



Enhancing Trust

Healthcare Reimbursements by Churches and Ministries

February 12, 2015 – ECFA.org



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Today's Presenters



Danny Miller is a partner in the Washington, D.C. office of Conner & Winters, LLP, a Tulsa, Oklahoma based law firm, and is a member of the Firm's Employee Benefits Group. Mr. Miller graduated from Vanderbilt University in 1971 and received his law degree from the Vanderbilt University School of Law in 1974. He has been practicing in the employee benefits area since graduating from law school.



Allison McGrath Gardner is a partner in the Tulsa office of Conner & Winters, LLP and is a member of the Firm's Employees Benefits and Tax Exempt Organizations Groups. Ms. Gardner graduated from the University of Virginia in 2002 and received her law degree from the University of Oklahoma College of Law in 2005. She has been practicing in the employee benefits and tax exempt organizations areas since graduating from law school.

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<http://www.ecfa.org/PDF/HealthcareReimbursements.pdf>



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Purpose of This Webinar

Provide the latest information on healthcare reimbursements and the ACA excise tax penalties for smaller churches and ministries:

- What works
- What doesn't work
- What we don't know

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ACA Background on Healthcare Reimbursements

- Healthcare reimbursements were required to conform to the ACA market reforms effective January 1, 2014—we are into the second calendar year of these requirements
- The penalties for noncompliance are up to \$100 per employee, per day
- Noncompliance must be self-reported on Form 8928

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Form 8928

Form 8928 (Rev. December 2013)
Department of the Treasury
Internal Revenue Service

Return of Certain Excise Taxes Under Chapter 43 of the Internal Revenue Code
(Under sections 4960B, 4960C, 4960D, and 4960E)
Information about Form 8928 and its separate instructions is at www.irs.gov/form8928

OMB No. 1545-2148

Filer's tax year beginning: **A** Name of filer (see instructions)

Filer's employer identification number (EIN): **B**

Number, street, and room or suite no. (if a P.O. box, see instructions): **C**

City or town, state or province, country, and ZIP or foreign postal code: **D**

Name of plan: **E**

Name and address of plan sponsor: **F**

Plan year ending (MM/YYYY): **G**

Plan number: **H**

Part I Tax on Failure To Satisfy Continuation Coverage Requirements Under Section 4980B
Complete a separate Part I, lines 1 through 6, for failures due to reasonable cause and not to willful neglect, and a separate Part I, lines 12 through 14, for other failures, for each qualifying event for which one or more failures to satisfy continuation coverage requirements that occurred during the reporting period (see instructions).

Section A - Failures Due to Reasonable Cause and Not to Willful Neglect

For IRS Use Only	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1	Enter the total number of days of noncompliance in the reporting period	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
2	Enter the number of qualified beneficiaries for which a failure occurred as a result of this qualifying event	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
3	If you entered 2 or more on line 2, multiply line 1 by \$200. Otherwise, multiply line 1 by \$100	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
4	If the failure was not discovered despite exercising reasonable diligence or was corrected within the correction period and was due to reasonable cause, enter -0- here, and go to line 5. Otherwise, enter the amount from line 3 on line 6 and go to line 7	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
5	If the failure was not corrected before the date a notice of examination of income tax liability was sent to the employer and the failure continued during the examination period, multiply \$2,500 by the number of qualified beneficiaries for whom one or more failures occurred (multiply by \$15,000 to the extent the violations were more than de minimis for a qualified beneficiary). If the failures were corrected before the date a notice of examination was sent, enter -0- here, and go to line 6	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
6	Enter the smaller of line 3 or line 5	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
7	If there was more than one qualifying event, add the amounts shown on line 6 of all forms, and enter the total on a single "summary" form. Otherwise, enter the amount from line 6 above	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
8	Enter the aggregate amount paid or incurred during the preceding tax year for a single employer group health plan or the amount paid or incurred during the current tax year for a multiemployer health plan to provide medical care	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
9	Multiply line 8 by 10% (10)	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
10	Amount from section 4980B(c)(3)	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
11	Enter the smallest of lines 7, 9, or 10. For a third-party administrator, HMO, or insurance company, the amount you enter on this line filed for all plans you administer during the same tax year cannot exceed \$2 million; reduce the amount you would otherwise enter on this line to the extent the amount for all plans would exceed this limit	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
12	Enter the total number of days of noncompliance in the reporting period	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
13	Enter the number of qualified beneficiaries for which a failure occurred as a result of this qualifying event	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
14	If you entered 2 or more on line 13, multiply line 12 by \$100. Otherwise, multiply line 12 by \$100	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
15	If there was more than one qualifying event, add the amounts shown on line 14 of all forms, and enter the total on a single "summary" form. Otherwise, enter the amount from line 14 above	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
16	Add lines 11 and 15	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

