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**The Affordable Care Act**  
Now is the time for companies  
to act

22 January 2013

# Today's moderator

**Hank Neely**

*Ernst & Young LLP*

*Tax Managing Partner — Markets*



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**#EY\_ACA**

# Today's agenda

- ▶ Overview of the Affordable Care Act (ACA)
- ▶ Major ACA regulatory requirements
- ▶ Checklist for ACA implementation



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# Today's presenters

- ▶ **Jeff Saviano**  
*Ernst & Young LLP*  
*Director, Indirect and State / Local*  
*Tax Services*
- ▶ **Anne Phelps**  
*Washington Council Ernst & Young*  
*Principal*
- ▶ **Helen Morrison**  
*Ernst & Young LLP*  
*Principal*

The information contained herein is a summary in nature, viewers should consult their own professional advisors to address their individual circumstances and concerns.

# Opinion check

What are your company's top two concerns regarding the employer requirements under the ACA?

- A. Calculating the amount of potential tax penalties
- B. Managing company health costs overall
- C. Understanding the new tax reporting obligations and timely generating reports
- D. Implications on systems, processes and internal controls
- E. Employee education, communication and retention
- F. Managing notices from Exchanges

# Today's agenda

- ▶ **Overview of the Affordable Care Act (ACA)**
- ▶ Major ACA regulatory requirements
- ▶ Checklist for ACA implementation



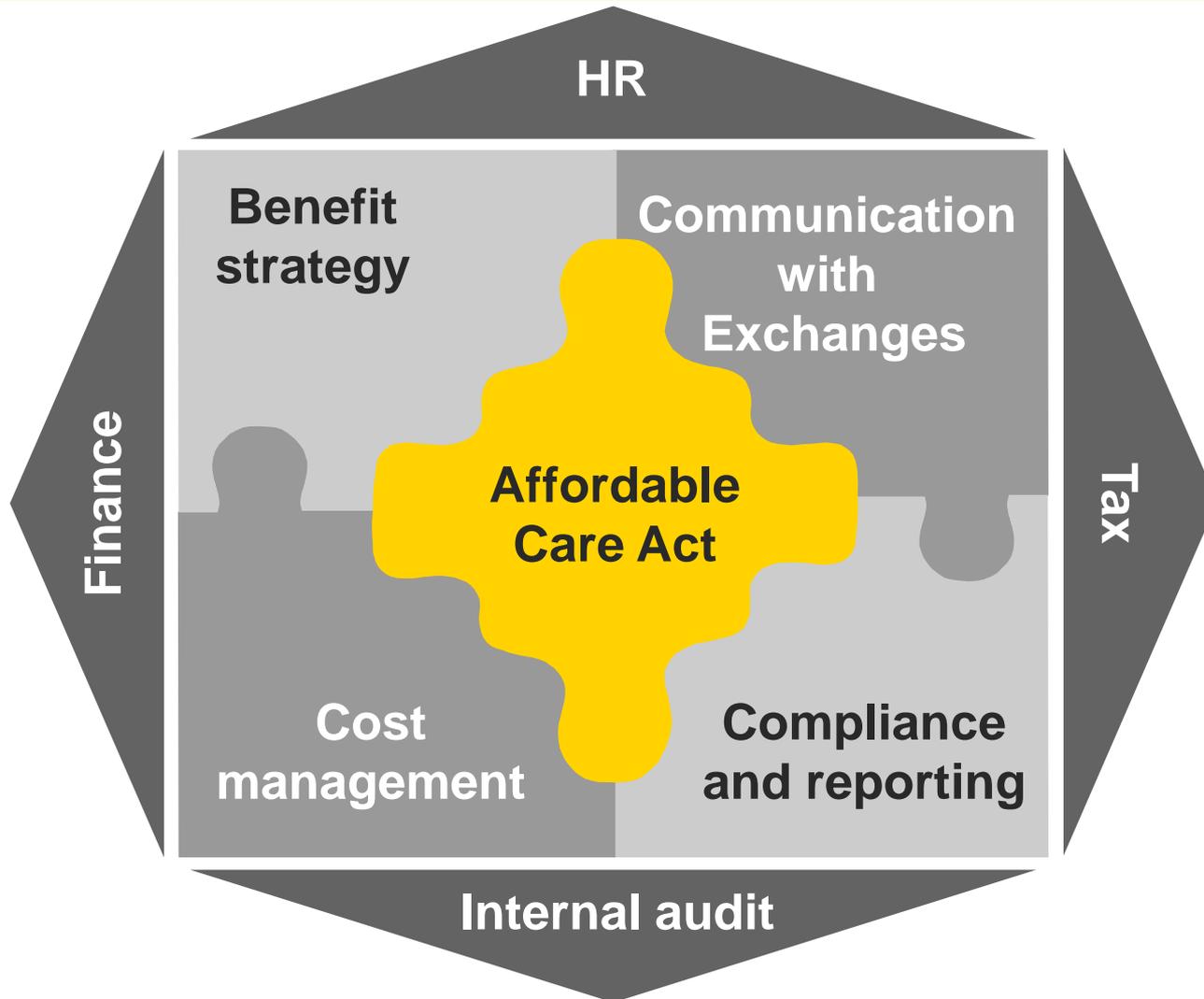
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# Affordable Care Act — the basics

