U.S. Health Reform 2014

INFORMATION FOR H-2A AND H-2B GUEST WORKERS IN VERMONT

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Updated December 23, 2014

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Disclaimer

- The law is complicated. This presentation cannot address all possible situations.
- This presentation provides simplified general information.
- This presentation is not a substitute for personalized legal advice or tax advice.

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Two Parts of Health Care Reform

- Penalty for not having health insurance
  - This is called the Shared Responsibility Payment
- New marketplaces for individuals to purchase health insurance
  - New subsidies for marketplace insurance plans
  - Vermont Health Connect is Vermont's new marketplace

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Two Parts of Health Care Reform: Part One

- Penalty for not having health insurance
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Which guest workers might owe a penalty?

- People who are considered "non-residents" for U.S. taxes will never owe a penalty; don't have to get U.S. insurance
  - U.S. tax form is "1040NR"
- People who are considered "residents" for U.S. taxes may owe a penalty if they don't have U.S. health insurance *while they are legally present* in the U.S.
  - U.S. tax form is "1040" (or 1040EZ, or 1040A)

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Substantial Presence Test

- Any person who is in the United States for 183 qualifying days or more during any calendar year is a U.S. “resident” for tax purposes, for that year.
- A person is also considered a resident if he has at least 31 qualifying days in the filing year, and at least 183 total qualifying days under a counting formula.
  - Formula looks back 2 years
- The Substantial Presence Test calculation must be done for each year
  - Some guestworkers won’t know in advance if they’ll be considered a U.S. resident for the year

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Substantial Presence: Counting the Days

- Is an H-2A or H-2B worker a U.S. resident for 2014 taxes? Count up the days present in the U.S. under this formula:
  - Days present in 2014 = each day counts as 1 day
    - The worker must have at least 31 days in 2014
  - Days present in 2013 = each day counts as 1/3 of a day
  - Days present in 2012 = each day counts as 1/6 of a day
- If the days add up to at least 183, the worker meets the Substantial Presence Test
  - This means the worker will file 2014 taxes as a U.S. resident
  - The 2014 tax return is due April 15, 2015

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Substantial Presence: Three Exceptions

1. Closer connection – A worker who meets the substantial presence test could choose to file taxes as a nonresident, if the worker:
   - was in the U.S. fewer than 183 days during the year,
   - has a closer connection to a foreign country than to the U.S., and
   - files a timely nonresident tax return claiming this exception on IRS Form 8840.

2. Tax treaties -If a person is treated as a resident of a foreign country under a tax treaty between the U.S. and his home country, he is treated as a nonresident alien in figuring his U.S. income tax.
   - For specific treaty benefits, see IRS Publication 901, U.S. Tax Treaties.

3. Certain types of visas/status
   - For example, students in the U.S. on student visas don't have any "qualifying days" for the substantial presence test

- This is simplified general information and is not a substitute for individual tax advice.

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Exemptions from the penalty
(for US "residents")

- Coverage gap of 2 months or less
- No "lawful presence" in the U.S.
  - A family member in the U.S. who is undocumented
  - Time spent in the U.S. not authorized by a visa
  - A spouse or family member living outside the U.S. all year
- Income less than the amount that triggers a tax filing requirement
- Other exemptions – see https://www.healthcare.gov/fees-exemptions/exemptions-from-the-fee/

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U.S. Income tax filing thresholds

For U.S. residents

Filing Status	2014	2015
Single	$10,150	$10,300
Married Filing Jointly	$20,300	$20,600
Married Filing Separately	$3,950	$4,000

- These numbers change slightly every year.
- The thresholds are higher for people who are 65 or older.

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If not exempt, penalty on tax return

The Monthly Penalty for Failure to Have Insurance is the GREATER of:

	Flat dollar amount	**OR**	Percent of income amount
2014	$7.92		1% of income above the tax filing threshold, divided by 12
2015	$27.08		2% of income above the tax filing threshold, divided by 12
2016+	$57.92		2.5% of income above the tax filing threshold, divided by 12

The flat dollar amount is higher if the worker has a spouse or child who is a U.S. resident for tax purposes and who was "lawfully present" in the U.S.

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Penalty Example - Rob

- The Facts:
  - In 2014, Rob arrives from Jamaica on April 25 and works under his H-2A visa for 6 months, leaving on November 5.
  - Rob does not have health insurance.
  - Rob makes $12,150. He has no Jamaican income.
  - Rob is not married. He has no children in the U.S.

- Will Rob owe a penalty on his 2014 tax return?

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Penalty example continued - Rob

- Rob will owe a penalty on his 2014 tax return. Why?
  - Rob is considered a U.S. resident for U.S. tax purposes, under the substantial presence test.
    - He was in the U.S. for more than 183 days in 2014.
  - Rob was "lawfully present" in the U.S., under his H-2A visa.
  - His income is more than the filing threshold for a single person ($10,150)
  - He was without health insurance for more than 2 months, while lawfully present in the U.S.

