

ACA - Employer Shared Responsibility Provision

On February 10, 2014 final regulations were issued on the Employer Shared Responsibility provision under the Affordable Care Act (ACA). The mandate was originally effective for 2014; however was delayed by one year. Below is a summary of highlights of new regulations.

Employers with fewer than 50 FTE employees are not required to provide coverage or fill out any forms in 2015, or in any year, under ACA.

Employers with 50 to 99 FTE employees that do not yet provide quality, affordable health insurance to their full-time workers will report on their workers and coverage in 2015, but have until 2016 to comply. To be eligible for this relief during the period beginning on Feb. 9, 2014 and ending on Dec. 31, 2014:

- ▶ Employer may not reduce the size of its workforce or the overall hours of service of its employees in order to qualify for the transition relief.
- ▶ An employer that reduces workforce size or overall hours of service for bona fide business reasons is still eligible for the relief. During the period beginning on Feb. 9, 2014 and ending on Dec. 31, 2015 (or, for employers with non-calendar-year plans, ending on the last day of the 2015 plan year)
- ▶ Employer does not eliminate or materially reduce the health coverage, if any, it offered as of Feb. 9, 2014.

Employers with 100 or more FTE employees will be subject to a phased-in approach. The percent of full-time workers working an average of 30 hours per week that employers need to offer coverage to will be at least 70 percent in 2015 and at least 95 percent in 2016 and beyond. Employers in this category that do not meet these standards will make an employer responsibility payment for 2015.

Employers are subject to a tax penalty if the employer does not offer coverage to full-time employees (and their dependents); or benefits offered are not affordable or do not provide minimum value; and any full-time employee receives a premium tax credit or cost sharing reduction to purchase coverage through an Exchange.

- ▶ Benefits offered must be at least a 60% actuarial value (AV) plan
- ▶ Employee's required contribution for individual coverage must be affordable based on three affordability safe harbors. Employee's premium share:
 - does not exceed 9.5% of the amount of income reported in Box 1 of Form W-2
 - does not exceed 9.5% of the employee's monthly salary or 130 times the lowest hourly rate paid the employee during the month
 - does not exceed 9.5% of the federal poverty level for a single individual

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For more information, contact your sales office:

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There are clarifications on types and occupations that may or may not be considered full-time.

- ▶ Volunteers for a government or tax-exempt entity, such as volunteer firefighter and emergency responders will not cause them to be considered full-time.
- ▶ Educational employees such as teachers will not be treated as part-time because their school is closed during the summer.
- ▶ Seasonal employees for which annual employment is six months or less generally will not be considered full-time. An employer is not considered to employ more than 50 full-time employees if:
 - The employer's workforce exceeds 50 full-time employees for 120 days or fewer during the calendar year, and
 - The employees in excess of 50 employed during the 120-day period are seasonal workers
- ▶ Student work-study programs under federal or state-sponsored work-study programs will not be counted in determining whether they are full-time employees.
- ▶ Employers of adjunct faculty are to use a method of crediting hours of service consistent with the provision; however the final regulations allow crediting with 2 ¼ hours of service per week for each hour of teaching or classroom time.

2014 transition rules under the proposed regulations extended to 2015 under the final regulations.

- ▶ The final rules retain safe harbors for employers with non-calendar year plans. For example, employers with plans that begin after January 1, 2015, must comply with the provisions as of the first date of the plan year that begins in 2015.
- ▶ For the 2015 calendar year, employers may determine their status as a large employer by using any consecutive six month period during the 2014 calendar year. Beginning in 2016 for the 2015 calendar year, an employer must determine its status based on averaging the total of full-time equivalent employees for each of the 12 months in the preceding calendar year.
- ▶ Employers will not be required to offer dependent coverage to their full-time employees' dependents until 2016. (Employers are not required to offer spousal coverage or coverage to foster children and stepchildren.)
- ▶ Employers may use a monthly measurement method to determine large employer status.
 - A full-time employee is one who works an average of 30 hours per week in a calendar month.
 - Full-time equivalent employee is determined using total number of hours worked in a calendar month divided by 120.

Proposed regulations have been issued on employer information reporting. For 2015 and after, applicable large employers are subject to IRS reporting requirements about their compliance with the Employer Shared Responsibility requirement provisions and the health care coverage they have offered their employees. Final rules are expected to be issued soon.

Quick Links:

Final Regulation: <http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf>

IRS Q&A: <http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act#Transition>