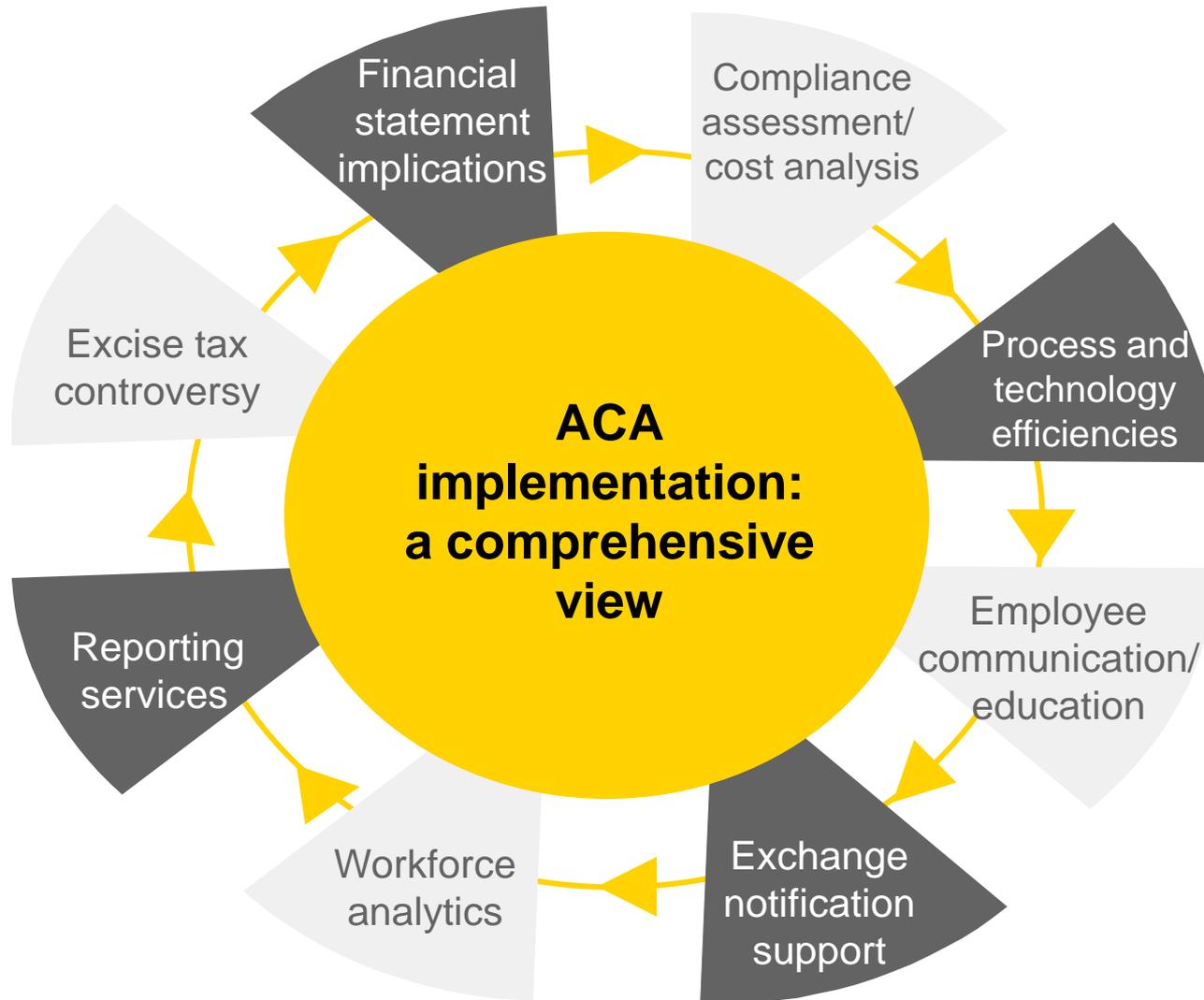
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- ▶ What is the basic structure for individuals to obtain health care coverage and for employers to provide health care coverage?
- ▶ What are employers' obligations to either offer certain health plan coverage or pay potential excise taxes?
  - ▶ How will excise taxes be calculated and enforced?
  - ▶ How do the potential tax obligations affect
    - ▶ Employer costs?
    - ▶ Recordkeeping and compliance?
- ▶ What are the new tax reporting obligations?
- ▶ What are the implications on systems, processes and internal controls?