2014 Penalty Calculation - Rob

- Rob's ACA penalty
  - Flat dollar amount is $7.92 per month
  - Percent of income amount is 1% of $2,000 ($12,150 - $10,150), divided by 12. = $1.67 per month
  - We use the flat dollar amount because it's bigger. The penalty is $7.92 x 6 months = $47.52
- Rob's 2014 penalty is probably less than the cost of buying health insurance, even with subsidies.
  - This might not be true in later years, when the penalty increases.

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2015 Penalty Calculation - Rob

- What would Rob's ACA penalty be for 2015, if the facts are the same?
  - Flat dollar amount increases to $27.08 per month
  - Percent of income amount is 2% of $1,850 ($12,150 - $10,300), divided by 12. = $3.08 per month
  - We use the flat dollar amount because it's bigger. The penalty is $27.08 x 6 months = $162.48

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What if Rob is married?

- Rob's wife has never been to the U.S.
- Rob can ask his wife to file a joint U.S. tax return with him.
- She would need to get a U.S. tax ID number (ITIN).
- If Rob and his wife file a joint tax return, they won't owe a penalty if their combined worldwide income is under the married filing threshold ($20,300 - 2014).
- If Rob's wife does not agree to file a joint U.S. tax return, Rob's penalty is the same as if he were single.

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Two Parts of Health Care Reform: Part Two

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Health Plans in the Marketplace

- Vermont Health Connect (VHC) is the health insurance marketplace for people in Vermont
- Workers have 60 days to enroll in a health insurance plan after arriving in the U.S.
  - This is called a *Special Enrollment Period*

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Health Plans in the Marketplace

- Subsidies lower the cost of health insurance
  - All lawfully present guest workers may be eligible for subsidized health insurance, whether or not they are considered U.S. residents for tax purposes
    - Premium Tax Credit can be claimed on Form 1040NR
  - Workers receiving subsidies must notify VHC immediately when they leave the U.S. or lose lawful status, so subsidies can be stopped

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Health Plans in the Marketplace

- Subsidies lower the cost of health insurance
  - If married, workers must file a joint tax return with their spouse to receive subsidies
    - The spouse must get a U.S. tax number (ITIN)
    - The worker and spouse must report all their worldwide income on the joint U.S. tax return

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Help Navigating the Marketplace

- "Navigators" help people understand their health insurance choices
- Navigators can help people enroll in health insurance
- Find a Vermont navigator near you
  - Call 1-855-899-9600
  - Or go online: http://info.healthconnect.vermont.gov/find

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Expected 2014 premium contribution in VT

For a Single Person*

2014 Yearly Income	Premium contribution as percent of income	Monthly premium contribution
Less than $11,490	0.5%	$0 - $5
$11,490 - $15,282	0.5%	$5 - $6
$15,282 - $17,235	1.5 – 2.5%	$19 - $36
$17,235 - $22,980	2.5 – 4.8%	$36 - $92

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* Without any children living in the U.S., Canada, or Mexico

Expected 2014 premium contribution in VT

For a Married Couple Filing a Joint U.S. Tax Return*

2014 Yearly Income	Premium contribution as percentage of income	Monthly premium contribution
Less than $15,510	0.5%	$0 - $6
$15,510 - $20,628	0.5%	$6 - $9
$20,628 - $23,265	1.5 – 2.5%	$26 - $48
$23,265 - $31,020	2.5 – 4.8%	$48 - $124

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Expected 2015 premium contribution in VT

For a Single Person*

2015 Yearly Income	Premium contribution as percent of income	Monthly premium contribution
Less than $11,670	0.51%	$0 - $5
$11,670 - $15,521	0.51%	$5 - $7
$15,521 - $17,504	1.52 – 2.52%	$20 - $37
$17,505 - $23,340	2.52 – 4.84%	$37 - $94

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Expected 2015 premium contribution in VT

For a Married Couple Filing a Joint U.S. Tax Return*

2015 Yearly Income	Premium contribution as percentage of income	Monthly premium contribution
Less than $15,730	0.51%	$0 - $7
$15,730 - $20,921	0.51%	$7 - $9
$20,921 - $23,595	1.52 – 2.52%	$26 - $50
$23,595 - $31,460	2.52 – 4.84%	$50 - $127

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Plan now for 2015

- Questions to ask H-2A and H-2B workers
  - Could you be considered a U.S. resident for 2015 taxes?
  - Will your 2015 income be over the filing threshold?
- If the answer is “yes” to both questions, the worker should contact a navigator for help calculating the cost of health insurance versus paying a penalty
- Workers have 60 days to enroll in a health insurance plan after arriving in the U.S. for the calendar year

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Questions?

- Get help from a Navigator
  - Call 1-855-899-9600
  - Or go online: http://info.healthconnect.vermont.gov/find
- Vermont Health Connect
  - 855-899-9600
- Health Care Advocate at Vermont Legal Aid
  - 1-800-917-7787

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