counts ranging from 50-999 employees as well as 1,000 or more employees.

For instance:

- C-level executives are heavily involved in decisions that affect ACA compliance.
- 6 out of 10 CEOs are prime ACA decision makers.
- 65% of CEOs in the 50-999 space actively engaged in ACA strategic leadership role.
- While Benefits and HR staff are most involved in ACA implementation, other staff functions also contribute.
- In 48% of companies with 1,000+ head count, Payroll staff is involved in ACA compliance solution implementation.

Many respondents still lack full confidence in their ACA compliance posture.

Most survey respondents are “extremely confident” or “very confident” that their companies are compliant with ACA requirements but...

- 27% of Midsize Companies &
- 28% of Large Employers that are not ADP clients are “somewhat confident”

Remarkably, even now within many organizations, the responsibility for ACA compliance is still unclear. Too often, compliance is seen as someone else’s responsibility, whether that means colleagues in Human Resources, Benefits, Payroll, Finance, the Tax Department or Legal. In reality, ACA compliance affects – and to some extent is the responsibility of – multiple functions or departments.

This paper identifies key departments and their ACA roles; presents ACA challenges they are likely to confront; and offers ways that each department can help contribute to an ACA-compliant environment.

**Challenges:**
Managing ACA implementation – such as data aggregation – requires a technological framework that can extract information from disparate systems and merge data to perform ACA calculations. This commitment places a significant burden on an organization’s IT resources to perform many essential tasks.

Because IT would be responsible for merging slices of key data sets, your IT systems must have the capability to seamlessly coordinate data across multiple business units and functions – data that is crucial for Health Insurance Marketplace documentation, IRS filings, and penalty estimates. Employers would have to assess existing IT systems for performance gaps and determine if the systems have to be updated, supplemented, or replaced completely.

In addition, just as a utility company provides gas or electricity to multiple customers, IT must be in a position to accept the long-term challenge and responsibility for being the organization’s in-house utility to provide data for ACA compliance across the enterprise. This includes housing critical data for ACA requirements, such as look-back calculations – the cornerstone of the ACA’s Employer Shared Responsibility provisions; Excise (“Cadillac”) Tax calculations regarding high-cost health coverage; and Section 6056 Reporting.

**Takeaways for Success:**
- **Bridge siloed data** – especially if there is any merger and acquisition activity or separate global payroll systems.
- **Correctly aggregate data** and produce quality data sets.
- **Harmonize transaction and record-keeping systems** so they can provide all affected department heads with one data set or “single source of truth” (SSOT) for internal, Health Insurance Marketplace, tax reporting, and auditing purposes.
HUMAN RESOURCES AND BENEFITS

ACA Role:
Identify ways to lower health care benefits costs, mitigate risks, and comply with the ACA. In addition, oversee core HCM components – such as recruitment, onboarding, workforce balancing, engagement, talent, and total rewards – each of which directly or indirectly fits into ACA data intersection points.

Challenges:
The ACA is an evolving law, being implemented through numerous rules and regulations, which will continue to be formalized through at least 2018. This presents an exponential increase in complexity and change management for most of an organization’s departments and functions, particularly HR and Benefits. This means an organization’s staff will have to constantly be on the alert for regulatory changes.

As changes occur, HR and Benefits will need to work closely with Legal and other internal partners to develop baseline knowledge of key requirements and deadlines that can affect the organization’s employees, and then transform that knowledge into effective employee education.

Among the most mission-critical ACA-related challenges facing HR and Benefits are leave-of-absence calculations – from jury duty to the Family & Medical Leave Act (FMLA). In addition, employee misclassifications could have an impact on the employer’s ability to ensure that they offer Minimum Essential Coverage (MEC) to at least 70 percent of ACA full-time employees in 2015 or 95 percent in 2016. Failure to achieve this target could result in significant penalties that can run into the hundreds of thousands of dollars – for larger employers, the millions of dollars.

Takeaways for Success:
• **Increase the level of ACA knowledge among existing staff.** If existing staff is not comfortable with ACA subject matter, engage resources and partnerships to help provide the education these professionals need to excel. (ADP’s *Eye on Washington* is just one of those publications and is available as an email alert. Please click [here](#) or visit [www.adp.com/healthcare](http://www.adp.com/healthcare) to subscribe.)

• **Improve ACA expertise through new hires.** Consider onboarding experts who can constantly monitor the ACA, strategically evaluate compliance alternatives, serve as a conduit of information for employees, and help avoid a perpetual cycle of reacting to new changes and, instead, be prepared to address ACA concerns in advance.

• **Reexamine communications strategies and tactics as they relate to the ACA.** For example, how do you connect with an employee if there is a change to the ACA requirements that impacts them and decisions they make that might put the organization into a position of ACA noncompliance?

PAYROLL

ACA Role:
Serve as the primary system of record for hours of service to help determine employer compliance with the ACA, including proper taxation of employees’ wages and associated reporting.

