

THE IMPACT ON BUSINESS OWNERS



BACKGROUND

The Patient Protection and Affordable Care Act (PPACA) generally requires U.S. citizens and legal residents to have qualifying health coverage. Most private health plans will be required to include coverage of certain wellness and preventive care benefits, have no annual or lifetime limits on health coverage and have no rescission of coverage due to illness. Grandfathered plans (those in effect on March 23, 2010) are not required to follow some of the PPACA provisions, including the requirement to cover all preventive care services with no cost-sharing.¹

- Nearly half, or 46%, of 889 small business owners surveyed by *The Wall Street Journal* and Vistage International say they don't know if providing health insurance will be more or less costly than facing penalties.²

Individual Mandate

The PPACA creates state-based exchanges through which individuals can purchase coverage. Premium and cost-sharing credits are available to individuals/families with income between 133% – 400% of the federal poverty level. The law also expands Medicaid eligibility to 133% of the federal poverty level.

Individuals will be able to obtain insurance through public programs, the individual market (including exchanges), large group employer plans and small group employer plans.

Employer Implications

The PPACA also creates exchanges through which small businesses can purchase coverage. Employers with 100 or fewer employees can purchase health plans through Small Business Health Options Program exchanges. The law also permits states to limit the small group market to employers with 50 or fewer employees until 2016. Employers with more than 100 workers won't be able to use the exchanges before 2017.

TABLE 1: 400% OF THE FEDERAL POVERTY LEVEL

Number of Individuals In the Household	Household income threshold ³
1	\$ 46,680
2	\$ 62,920
3	\$ 79,160
4	\$ 95,400
5	\$ 111,640
6	\$ 127,880
7	\$ 144,120
8	\$ 160,360

EMPLOYER SHARED RESPONSIBILITY (ESR) PROVISIONS

The law requires “applicable large employers” to pay penalties for employees who receive tax credits for health insurance purchased through an individual exchange (with exceptions for small employers).⁴

To be subject to the ESR provisions, an employer (together with any related companies) must have at least 50 “full-time employees” or a combination of full-time employees and part-time employees that is equivalent to at least 50 full-time employees. The ESR provisions were originally scheduled to be effective during 2014. However, transition relief issued in July 2013 provided that applicable large employers could delay compliance with the ESR provisions until 2015. Employers will use information about the people they employ during 2014 to determine if they employ enough people to be subject to the ESR provisions during 2015.⁵

Additional transition relief issued during February 2014 provided that applicable large employers satisfying the following conditions could delay compliance with the ESR provisions until 2016:

- The employer employs at least 50 full-time employees, but fewer than 100 full-time employees, during 2014;
- The employer does not reduce the size of its workforce or the overall hours of service of its employees in order to satisfy the workforce size condition;
- The employer does not eliminate or materially reduce the health coverage, if any, offered as of February 9, 2014; and
- The employer certifies on a prescribed form that it meets the above eligibility requirements.⁶

Key Term:

Full-Time Employee

A full-time employee is an individual employed on average at least 30 hours per week.⁷

Example:

The employer has 40 full-time employees employed 30 or more hours per week on average plus 20 half-time employees employed 15 hours per week on average.

- The employer is subject to the ESR provisions since the combination of 40 full-time and 20 half-time employees is equivalent to 50 full-time employees.

Applicable large employers not offering qualifying coverage

The large employer will be liable for the Employer Shared Responsibility Payment if (a)(1) the employer does not offer health coverage; or (2) offers coverage to less than 95% of its full-time employees and (b) at least one of the full-time employees receives a premium tax credit to pay for individual coverage on an exchange.⁷ Transition relief issued during February 2014 provided that applicable large employers only need to provide coverage to 70% of their full-time employees during 2015 in order to avoid imposition of the ESR payment for not offering qualifying coverage.⁸

The non-deductible ESR payment is \$2,000 annually times the number of full-time employees minus 30. Note that for purposes of this calculation, a full-time employee does not include a full-time equivalent.⁹

TABLE 2: EXAMPLES OF NON-DEDUCTIBLE PENALTIES FOR NOT OFFERING QUALIFYING COVERAGE

Number of full-time Employees	Nondeductible Excise Tax Per Year ¹⁰
100	\$140,000
250	\$440,000
500	\$940,000
1,000	\$1,940,000

Example:

The employer does not provide qualifying coverage to its 50 full-time employees. One of the employees receives a premium tax credit to purchase insurance on an exchange.

- The employer could be subject to a \$40,000 penalty if it does not provide qualifying coverage (\$2,000 penalty x 20 employees in excess of minimum threshold).

Applicable large employers offering qualifying coverage

Employers who offer qualifying coverage could still be subject to penalties if they do not offer employees and their dependents coverage that provides “minimum value” and is “affordable.”

Key Terms:

Minimum Value

The plan provides minimum value if the plan covers at least 60% of the total allowed cost of benefits that are expected to be incurred.¹¹ The IRS and the U.S. Department of Health and Human Services

have announced plans to make available online calculators to help employers determine whether their plans provide minimum value.

