

**URGENT!!!! PLEASE READ!**

The Affordable Care Act made many changes to the health care environment in our country. One of the little talked about issues was the \$100 per day per employee penalty for businesses and not for profit organizations providing health care reimbursement to their employees. This type of arrangement was tempting since employees could potentially get their own coverage at a much lower rate than the plans offered to employers. The employer would then reimburse the employee for the health insurance as a non taxable benefit to the employee. These arrangement had been practiced since the 60's. For organizations with fewer than 50 employees the teeth of this penalty was postponed to July 1, 2015 for all those not in compliance with the new law.

It first appeared that the new penalties would not apply to churches since the Act specifically exempted churches from the penalty. However, the Public Health Service Act (PHSA) also imposes the penalty and does not exempt churches from the penalty. So, PHSA imposes the same penalty of \$100 per day per employee.

However, before panic ensues many churches will fall in the exclusions of the requirement.

First lets define a reimbursement arrangement that is considered under the IRS Notice 2013-54, "an employer reimburses an employee for some or all of the premium expenses incurred for an individual health insurance policy.... or arrangements under which the employer uses its funds to directly pay the premium for an individual health insurance policy covering the employee". Notice what it doesn't include, any payments for health care expenses that are not insurance policies and for other types of coverage including dental and vision coverage or long term health care or disability insurance. The penalty is restricted to reimbursement of health insurance coverage only.

Another big exception to the penalty is the definition that a plan must include more than one employee. This means the penalty will not apply to reimbursements to a single covered employee. Good news for churches with the only full time employee being the pastor.

Another option is to use the SHOP (Small Business Health Options Program) to reimburse employees health care insurance premiums. This option is only available to employers with fewer than 50 employees.

Another option is to increase the salaries of the employees affected which is allowable as long as the increase is not contingent on the funds being used to pay for health care. The down side of this is that the amounts paid to the employee are no longer tax deductible.

This issue needs to be dealt with immediately.

Potentially, there will be Congressional relief concerning this act but that is certainly not assured.

If you have any questions do not hesitate to contact the office.