

Affordable Care Act



What it Means for You



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The Employer Health Insurance Mandate and What it Means for You

The ACA generally requires all Americans to have health insurance and for certain employers to offer group health insurance to their employees. Those that do not may be subject to a penalty.

Individual Mandate:

The ACA requires most individuals to be enrolled in a health insurance plan. These individuals are required to maintain insurance that qualifies as “minimum essential coverage” for themselves and their dependents (including children under 26). Individuals may choose to purchase coverage through their employer, if available, or through Health Insurance Marketplaces.

If individuals are not enrolled in minimum essential coverage, they may be required to pay a tax. Exemptions are available to those for whom available coverage is deemed “unaffordable.”

Employer Mandate (“Shared Responsibility”):

Effective 2015 (see Employer Mandate Transition Relief in 2015 below), employers with at least 50 full-time or full-time equivalent (FTE) employees must offer full-time employees (see Determining Number of Full-Time/ FTEs) minimum essential coverage that is deemed affordable (in 2015, the cost of self-only coverage is no more than 9.56% of the employee’s annual household income) and provide minimal actuarial value (the plan is designed to pay at least 60% of covered expenses), or face a penalty.

Employer Mandate Transition Relief in 2015:

Pursuant to IRS regulations issued on February 10, 2014, transition relief is generally available through 2015 for employers with 50-99 full-time and FTE employees, provided that they meet the requirements outlined below. These employers will not be subject to shared responsibility until 2016. In order to be eligible, employers must:

Have employed an average of at least 50 full-time and FTE employees, but fewer than 100 full-time and FTE employees, during 2014;

Not have reduced the size of its workforce or the overall hours of service of its employees, between February 9, 2014 and December 31, 2014 in order to qualify for transition relief;

Not eliminated or materially reduced previously offered health coverage during the coverage maintenance period; and

Be able to certify that they meet the first three eligibility requirements stated above. Employers are encouraged to seek legal counsel when determining their eligibility for transition relief.

Employer Penalties:

If a covered employer fails to offer minimum essential coverage that is affordable and the following conditions are met, then the employer will be subject to a penalty:

1. At least one full-time employee purchases coverage through the Health Insurance Marketplace; AND
2. That employee is eligible for, and receives, a Federal premium tax credit in order to subsidize the cost of their coverage.

Note: Employees with household income between 100% and 400% of the Federal Poverty Level (FPL) will be eligible to receive the Federal Tax Credit. For 2014, the FPL was \$23,850 for a family of four, meaning that an employee with a family of four earning less than \$95,400 may be eligible for a Federal Tax Credit if they enrolled in coverage through the Health Insurance Marketplace. (Note: the FPL is indexed for inflation and will be \$24,250 for a family of four seeking cost assistance in 2016).

Penalties differ depending on what part of the shared responsibility provision the employer fails to meet:

Penalty 1:

If the employer fails to offer coverage to 95% or more of its full-time employees (and their dependents) AND the two conditions noted above are met, the employer may face an annual assessment of up to \$2,000 for each full-time employee employed for the year, excluding the first 30 full-time employees.

Penalty 2:

If the employer offers coverage to 95% or more of its full-time employees (and their dependents), but such coverage fails the minimum value or affordability test AND the two conditions noted above are met, the employer may face an annual assessment that is equal to the lesser of:

- \$3,000 for each full-time employee that receives subsidized coverage through the Health Insurance Marketplace; or
- \$2,000 for each full-time employee, excluding the first 30 full-time employees.

Note: Employers with fewer than 50 full-time (including FTE) employees are not subject to these penalties, regardless of whether they offer health coverage and/or employees purchase coverage through the Marketplace.





Employer Mandate: Determining Number of Full-Time/FTEs

The ACA requires “large” employers to offer full-time employees minimum health coverage that is deemed affordable. Failure to do so may result in a penalty (see Health Insurance Mandate for more information on these penalties). For purposes of the ACA’s employer mandate, a large employer is defined as a business that employed an average of 50 or more full-time (or FTE) employees in the previous calendar year.

Employers must consider all employees when determining the number of FTEs, since multiple part-time employees or seasonal workers may equal an FTE (note that special rules apply for purposes of counting seasonal workers). Employees of controlled groups must also be taken into consideration.

When determining whether a business is subject to the employer mandate provisions, two calculations must be made:

- Determining the number of full-time employees; and
- Determining the number of FTEs

If the sum of these calculations equals 50 or more, the employer is subject to the employer mandate provisions.

Controlled Groups and Employer Size:

The 50-employee threshold applies on a “controlled group” basis, which generally means that companies with 80% or more common ownership or control — or that are otherwise treated as a single employer under Internal Revenue Code section 414(b), (c), (m), or (o) — are treated as a single employer, and combined together for purposes of determining whether they employ at least 50 full-time employees, including FTEs.