Affordable Coverage

The coverage is considered affordable if the employee portion of the self-only premium for the employer's lowest cost coverage does not exceed 9.5% of the employee's household income (the lowest cost coverage must also provide minimum value).¹² Employers can rely on several safe harbors to estimate the employee's household income. For example, the employer can satisfy the W-2 affordability safe harbor by setting an employee's contribution for the year at a level that does not exceed 9.5% of the employee's Form W-2 wages for the year.

The employer must pay a penalty for not offering affordable coverage or coverage that did not provide minimum value. The penalty is \$3,000 annually for each full-time employee receiving a tax credit, up to a maximum of \$2,000 times the number of full-time employees minus 30.¹³

Example:

The employer provides coverage to its 50 full-time employees. However, the coverage does not provide minimum value or is not affordable. Ten of the employees receive a premium tax credit to purchase insurance on an exchange.

- The employer could be subject to a \$30,000 penalty (lesser of (1) \$3,000 x 10 employees receiving tax credit; or (2) \$2,000 x 20 employees in excess of minimum threshold).

SMALL BUSINESS TAX CREDITS

Eligible small businesses that purchase coverage through a state-run exchange can receive a tax credit of up to 50% of their contribution toward the employee's premium if they contribute at least 50% of the total premium cost.

To be eligible for the credit, the following conditions must be met:

- An employer must have fewer than 25 full-time equivalent employees; and
- Average annual wages must be less than \$50,000.

The 50% tax credit will be available for two years beginning in 2014 (35% credit before 2014). The maximum credit is available to qualifying employers with 10 or fewer full-time employees with average annual wages not exceeding \$25,000. The credit is phased out as firm size and average wages increase.¹⁴

Example:

In 2014, the employer decides to purchase health insurance coverage for its 10 full-time equivalent employees. The employer pays total wages of \$250,000 to the employees. The employer also contributes \$20,000 toward the \$40,000 premium cost of the insurance.

- The employer is eligible for the maximum \$10,000 tax credit, which is equal to 50% of the premium contribution for a 10-person business paying average annual wages of \$25,000.

CADILLAC PLAN TAX

Beginning in 2018, an excise tax could be imposed if an employer offers high-cost health insurance. The 40% excise tax is assessed on the cost of health insurance plans (excluding dental and vision benefits) in excess of \$10,200 per year for individuals or \$27,500 per year for families. The initial threshold amounts are not adjusted until 2018.¹⁵

ADMINISTRATIVE & OTHER COSTS

The PPACA created a new nonprofit corporation, the Patient Centered Outcomes Research (PCOR) Institute, to support clinical effectiveness research. A new fee enacted to help fund the PCOR Institute must be paid by certain employers who sponsor self-insured health plans. The PCOR fee is \$1 (for policy or plan years ending before October 1, 2013) multiplied by the average number of individuals covered under the policy or plan. The PCOR fee will vary over time and is applicable through 2018.¹⁶

Beginning in 2014, employers must pay a transitional reinsurance fee to assist insurers to partially offset high-cost enrollees in and outside the exchanges. Fully and self-insured group health plans that provide major medical coverage will be assessed by the U.S. Department of Health and Human Services (HHS) an annual fee or contribution rate of \$63 per plan participant in 2014. The transitional reinsurance fee will vary over time and is applicable through 2016.¹⁷

The PPACA includes other reporting/disclosure requirements in addition to the penalties and fees referenced above.

OTHER CONSIDERATIONS

Applicable large employers not offering qualifying coverage

What is the tax (penalty) exposure for not offering coverage? What impact will this have on employee retention?

Applicable large employers offering qualifying coverage

Have they determined whether they've met the minimum value and affordability metrics to avoid exposure to the penalty? Will they transition full-time employees to part-time to mitigate the magnitude of the penalty?

LEARN MORE

If you have any questions, please contact your Northern Trust relationship manager. Employers may find additional information on the HealthCare.gov website. Finally, employers should consider engaging an employee benefits consultant if they don't possess the resources internally to evaluate the impact of health care reform on their business.

NOTES:

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| 1 | P.L. 111-148 as amended by P.L. 111-152 | 10 | I.R.C. § 4980H(a). The excise tax is not assessed for the first 30 employees. The tax is indexed for inflation beginning in 2015. |
| 2 | "Some Small Businesses Opt for the Health Care Penalty," <i>The Wall Street Journal</i> , April 8, 2013 | 11 | I.R.C. §36B(c)(2)(C)(ii) |
| 3 | U.S. Department of Health & Human Services | 12 | I.R.C. §36B(c)(2)(C)(i) |
| 4 | I.R.C. § 4980H(c)(2) | 13 | I.R.C. §4980H(b) |
| 5 | Notice 2013-45 | 14 | I.R.C. §45R |
| 6 | Reg. §54.4980H-1 | 15 | I.R.C. §4980I |
| 7 | I.R.C. § 4980H(c)(4) | 16 | I.R.C. §4376 |
| 8 | Reg. §54.4980H-1 | 17 | P.L. 111-148 as amended by P.L. 111-152 |
| 9 | I.R.C. § 4980H(a) | | |

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