# An integrated approach is required



# What must be considered for ACA implementation?



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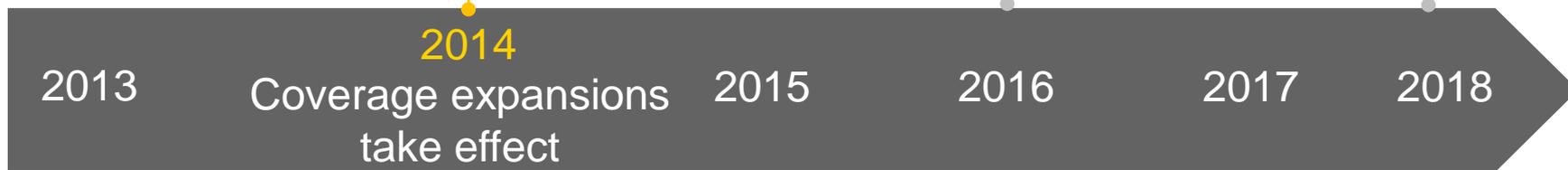
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# Key effective dates for employers

- ▶ Employers generally must be in compliance with coverage requirements (1/1/2014)
- ▶ Individual mandate and premium tax credits
- ▶ Medicaid expansion
- ▶ Other insurance market reforms
- ▶ Temporary reinsurance fee begins

Temporary reinsurance fee ends

40% excise tax on high-cost health plans



2013

Coverage expansions take effect

2014

2015

2016

2017

2018

- ▶ Open enrollment in Exchanges begins (10/1/2013)
- ▶ Increase Medicare payroll tax by 0.9% on earned income
- ▶ Impose 3.8% tax on unearned income
- ▶ PCORI \* fee

Employer information reporting to the IRS on employee coverage (due by 1/31/2015)

States may open Exchanges to large group market

\* Patient-Centered Outcomes Research Institute

# Status of implementation of employer requirements

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- ▶ **January 1, 2014:** Effective date for health care coverage provisions
- ▶ **October 1, 2013:** Exchanges begin open enrollment
- ▶ **December 28, 2012:** Comprehensive proposed rules released on the major employer coverage requirements
  - ▶ Reliance until final rules are issued
  - ▶ Transition relief in certain circumstances
  - ▶ Outstanding issues to be addressed in regulations

## **Mark Iwry**

*The Treasury Department  
Senior Advisor to the Secretary of the  
Treasury and Deputy Assistant Secretary  
for Retirement and Health Policy*

# Major coverage requirements and expansion provisions

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The ACA expands health coverage through provisions that generally go into effect on January 1, 2014

