

Obamacare Employer Mandate Delayed Again For Mid-Size Employers

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The Employer Mandate of the Affordable Care Act (the “ACA” or its more commonly known sobriquet “Obamacare”) originally was slated to go into effect on Jan. 1, 2014. Last year employers were given a reprieve when the government pushed the mandate back until the start of 2015. Yesterday, the government [pushed back the employer mandate](#) for one more year until 2016. However, there is a significant catch that could trap unwary employers: the change applies only to those employers with between 50 and 99 full-time employees.

Small employers with less than 50 employees already have no obligation to do anything under the Act (they are below the minimum number of the Act’s requirements), so the change does not affect them. At the other end of the spectrum, employers with more than 99 employees remain subject to the

mandate on the previously-extended Jan. 1, 2015 date. However, the regulations rolled out yesterday will permit those employers to avoid penalties if they can show that they offer insurance coverage to at least 70 percent of their full-time employees in 2015 and 95 percent of full-time employees in 2016 and beyond.

For those unfamiliar with the Act, the penalties are significant. An employer who fails to offer coverage to a full time employee is subject to what the government - in Orwellian fashion – dubs the “Employer Shared Responsibility Payment” of \$2,000 per employee. Determining who is and who is not a full-time employee also is not as easy as it sounds. The Act uses a 30-hour work week to determine full-time status as opposed to the 40-hour week most of us are familiar with under the FLSA. Added to that, “full-time equivalent employees” count toward the total. What are they you ask? Full-time equivalency is determined based on the total number of hours worked each month by part-time employees divided by 120. For example, if a small company has 500 hours worked by part time-employees in a month, this would come to 4.1 full-time equivalent employees ($500/120=4.1$). In other words, if that same company has 47 traditional full-time employees, adding an extra 4.1 would be enough to put them over the 50 employee threshold and be subject to the employer mandate.

In short, while mid-size employers have had the proverbial can kicked down the road again, they still are not off the hook. Larger employers have more to worry about. For them, the employer mandate kicks in on Jan. 1 of next year – meaning the clock is ticking and they have less than a year to figure out how to address it.