If the combined total meets the threshold, then each member of the controlled group is subject to the Shared Responsibility provisions, even if the individual member companies employ fewer than 50 full-time employees, including FTEs. For more information and examples of controlled groups, see the [Eye on Washington, Affordable Care Act \(ACA\) Update Series: Which Employers Are Subject to the Shared Responsibility Provisions?](#)

Defining Full-Time:

For purposes of the ACA, full-time employees are those who perform an average of at least 30 hours of service per week, or at least 130 hours of service during the calendar month.



Note: Hours of service include hours worked, and hours for which an employee is paid but does not work, such as vacation, holiday, illness or disability, jury duty, military duty, or leave of absence (up to a maximum of 160 hours for any continuous period).

Part-Time Employees:

All part-time workers need to be considered when calculating the total number of FTEs. The FTE calculation is done by adding all of the hours worked by part-time employees (those working less than 30 hours per week) in a month and dividing by 120.

Example: An employer has 3 part-time employees each working 20 hours per week:

- Total hours worked per month: 240 hours
- Total FTEs: $240/120 = 2$ FTEs

Seasonal Employees:

Under the ACA, an employer is not considered “large” if the employer’s workforce exceeds 50 full-time and equivalent employees for 120 or fewer days during a calendar year and the employees in excess of 50 during such 120-day period were seasonal workers.

Example: Calculating Full-time/FTEs:

If an employer has 20 full-time employees working an average of 35 hours per week and 40 part-time employees who work an average of 22.5 hours per week, the employer may be subject to the employer mandate provisions based on the following calculations:

Full-time Employees
20 Full-Time Employees
Average 35 hours per week

+

Part-time Employees
40 Part-time Employees
Avg. 22.5 hours/week X 4 weeks = 90 hours
40 part-timers X 90 hours = 3,600 hours/month
3,600 hours/120 maximum = 30 FTEs

= 50 Full-Time/FTEs

Rounding:

An employer may round their final calculation of full-time/FTEs down to the nearest whole number. For example, if the employer arrived at a total of 49.9 full-time/FTEs, this can be rounded down to 49 full-time/FTEs

Note: Use the previous calendar year to calculate and determine full-time/FTE count under the ACA. However, the look-back measurement period, which may be anywhere from three to 12 months (see Shared Responsibility: Determining Employees Eligible for Health Insurance), is used for determining whether an employee is full-time, and therefore, eligible for health coverage

Employer Mandate: Determining Employees Eligible for Health Insurance

Employers subject to the employer mandate are required to offer full-time employees minimum health coverage that is deemed affordable, or face a penalty. For purpose of the ACA, full-time employees are those who perform an average of at least 30 hours of service per week, or at least 130 hours of service during the calendar month.. To determine which employees are considered full-time, large employers are to look-back at a defined measurement period. Generally, employees deemed full-time in the look-back measurement period must be provided health insurance for the same duration (known as the “stability period”).

Look-back Measurement Period:

Because the size of an employer’s workforce can vary regularly, the IRS allows employers to choose to make the full-time determination based on a measurement period of no less than 3 months and no more than 12 months, also known as the “look-back measurement period”. Employers may choose which months to use in order to make the calculation for full-time status, as long as the measurement period is applied on a uniform and consistent basis for all employees.

Stability Period:

Generally, those employees that are considered full-time during the look-back measurement period (excluding those part-time employees that made up full-time equivalents) will be considered full-time for the subsequent period of the same duration, or the “stability period”, regardless of how many hours the employee works in the stability period. Therefore, those employees considered full-time and eligible for health insurance benefits in the look-back period, will remain eligible for health insurance benefits for the same time period going forward.

Note: There is a 6-month minimum to the stability period. If the look-back measurement period is less than 6 months, the stability period going forward will remain 6 months. If the look-back measurement period is more than 6 months, the stability period will be equal to the entire look-back measurement period.

For example, an employee found to be full-time in a look-back period of July through November (4 months) as chosen by the employer, will be considered full-time and therefore eligible for benefits for a 6 month stability period going forward regardless of the number of hours the employee is working in that 6 month period as long as the employee remains employed in the stability period.

Note: The stability period excludes any waiting period (or administrative period) that the employer has imposed on enrollment to the plan.

New Employees:

If an employee has not been employed for at least one look-back measurement period, they are considered a new employee. Employers should determine if these “new employees” are considered full-time (30 or more average hours per week in a given month) based on the expectation set at the time of hire. If the employee is reasonably expected to work full-time, then the employee must be treated as full-time immediately upon hire.

For more information on the look-back measurement period, see [IRS Notices 2012-58](#) and [2012-17](#).



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