

The Employer Mandate Is Almost Here. Is Your Company Ready?

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In less than a month from now, *all employers* in the United States that employ more than 100 full-time equivalent employees will need to offer affordable coverage to their employees or risk potential fines under the Affordable Care Act. While employers already should be geared up to address these issues, below is a primer for those employers who have procrastinated or have opted to stick their heads in the sand hoping in vain that this will just go away:

- The deadline for large employers to comply is Jan. 1, 2015.
- The mandate will apply to all “large” employers (100 or more full-time equivalent employees).
- Beginning Jan. 1, 2016, the mandate will apply to employers with 50 or more full-time equivalent employees.
- Parent-subsidiary entities (where one company owns 80 percent or more of another) and brother-sister entities (where the same five or fewer people own about 80 percent of the related companies) generally will be treated as one employer.
 - If the companies collectively come within the threshold number of employees, each separate company will be obligated to offer health care or potentially be subject to a penalty. For example, if Company A has 30 employees and Company B has 70 employees and they are related such that they would be considered a single employer under the Act, *both companies* would need to offer coverage to eligible employees.
- A full-time employee is anyone working 30 or more hours a week.
- Part-time employees and seasonal employees must be included in the calculation.
 - Aggregate the number of hours worked by part-time and seasonal employees and then divide by 120.
 - Add that result to the number of “regular” full-time employees to get the amount of full-time “equivalent” employees,
 - If the number equals 100, then the company is a large employer and subject to the mandate.
- Companies that misclassify workers as contractors may face serious

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repercussions. If the number of misclassified workers is significant enough, it could move the company into the category of being an employer subject to the mandate (e. if a company has 99 regular workers and 1 misclassified contractor). Additionally, not including such misclassified contractors could expose the employer to a penalty. Employers need to scrutinize how they classify workers and make sure they are doing it right.

- Mandated employers must offer health insurance coverage that is (1) **affordable** (e. a health plan that generally does not exceed 9.5 percent of the employee's W2 wages) and (2) **provides minimum value** (the Act has detailed criteria on the type of benefits plans must offer).
- If (1) employers do not offer appropriate coverage to at least 70 percent of their full-time equivalent employees, and (2) at least one full-time equivalent employee receives a premium tax credit to purchase coverage on an exchange, then the employer will have to pay a penalty.
 - The penalty is will be \$2,000 annually, multiplied by the total number of full-time equivalent employees (minus the first 80 such employees).
 - In other words, if a company has 100 full-time equivalent employees but does not offer coverage and at least one employee receives a premium tax credit, the resulting penalty next year will be \$40,000 (\$2,000 x 20 (100-80)).
- If an employer offers coverage, but it either is unaffordable or does not provide minimum value, the employer faces an annual penalty of \$3,000, multiplied by the number of full-time equivalent employees receiving a premium tax credit to buy coverage on an exchange.
 - For example, if 13 full-time equivalent employees in a company get a premium tax credit, the penalty again would be around \$40,000.

This summary provides just a glimpse into what employers face *at the end of this month* to comply with the requirements of the Affordable Care Act. Considering the wide range of liabilities under the ACA, make sure you are ready. Check with your benefits personnel and legal counsel. *Time is running out.*