The Supreme Court's much-anticipated and historic decision on June 28 to uphold the Patient Protection and Affordable Care Act (PPACA) as constitutional has many floral industry business owners trying to understand what it means to them. While the fallout and political ramifications of this ruling will grab headlines until the November presidential election, SAF will continue to provide information regarding your responsibilities under the law. We'll also provide updates on rulemaking and implementation steps leading up to Jan. 1, 2014, when most of the law's major provisions take effect.

To help you understand the law, we've compiled some of the top industry-related questions and answers. It's important for all business owners to take the time to prepare. Despite the law's emphasis on large employers, some PPACA requirements affect even very small operations.

BY COREY CONNORS
I'm a wholesaler with a total of 45 full-time employees (who work 40 hours a week), plus five staff members who are part-time (20 hours per week) and two who provide seasonal help for the December holidays (about 50 days per year each). Under the new law, would my business qualify as a "large employer"?

First, it is important to point out that PPACA defines full-time employees as those working 30 hours or more per week—which is different from the traditional expectation of full-time as 40 hours per week.

Unfortunately, determining your status isn't as simple as identifying the number of full-time employees. You also have to account for the accumulated time of your part-time workers. Beginning in 2014, "large employers"—businesses with 50 or more "full-time equivalent" employees—must offer coverage to full-time employees. Here's a simple formula that should help you pin down your status:

1. Exclude the number of seasonal employees (those working 120 days a year or fewer). In the example above, you would exclude the two seasonal workers.
2. Take the number of non-seasonal, full-time employees working 30 or more hours a week. In the example: 45.
3. Next, calculate the total number of hours worked by each part-time employee in a month. In the example, five staff members multiplied by 20 hours multiplied by four weeks, or 400. Then divide that number by 120 to calculate the number of full-time equivalent employees. In the example, this equals 3.33 employees.
4. Then you add the number of non-seasonal, full-time employees working 30 or more hours a week to the number of full-time equivalents. If the number you come up with is 50 or more, you must provide health insurance to all full-time employees. In the example, 45 plus 3.33 equals 48.33, so you would not be considered a large employer as defined by PPACA.

I've determined that my business is a large employer. What are my responsibilities, according to the law?

Beginning in 2014, large employers must offer full-time employees coverage that is "affordable and of a minimum value."

These terms aren't subjective. Affordable coverage means that the employee's share of the plan premium cannot exceed 9.5 percent of her household income. If it does, she may become eligible for a premium tax credit to purchase coverage in a state-regulated health coverage exchange. Minimum value means that a plan must pay 60 percent of the actuarial cost of benefits. If that term sounds confusing, it is. As part of the regulatory process, federal agencies are working to determine exactly how such a cost can be calculated.

I have 55 full-time equivalent employees, but I don't plan to offer insurance. What penalties will I face?

If you provide no coverage, you will be charged $2,000 for each employee who receives a credit or subsidy to go to the state health exchange. For the purposes of calculating your penalty, you may subtract your first 30 workers. In the example, an employer with 55 employees would face a penalty of 25 employees (55 minus 30) multiplied by $2,000 each, or $50,000.

If you do not provide "affordable" coverage, you will also be penalized. How much? That depends. The final fine will be the lesser of either $3,000 multiplied by the number of employees receiving a premium tax credit or $2,000 multiplied by the total number of full-time employees.

There is no penalty per employee if he or she is eligible for Medicaid.

Employees who buy health insurance on their own are eligible for tax credits if their income is between an estimated 100 percent and 400 percent of the federal poverty guidelines (a percentage that's subject to change).

I currently have 75 full-time equivalent employees, but I'm considering separating the organization into two businesses, one for wholesale and one for my growing operations. If I do so, will I still be considered a large employer?

Yes. Any enterprise operated under "common control," operated by one person or a group of people such as a corporation, partnership or proprietorship, would be considered one employer under PPACA.

I own a small flower shop, with five employees (two full-time at 40 hours a week and three part-time at 15-20 hours a week). How will the law affect me?

If your business has fewer than 50 full-time equivalent employees as defined by PPACA, then you would not be subject to the penalties described above; however, some reporting requirements apply to businesses of all sizes and there are new incentives for smaller employers to offer group coverage to their employees.

Perhaps more importantly, the Supreme Court’s decision now means that each of your employees is responsible for securing health coverage under the individual mandate. Employers of all sizes will be required to notify employees of their options to obtain health coverage.

Essentially, small businesses like yours will have three options:
1. Offer your own insurance plan.
2. Direct your employees to the state-regulated health insurance exchange.
3. Participate as an employer on behalf of your employees in the Small Business Health Options Program (SHOP), which will function similarly to the individual exchanges but is designed for small businesses to shop for health coverage plans.

Each of the options will have benefits and drawbacks, so it’s important to review your individual business needs carefully.
What is the Small Business Health Care Tax Credit and will it apply to my business?

Considerable attention has been paid by supporters of the law to the small-business tax credit. If you have 25 or fewer full-time equivalents (not full-time employees) with average wages of no more than $50,000 and pay at least half of the cost for insurance premiums, you are eligible for a tax credit through 2013. Beginning in 2014, only employers that participate in the SHOP exchange will be eligible to receive a tax credit.

SAF recommends consulting with your accountant if you are interested in learning more about this potential tax credit.

Does the new law entail new reporting requirements for business owners?

Yes. All employers will be subject to reporting requirements, both to the federal government and to their employees. Some of these provisions have already gone into effect. Others will be in place by January 2014. The two primary reporting requirements to employees include:

- **Form W-2 Reporting:** Beginning this year, employers must include the value of the benefit provided by the employer for each employee’s health insurance coverage on the employee’s annual Form W-2.
- **Exchange Options:** Beginning in 2014, employers are now required to:
  - Provide written notice to employees of the existence of the exchange, including a description of exchange services and ways to participate;
  - Inform employees that they may be eligible for a tax credit to participate in the exchange if an employer covers less than 60 percent of total allowed costs; and
  - Inform employees that an employee would lose employer contributions to health coverage if that employee chose to purchase coverage through the exchange.

The law also creates reporting requirements to the Internal Revenue Service (IRS) in which all employers must provide:

- Name, date and employer ID number of employer
- Certification as to whether the employer offers full-time employees and dependents an opportunity to enroll in minimum essential coverage
- The number of full-time employees for each month during the calendar year
- The name, address and TIN of each full-time employee during the calendar year and the months during which such employees were covered under any employer-offered health benefits plan
- Other information as the government may require

I know that many of the provisions don’t go into effect until 2014, but what should I be doing now to prepare? Is it too early to get started?

Definitely not. The date for PPACA compliance is only 18 months away. Begin examining benefit options with providers if you haven’t already done so. Look at the overall impact on PPACA on your business, especially if you have more than 50 full-time equivalent employees.

Is the prospect for repeal still a possibility?

Short of an overwhelming Republican sweep of the White House, Senate and House in the November 2012 general elections, such repeal is unlikely.

But our work on this is far from over. SAF will continue to present a small business point of view as final regulations for PPACA are written. We’re working with our coalition partners to reduce some of the reporting burdens for floral industry businesses, and we also hope to find ways to provide compliance assistance and transition relief for employers that are attempting to comply with new requirements for the first time.

One more thing to note: A premium “health insurance tax,” or HIT, has been placed on plans offered by providers in the small/individual market. SAF participates in the Stop the HIT coalition to repeal this particular provision because the tax would be passed on to small-business owners, it drives up the cost of such plans, and may be a disincentive for small business employers that wish to provide coverage.

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