Challenges:
It is up to Payroll to assist with reporting to help ensure that health benefits are offered to enough full-time employees in accordance with ACA requirements and the employer’s ACA strategy, so that penalties associated with the ACA’s Employer Shared Responsibility provisions are not imposed on the employer. To avoid being subject to an Employer Shared Responsibility penalty, organizations will be required to correctly identify which employees are considered full-time employees under the ACA, based on hours of service (not only hours worked).

Payroll and timekeeping are particularly difficult to manage because of the many administrative adjustments and historical edits that are typically made over time. This can have a major impact on look-back period calculations and affordability.
Payroll may have the responsibility of overseeing look-back calculations that determine which employees are considered to be ACA full-time employees during a certain measurement period. Measurement calculations, which are sourced from pay data, are critical for ACA compliance, because it helps to form information that the employer sends to both the IRS and employees. The ACA continues to mandate reporting requirements for organizations. Payroll is responsible to assist in complying with annual reporting requirements under the ACA, especially for Forms W-2. It is important to work closely with Benefits to correctly set up benefits deductions from pay and to capture health insurance data for reporting in Box 12, Code DD on Forms W-2.

In addition, Payroll is responsible for the accurate processing and taxation of each employee’s pay. Wages need to be carefully monitored to comply with the additional Medicare tax requirement and reporting, limits of Health FSA Contributions, and accurate taxation when issuing Medical Loss Ratio Rebates (MLR) to employees.

**Takeaways for Success:**

- **Ensure pay information is in sync with data in an ACA rules engine**, so the organization is not at risk for significant penalties for an incorrect filing on employer transmittals or on employee statements.

- **Proactively cleanse data** and enforce discipline in field management pay-period sign-offs as a best practice.

- **Educate field operations staff** on the importance of consistent accurate recordkeeping.

- **Carefully monitor** each employee’s wages, deductions, and taxes throughout the year by performing accurate quarterly and annual reconciliations.

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**FINANCE**

**ACA Role:**
Oversee ACA integration into the organization, as other departments manage day-to-day integration of the law and its rules and regulations. Communicate with company leadership to make sure the ACA remains a top business priority and – working with HR and Benefits – educate the workforce at all levels about the high price of ACA noncompliance.

**Challenges:**
One of the chief ACA responsibilities of the Finance Department is to help the organization avoid trigger events that can require a penalty to be paid. For example, an employer could be subject to a nondeductible ACA penalty if it: 1) fails to offer adequate, affordable health care coverage to full-time employees and their eligible dependents, and 2) at least one of these employees receives a federal premium tax credit or cost-sharing subsidy for coverage on a Health Insurance Marketplace. Calculations to determine whether an employee has full-time status and whether the coverage is affordable can be very complex. Noncompliance penalties can be financially devastating to an organization.

In addition, Finance has the challenge of monitoring the costs of health care coverage offered by the employer to ensure these costs are not trending to a point where a 40 percent, nondeductible Excise Tax (commonly referred to as the “Cadillac” tax) is imposed in 2018.

**Takeaways for Success:**

- **Develop a strategic master plan** to help ensure decisions about ACA compliance are made by senior managers and permeate the organization.

- **Share access with other departments to reporting and analytic tools that create departmental transparency and accountability**, assuring that each department head is executing the right strategies to promote compliance.

- **Ensure a sufficient budget is available** to support ACA compliance efforts.

- **Monitor ACA expenses to avoid “surprises”** that can have a significant P&L impact.
TAX DEPARTMENT

ACA Role:
Provide subject matter experts who can accurately identify and correctly interpret the organization’s ACA tax requirements.

Challenges:
The Tax Department must engage in multiple internal partnerships to help an organization achieve ACA compliance. In coordination with Finance, your Tax function will audit IRS penalty estimates and file appeals, as appropriate. Accordingly, because accurate record keeping is necessary to validate an IRS penalty estimate, Tax needs to coordinate with the organization’s HCM (HR/Payroll) and Legal teams to validate employee information from core HCM systems and full-time status calculation processes.

Timely completion and submission of forms is also at the hub of the Tax Department’s challenges. For example, under Internal Revenue Code Section 6056, there are two new tax forms: Form 1094-C (Employer Transmittal Return) and 1095-C (Employee Statement Form). Employers are required to submit these forms to their employees and the IRS, based upon rigid time lines.

Moreover, the organization’s chief financial officer or financial executive, who typically signs the organization’s tax filing documents, will need to certify the accuracy of data that appears on the IRS Form 1094-C filing.

Employers can use a simplified report format if they agree to either of two sets of requirements: 1) they offer minimum value coverage at an employee-only cost of no more than 9.5 percent of the federal poverty level, if minimum essential coverage is also offered to spouses and dependents, or 2) the employer certifies that they have offered affordable minimum value coverage to at least 98 percent of their employees (and eligible dependents) for whom they are required to submit Employer Shared Responsibility reports.

An additional reporting option that limits required information is available only for 2015. To qualify, an employer must certify that it offered minimum value coverage to at least 95 percent of its ACA full-time employees at an employee-only cost of no more than 9.5 percent of the federal poverty level and the employer offered minimum essential coverage to the full-time employees’ spouses and dependents.