## ***Individual mandate:***

Mandates Americans maintain a minimum level of health coverage

## ***Medicaid expansion:***

Allows states to expand Medicaid up to 133% of federal poverty level

## ***Insurance Exchanges:***

Creates insurance Exchanges and certain individuals are eligible for premium assistance tax credits

## ***Employer mandate:***

Mandates employers with 50 or more full-time equivalents to offer coverage to full-time employees and their dependents or pay potential tax penalties

# Who is a large employer?

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- ▶ IRC §4980H defines a large employer as any employer with 50+ full-time equivalents
  - ▶ Includes full-time employees, hours worked by non-full-time employees
  - ▶ Special treatment for seasonal workers in some circumstances
  - ▶ Special rule for smaller employers in 2013
- ▶ Applies to all common law employers
- ▶ Definition of large employer is determined based on the control group rules
  - ▶ Penalty is determined separately based on each member of the control group

# Who is a full-time employee under the ACA?

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- ▶ **Full-time employee:** Defined as an employee who works on average 30 hours per week, per month (130 hours of service per calendar month)
- ▶ **Safe harbors:** Special measuring periods allowed for determination of full-time status for part-time, seasonal and variable hour employees

# Basic employer coverage rules

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Large employers may be subject to an excise tax if at least one full-time employee whose household income is between 100% and 400% of the federal poverty level receives a premium tax credit for Exchange coverage and an employer either

Fails to offer coverage to full-time employees and their dependents

or

Offers coverage to full-time employees that does not meet the law's affordability or minimum value standards

# Calculation of non-deductible excise taxes under IRC §4980H(a)

## Tax for *no coverage* - IRC 4980H(a)

- ▶ If a large employer does not offer minimum essential coverage to full-time employees and their dependents, an employer may face a tax of:
  - ▶ \$2,000 x the total number of full-time employees (FTE) if at least one FTE is receiving a premium assistance tax credit

Large employers who do not offer coverage may subtract the first 30 workers when calculating their liability for taxes under IRC 4980H(a).

# Calculation of non-deductible excise taxes under IRC §4980H(b)

## Tax for *unaffordable coverage* - IRC 4980H(b)

- ▶ If a large employer offers minimum essential coverage to full-time employees and their dependents but the coverage is unaffordable to certain employees or does not provide minimum value, an employer may face a tax of:
  - ▶ The lesser of \$3,000 x the number of FTEs receiving a premium assistance tax credit or \$2,000 x the total number of FTEs

Taxes under 4980H(b) are capped not to exceed an employer's potential tax under 4980H(a).

# Tax for unaffordable coverage

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- ▶ **Affordability general rule:** Employers could face penalties if a full-time employee's premium share for self-only coverage exceeds 9.5% of household income
- ▶ **Safe harbors:**
  - ▶ Form W-2 safe harbor
  - ▶ Rate of pay safe harbor
  - ▶ Federal poverty line safe harbor
- ▶ **Minimum value:** A plan must pay for at least 60% of the cost of benefits (actuarial value test)

# Employer communications with employees, Exchanges and the IRS

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## Step 1

- ▶ Employer provides employees with information about coverage and availability of Exchanges

## Step 2

- ▶ Employee provides Exchange with information to determine eligibility for the premium tax credit

## Step 3

- ▶ Exchange verifies information and makes preliminary eligibility determination regarding the premium tax credit

## Step 4

- ▶ Exchange notifies employer that employee may receive a premium tax credit
- ▶ Employer has right to appeal Exchange's determination of employee's eligibility

## Step 5

- ▶ Employer files information with IRS and employee
- ▶ Employee files personal return

## Step 6

- ▶ Assessment of employer tax penalties
- ▶ Employer has right to appeal tax liability to IRS

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- ▶ **Checklist for ACA implementation**



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# How are companies operations affected?

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## Data gathering

*Need to gather employee information*

## Process improvement

*Recommendations for people, processes and technology*

## Employee communications

*Educating employees on health care options*

## Benefits planning

*Plan compliance with ACA requirements*



## Managing tax controversies

*Excise tax assessments*

# Top 10 critical ACA implementation questions

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1. Has your company developed a strategy and prepared a project plan to implement the ACA?
2. Does your health care plan comply with the ACA market reform provisions?
3. Has your company estimated the cost of implementation?
4. Have all “full-time” employees been identified? Were alternative ways to determine who is a full-time employee considered?
5. Has your company estimated the number of employees who may be eligible for the premium tax credit?

