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EMPLOYER NEWSLETTER
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THE AFFORDABLE CARE ACT'S EMPLOYER MANDATE: ARE YOU PREPARED FOR 2015?

Employers will see significant changes in 2015. On January 1, 2015, the “Employer Mandate” of the Affordable Care Act (“ACA”) goes into effect. That part of the ACA requires “large employers” (those with 50 or more full-time employees or “full-time equivalent” employees) to offer their employees insurance that meets certain coverage and affordability requirements. If an employer fails to do so, it must pay substantial penalties. Thus, a covered employer must either “play” (by offering qualifying “affordable coverage”) or “pay” a penalty.

Because of concerns about the effect and implementation of the Employer Mandate, “transitional relief” was announced earlier this year. In 2015 (but not in 2016), employers with fewer than 100 full-time employees will not be subject to the ACA’s penalties if they fail to offer affordable insurance coverage to their employees. However, employers with 100 or more full-time employees in 2015 will remain subject to the ACA’s penalties, if (1) they offer no insurance coverage to their employees; or (2) they fail to offer qualifying affordable care to their employees; and (3) at least one employee receives a premium tax credit to help pay for his own insurance. In 2016, employers with 50 or more full-time employees will be subject to the ACA.

The chart below shows how the Employer Mandate will be phased in:

Size of Employer	2015 Plan Year	2016 Plan Year and beyond
1-49 full-time employees	Does not apply	Does not apply
50-99 full-time employees	Does not apply	Employer must offer coverage to 95% of full-time employees
100 + full-time employees	Employer must offer coverage to 70% of full-time employees	Employer must offer coverage to 95% of full-time employees

The “transitional relief” changes also eased the ACA’s formulas for determining the ACA’s penalties, as summarized in the table below:

Situation #1: Employer offers no health insurance to its employees:	Situation #2: Employer offers health insurance that does not qualify as “affordable care”
Penalty: \$2,000 (x) Number of Full-Time Employees (less 80)	Penalty: The lesser of (a) \$2,000 (x) Number of Full Time Employees (minus 80); or (b) \$3,000 (x) Number of Full-Time employees who receive a premium tax credit.
<i>Note:</i> In 2016, the number “80” above will be 30.	<i>Note:</i> In 2016, the number “80” above will be 30.

WHAT SHOULD EMPLOYERS DO NOW TO PREPARE?

A. **Determine If You Are An “Applicable Large Employer.”** To do this, count both full-time employees and part-time employee hours as follows:

1. Count the employer’s full-time employees for each month in the prior year.
2. Count the employer’s full-time equivalents for each month in the prior year.

a. Add total hours for non-full-time employees but count no more than 120 hours per month for any one non-full-time employee.

b. Divide the number obtained in (a) by 120. This is the full-time equivalent number.

3. Add the numbers obtained in (1) and (2) above (*i.e.*, the full-time employee and full-time equivalent numbers) for each month.

4. Add the 12 sums obtained in (3) and divide by 12. This is the average number of full-time employees and full-time equivalents.

5. If this number obtained in (4) is under 50 (or under 100 for the 2015 determination for certain employers), the employer is not an applicable large employer for the year being determined.

B. **Determine if Penalties Apply:** If an employer will be an applicable large employer in 2015, determine whether it could be subject to penalties in 2015. For example, review the group health plan to determine if the insurance coverage is offered to full-time employees, provides minimum value, and is affordable (as those terms are defined within the meaning of applicable regulations).

C. **Determine Full-Time Status.** Decide how to determine the full-time status of employees using the “monthly measurement period” or the “look back measurement period.” This is particularly important for employers who have many variable-hour employees or seasonal employees.

D. **Decide To Offer New Health Care Plans or Pay the Penalty.** If the employer’s group health plan does not meet the threshold tests to avoid the penalties noted above, evaluate whether to restructure health care offerings or pay the penalties (which are non-deductible).

E. **Review Data Collection Procedures.** Review data collection procedures to ensure ability to report the healthcare information required for 2015 (the actual reporting will occur in 2016). Insurers, sponsors of self-insured plans, and other entities that provide minimum essential coverage during a calendar year will be required to report certain information to the Internal Revenue Service and to participants. In addition, applicable large employers will be required to report about the coverage they provide to both the IRS and to their employees. The IRS has recently published forms to be used in reporting this information ([Form 1095-B](#), [Form 1095-B Transmittal](#), [Form 1095-C](#), [Form 1095-C Transmittal](#)).

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