Section C - Total Tax Due Under Section 4960B

16 Add lines 11 and 15

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 9742T

Form 8928 (Rev. 12-2013)

Form 8928 (Rev. 12-2013)

Name of filer: **A**

Filer's EIN: **B**

Part II Tax on Failure To Meet Portability, Access, Renewability, and Other Requirements Under Section 4960C
Complete a separate Part II, lines 17 through 23, for failures due to reasonable cause and not to willful neglect, and a separate Part II, lines 29-32, for other failures to meet certain group health plan requirements that occurred during the reporting period (see instructions).

Section A - Failures Due to Reasonable Cause and Not to Willful Neglect

For IRS Use Only	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
17	Enter the total number of days of noncompliance in the reporting period	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
18	Enter the number of individuals to whom the failure applies	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
19	Multiply line 17 by line 18	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
20	Multiply line 19 by \$100	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
21	If the failure was not discovered despite exercising reasonable diligence or was corrected within the correction period and was due to reasonable cause, enter -0- here, and go to line 22. Otherwise, enter the amount from line 20 on line 23 and go to line 24	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
22	If the failure was not corrected before the date a notice of examination of income tax liability was sent to the employer and the failure continued during the examination period, multiply by \$2,500 by the number of qualified beneficiaries for whom one or more failures occurred (multiply by \$15,000 to the extent the violations were more than de minimis for a qualified beneficiary). If the failures were corrected before the date a notice of examination was sent, enter -0- here, and go to line 23	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
23	Enter the smaller of line 20 or line 22	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
24	If there was more than one failure, add the amounts shown on line 23 of all forms, and enter the total on a single "summary" form. Otherwise, enter the amount from line 23 above	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
25	Enter the aggregate amount paid or incurred during the preceding tax year for a single employer group health plan or the amount paid or incurred during the current tax year for a multiemployer health plan to provide medical care	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
26	Multiply line 25 by 10% (10)	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
27	Amount from section 4960C(c)(3)	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
28	Enter the smaller of lines 24, 26, or 27	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
29	Enter the total number of days of noncompliance in the reporting period	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
30	Enter the number of individuals to whom the failure applies	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
31	Multiply line 29 by line 30	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
32	Multiply line 31 by \$100	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
33	If there was more than one failure, add the amounts shown on line 32 of all forms, and enter the total on a single "summary" form. Otherwise, enter the amount from line 32 above	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
34	Add lines 28 and 33	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33

Section C - Total Tax Due Under Section 4960C

34 Add lines 28 and 33

Part III Tax on Failure To Make Comparable Archer MSA Contributions Under Section 4960E

35 Aggregate amount contributed to Archer MSAs of employees within calendar year

36 Total tax due under section 4960E. Multiply line 35 by 35% (35)

Part IV Tax on Failure To Make Comparable HSA Contributions Under Section 4960G

37 Aggregate amount contributed to HSAs of employees within calendar year

38 Total tax due under section 4960G. Multiply line 37 by 35% (35)

Part V Tax Due or Overpayment

39 Add lines 16, 34, 36, and 38

40 Enter amount of tax paid with Form 7004

41 Tax due. Subtract line 40 from line 39. If less than zero, enter -0-, and go to line 42. If the result is greater than zero, enter here and attach a check or money order payable to "United States Treasury." Write your name, identifying number, plan number, and "Form 8928" on your payment.

