

LEGAL UPDATE



IMPORTANT COURT RULING MAY IMPACT EMPLOYER ACA SHARED RESPONSIBILITY PAYMENTS

A recent federal court ruling has major implications for how the IRS enforces the Affordable Care Act (ACA)'s Employer Shared Responsibility Provisions (ESRP). Employers who have been assessed ESRP penalties under the ACA may want to take a closer look.

The ruling found that the IRS exceeded its authority by assessing ESRP penalties based on certifications that should have come directly from HHS and not from the IRS. The ACA does not permit HHS to transfer the authority to issue these certifications to the IRS.

The court also said that HHS's past attempts at issuing these certifications were inadequate. As a result, the IRS's Letter 226-J, which typically serves as a notice to employers of an ESRP penalty liability, was found to be unsupported in this case. The court ordered a refund of over \$205,000 in ESRP penalties to the employer, though it denied a request for attorney's fees.

If your health plan has been assessed an ESRP penalty without proper certification from HHS, this decision may be relevant to you. If so, please discuss with your legal counsel.

HHS has until late June to appeal this decision. We will keep you posted on any future developments.

