



American Benefits Council
Preparing for PPACA ("P4P") Webinar
Employer Responsibility Provisions

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Employer Mandate

General Rule #1

- If employer offers no coverage to full-time employees (and their dependents) and at least one full-time employee receives assistance under Exchange:
 - Must pay annual fee of \$2,000 for each full-time employee minus first 30 employees.
 - For example, if employer has 100 full-time employees and one is eligible for premium assistance under the Exchange, employer must pay \$2,000 times 70 or \$140,000.



Employer Mandate

General Rule #2

- If employer does offer “minimum essential coverage” to full-time employees (and their dependents) and a full-time employee receives assistance under Exchange, employer must pay fee if either test met:
 - Employer coverage not affordable – cost of self-only coverage is more than 9.5% of income; or
 - Plan does not provide 60% actuarial value of benefits.
- Annual fee is the lesser of: \$3,000 for each full-time employee receiving premium assistance; or \$2,000 for each full-time employee, minus first 30 employees.



Employer Mandate

Key Definitions

- **“Full-time employee”**: employed on average at least 30 hours per week (seasonal employees may be excluded)
- **“Employer”**: entity with average of at least 50 full-time employees
- **“Minimum essential coverage”**: any employer provided insured or self-funded group health plan (with the exception of certain HIPAA excepted benefits)
- **“Applicable Taxpayer”** (who qualifies for assistance on Exchange): Household income of 100% to 400% of Federal Poverty Level



Employer Mandate Guidance

- IRS Requests for Comments
 - Notice 2011-36 (5/3/11)- Definition of Full-Time Employee
 - Notice 2011-73 (9/13/11)- Employer Safe Harbor for Affordability using W-2 Wages
- Proposed Regulations (8/17/11)- Health Insurance Premium Tax Credit



Employer Mandate Notice 2011-36

- Statute
 - Full-Time Employee= average of 30 hours of service or more per week with respect to any month
 - Suggests monthly determination required
- Notice 2011-36
 - Monthly determination "may cause practical difficulties"



Employer Mandate

Notice 2011-36

- Safe harbor: Look back/stability period for determining full-time employee status.
- Employer has option of looking back 3 to 12 months ("measurement period") and applying result to subsequent 6-12 month stability period.
- 130 hours of service in a calendar month= full-time



Employer Mandate Notice 2011-36

- Request for comments
 - Administration of look back/stability period
 - Application of rules to new employees and those moving to full-time
 - Other possible alternative methods



Employer Mandate Planning Opportunities

- Dependent Coverage
 - Unclear whether there is penalty for failure to offer
 - If do offer, need not be “affordable” since affordability measurement is based on self-only coverage
 - Spouse/Dependent may be able to qualify for assistance on Exchange



Employer Mandate Planning Opportunities

- Part-Time Employees
 - No penalty for failure to offer coverage
 - Part-Time should be defined as working less than an average of 30 hours if coverage is eliminated or does not satisfy affordability/minimum value tests.



Employer Mandate Planning Opportunities

- Exchange versus Employer
 - Can coverage be *eliminated* for some groups of full-time employees without incurring highest penalty (i.e., penalty that applies for not offering any coverage to full-time employees and their dependents)?
 - What if coverage is merely *reduced* for certain groups of full-time employees who would not be considered “applicable taxpayers”?



Questions

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