42 Overpayment. Subtract line 39 from line 40

43 Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Preparer's signature: **A**

Preparer's name: **B**

Preparer's address: **C**

Preparer's phone: **D**

Preparer's date: **E**

Preparer's EIN: **F**

Preparer's PTA: **G**

Form 8928 (Rev. 12-2013)



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Exceptions

Exceptions for ACA Excise Tax Penalties for Churches and Ministries

- If the church or ministry does not offer a group health plan, the exceptions are:
 - Accident-only coverage
 - Disability income coverage
 - Certain limited-scope dental and vision benefits

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Exceptions Continued

Exceptions for ACA Excise Tax Penalties for Churches and Ministries

- Certain long-term care benefits
- Benefits under an employee assistance program, if the program does not provide significant benefits in the nature of medical care treatment
- One-participant health plan

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What Works and Doesn't Work in Avoiding ACA Penalties

- Employer pays for individual health insurance coverage
- Employer pays out-of-pocket medical expenses—without integration with group coverage
- Employer Makes No Healthcare-Related Payments
- Employer pays for group health insurance coverage

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Employer Pays For Individual Health Insurance Coverage

- Employer reimbursement of individual health insurance policy premiums are subject to the ACA market reform excise taxes unless qualifying for the exceptions
- The exceptions are one-participant health plans and certain other excepted benefits

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Employer Pays Out-of-Pocket Medical Expenses—Without Group Coverage

- If not offered in conjunction with group health coverage, payments/reimbursements of out-of-pocket medical expenses are subject to the penalties even if you have an HRA or FSA
- With group coverage, out-of-pocket expenses could be paid through an HRA or FSA
 - An HRA must satisfy certain “integration” requirements



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Employer Makes No Healthcare-Related Payments

- Employers making no healthcare-related payments are not subject to penalties
- While compensation may be increased to provide the funding to employees for their healthcare expenses, the increased compensation cannot be related to the healthcare expenses—tying the compensation to healthcare expenses triggers the ACA penalties



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Employer Pays for Group Insurance Coverage

- Employer provided group coverage through a SHOP Marketplace or through a private insurer avoid ACA penalties
- Premium payments by employers do not represent taxable income to employees.
- HRAs and FSA may be offered by employers



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What We Don't Know

Other Arrangements

- Paying for dependent coverage in spouse's employer's group plan
- Paying for Medicare premiums and Medicare supplement premiums
- Paying for COBRA coverage
- Paying for healthcare sharing ministries costs

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Legislative Developments

- HR 5860, Small Business Healthcare Relief Act

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Q & A Time!