Takeaways for Success:
• Build ACA knowledge among existing Tax Department staff. Engage resources and partnerships to help accelerate the staff. (ADP’s Eye on Washington is just one of those publications and is available as an email alert. Please click here or visit www.adp.com/healthcare to subscribe.)
• Improve expertise by hiring domain experts. Onboard experts who understand the evolving tax code and can immediately apply that knowledge to the organization’s ongoing goal of ACA compliance.

LEGAL

ACA Role:
Prepare for ACA-related challenges – from the organization’s workforce and other departments within the organization – as well as the possibility of ACA-related legal action.

Challenges:
While all departments in an organization will need to become proficient in the ACA, the Legal team will be an organization’s ultimate compliance specialists. Many challenges may be complex and cumbersome – especially for larger organizations that operate across multiple states with thousands of employees. Appeals may vary state-by-state or by type of Health Insurance Marketplace, making these processes difficult to manage.

Takeaways for Success:
• Proactively prepare the organization to comply with the ACA. Educate other departments on ACA requirements and coordinate with internal partners and their teams to work toward ACA compliance, thereby protecting the organization’s employees, the organization as a whole, and its brand.
• Should the organization have union employees, determine how the organization can comply with ACA requirements while honoring collective bargaining agreements that may have special rules and, potentially, some exemptions from ACA requirements.
• Improve expertise by hiring or consulting with external domain experts. Onboard or partner with outside experts, who understand the legal and practical implications of the ACA, so their knowledge can be immediately leveraged and applied to assist the organization.
Navigating an Uncharted Landscape

The ACA is driving employers to create a new compliance model to meet the law’s Employer Shared Responsibility provisions. There is no “history” to help prepare an organization to navigate significant new challenges, tasks, and activities like:

• Communicating accurate information concerning an evolving law and series of regulations to employees
• Providing notice of Health Insurance Marketplace coverage
• Receipt of notices from federal and state Health Insurance Marketplaces
• Subsidy verification of inquiries from federal and state Health Insurance Marketplaces
• Appeals processes
• Section 1411 Certifications
• Management of reporting deadlines/reporting period management
• IRS filing of Form 6056 and financial officer certification of Forms 1094-C and 1095-C IRS penalty estimates
• Money movement – i.e., remittances to the IRS
• Administrative challenges and the assignment of staff to meet various ACA demands

Some organizations will probably face greater ACA-based challenges than others. For example, those with primarily an hourly population, like retail and service organizations, will have much higher populations that could claim premium tax credits, if the employer does not provide affordable minimum essential coverage.

Moreover, Health Insurance Marketplaces [there are 14 state Marketplaces plus the District of Columbia; 36 states have defaulted to a federally facilitated Marketplace4] will likely continue to be dynamic environments, as states continue to evaluate different models or additional Health Insurance Marketplace functions in future years. This will add to ongoing changes to an organization’s administrative processes.5

Furthermore, one of the biggest unknown areas regarding the ACA involves the commingled administrative burden and the associated financial risk of data quality and accuracy that supports documentation and communication to the Health Insurance Marketplaces and the IRS. This involves a coordinated effort of multiple departments. Incorrect data will likely result in a barrage of correspondence and complaints across the board, i.e., involving employers, employees, Health Insurance Marketplaces, and the IRS. Faulty or otherwise inadequate information sent to the IRS may result in reporting penalties (up to $100 per occurrence and a maximum of $1.5M per filing).6

One thing is for sure: as new ACA rules and regulations continue to emerge, navigating the uncharted to achieve compliance is likely to be part of the new normal when it comes to Health Care Reform. Leveraging the coordinated expertise of multiple functions within an organization should help – so might the added expertise of a third-party provider.

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C-suite leaders in organizations impacted by ACA compliance requirements need simplified strategies to manage ACA compliance that does not deplete their organization’s resources and capital. Underinvesting in their core business can limit the organization’s capacity to serve customer or client demands – and affect the very reason they are in business in the first place.

A preferred strategy would help minimize the investment of internal assets to build and modify ACA systems. This would free up an organization to focus on their core business and grow top-line revenue, while protecting bottom-line impacts from ACA “play-or-pay” penalties, related regulatory tax compliance, and special infrastructure expenses.

For some businesses, an ideal ACA compliance solution might involve identifying and pursuing a value-based partnership to help mitigate the risks associated with ACA compliance and, consequently, the need to build and support an infrastructure of special systems and dedicated resources to help coordinate internal departments for consistent compliance success:

- Some organizations may choose to utilize partnership specialization to enhance and improve expertise, service, transactional delivery, and scale.
- Others may want a partner who understands the interdependence of ACA data sets.
- Still others may prefer to leverage an existing relationship where possible, because high-quality, long-term, and successful partnerships share a strategic road map for business success.

By partnering with a third-party provider that has end-to-end HCM infrastructure and compliance expertise, an organization is free to focus on areas of greater value/reward to the organization.

The good news is a business does not have to take on the ACA alone. Over the short- and long-term, a third-party partner can help an organization consistently respond with confidence and success to the numerous challenges and complexities of a seemingly ever-evolving law.

ABOUT ADP
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