Employer Responsibility Provisions of ACA

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PROTECTING THE CONSUMER'S FUTURE
NAHU
National Association of Health Underwriters
AMERICA'S BENEFITS SPECIALISTS

Basic Coverage Rules for Large Employers

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

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

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

Are You a Large Employer?
How many full-time employees do you have?

If ≥ 50

Business is subject to ACA Employer Shared Responsibility Provisions

If less than50

ACA looks to part-time employees to determine full-time employee equivalents.

- If total full-time and full-time equivalent employees ≥ 50
  - Business is subject to ACA employer mandate penalty and coverage provisions
- If total full-time and full-time equivalent employees < 50
  - Business is exempt from ACA employer mandate penalty and coverage provisions

Separate businesses under common control are considered one business if determined so by IRS rules

Rules may vary by structure (e.g. corporation or partnership) of business. Generally requires 80% control to be considered common control.

Slide Courtesy of National Retail Federation

Who has to be offered coverage?

- Full Time Employees (30 hours or more a week)
- Dependents who are defined as employee's children under age 26 (IRC §152(f)(1))

- Employers will not face tax penalties for electing not to offer coverage to spouses.
- If a spouse has no other source of affordable employer-sponsored coverage, he/she could get an exchange subsidy.

Other Key Points About Coverage Offers

•A large employer will be considered as offering coverage to full-time employees if they offer coverage to 95% of their full-time employees and dependents(or, if greater, to 5 employees). Note: if any of the 5% of full-time employees who are not offered coverage receive premium tax credits from an Exchange, the employer will be required to pay an annual penalty of $3,000 for each of those employees.

Counting Employees is Key!!!

To determine if the Employer Mandate applies, for each calendar month of the preceding calendar year, employers must:

1. Count the number of full-time employees (including seasonal employees) who work on average 30 hours per week per month.
2. Calculate the number of full-time equivalent employees by aggregating the number of hours worked by non-full-time employees (including seasonal employees) and dividing by 120.
3. Add the number of full-time employees and full-time equivalents calculated in steps (1) and (2) for each of the 12 months in the preceding calendar year.
4. Add the monthly totals and divide by 12.
5. If the average exceeds 50 full-time equivalents, determine whether the seasonal employee exception applies.

Seasonal Worker Exemption

- Seasonal employees count towards the total for determining employer mandate applicability unless the group's workforce exceeds 50 full-time employees for 120 days or fewer during a calendar year and those seasonal employees put the employer over the threshold.

Employers With Variable Hour Employees

Employers don't just have to count employees to determine if the mandate applies. They also have determine who is truly full-time and must be offered coverage to avoid a penalty.

- The rules allow employers to measure the hours of variable hour workers in this category for a specified period of time to determine whether they work 30 hours or more per week on average over the measurement period
- If they do work an average of 30 hours per week over the measurement period, the employer must offer coverage for a "stability period" of the at least the same length of time, even if the employee drops to part-time status.

Penalty for Not Offering Minimum Essential Coverage

- If "minimum essential" coverage is not offered to a "large" employer's full-time employees and dependent children to age 26 AND one of the employer's full-time employees goes to the Exchange, purchases coverage, and qualifies for a premium tax credit:
  - $2,000 per full-time employee annual penalty (calculated monthly based on the number of actual months not offered for each eligible employee)
  - Credit for 30 of these employees (or $60,000) under current rules

Penalty for Coverage that is not Minimum Value

- If coverage does not meet the required minimum level of coverage
  - An employer must offer at least one plan with benefits at or above the actuarial value of the "minimum value" level benefit
  - If benefits do not meet that level, employers can be fined $3,000 annually, per employee receiving a tax credit for this reason

Penalty for Coverage that is not "Affordable"

- If the coverage offered is "unaffordable" as defined in the regulations
  - Coverage is considered unaffordable if it the cost to an employee is more than 9.5% of adjusted gross **FAMILY** income for the **self-only premium** for the lowest cost plan offered by the employer that meets the minimum required level of coverage
    - IRS has created several **safe harbors** for employers to help them avoid inadvertently being swept into this penalty.
    - These safe harbors have been created due to employers not having access to their employees' family incomes, and therefore being unable to set premium contributions at the required level
  - $3,000 annual penalty, per full-time employee whose coverage qualifies as unaffordable, and who receives a tax credit through the Exchange

Does Group Coverage Meet the Affordability Test?

Federal Poverty Limit - FPL	2011 FPL	Hourly Rate (40 hr week)	W2 Wage	Employee Share of Single Premiums per Mo @ 9.5% income Standard
100% (Possibly Medicaid Eligible)	$10,890	$5.24/hr	9.5%	$86/mo
133%(Possibly Medicaid Eligible)	$14.484	$6.96/hr	9.5%	$114/mo
150% (Minimum Wage)	*$16,335*	*$7.85/hr*	*9.5%*	*$130/mo*
200%	$21,780	$10.47/hr	9.5%	$172/mo
250%	$27,225	$13.09/hr	9.5%	$216/mo
300%	$32,670	$15.71/hr	9.5%	$259/mo
350%	$38,115	$18.32/hr	9.5%	$302/mo
400%	$43,560	$20.94/hr	9.5%	$345/mo
400% family of 4	*$89,400*	*$20.94/hr*	*9.5%*	*$345/mo since employer only has to use the single rate for lowest tier plan to calculate affordability*