# Top 10 critical ACA implementation questions (cont.)

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6. Has your company developed employee education and communication strategies?
7. Are the human resource and payroll systems and processes capable of determining who is a full-time employee based on hours worked? Can these systems collect and retain all relevant data for reporting purposes? Have vendor relationships been reviewed?
8. Was consideration given to how your company will handle notifications from the health care Exchanges?
9. What are the financial statement implications of the ACA?
10. Is your company prepared to defend an IRS assessment of the excise tax or an IRS audit of the health care plan offerings?

# Best practices for ACA implementation

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- ▶ Establish a cross-functional ACA team that includes Tax, Finance, Human Resources, Payroll and Internal Audit
- ▶ Develop and present a strategic plan to implement the ACA
- ▶ Prepare a detailed project plan addressing all facets of ACA implementation
- ▶ Establish a *Project Management Office*, with a designated leader, to execute the project plan
- ▶ Consider the portions of the project plan that may be completed internally and those that may be outsourced
- ▶ Establish and comply with target dates and deadlines
- ▶ Don't delay!

# One- minute recap

# Contact us

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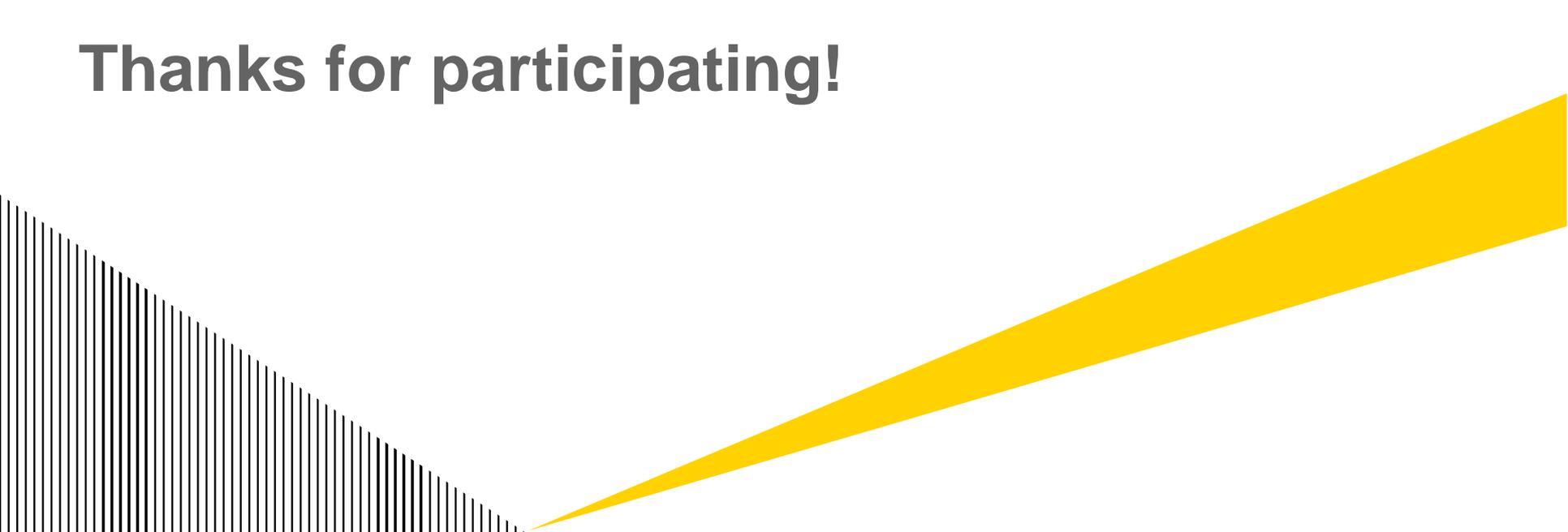
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# Thanks for participating!



**The Affordable Care Act**  
Now is the time for companies  
to act

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Need more help?

- ▶ Click the yellow **help/tips** icon
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Feedback form

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