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Danny Miller



**Allison McGrath
Gardner**



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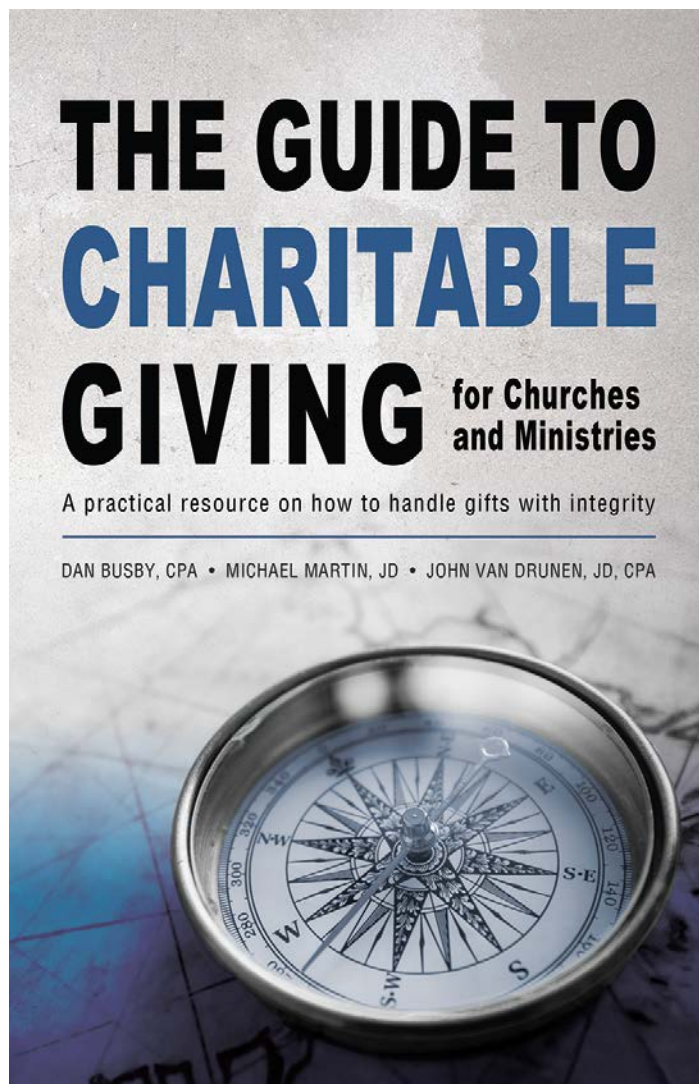
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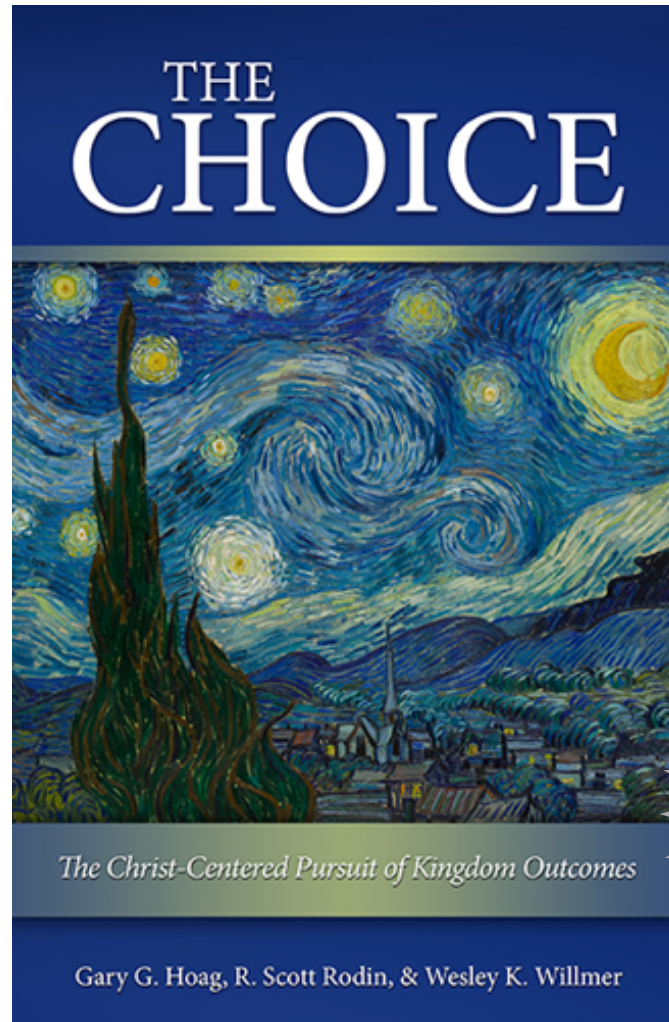
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May 28, 2015	10 Mistakes Often Made on the Form 990	Dave Moja
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